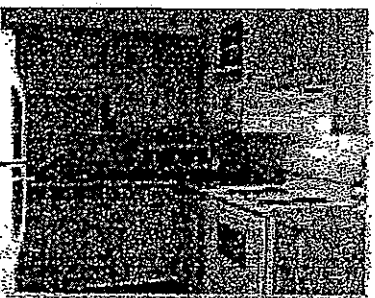
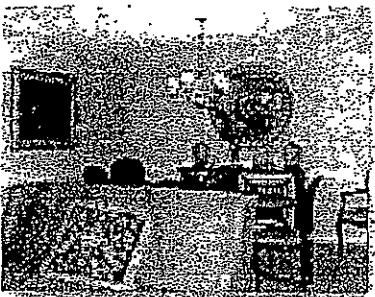




*Affordable Elegance near the Airport*

# Landings

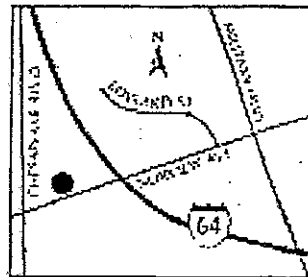
AT FIVE POINTS



- Access to Interstate 64
- Close to Bases, Airport
- 3 Bedrooms, 2 Full Baths
- Plush Carpeting & Ceramic Tile
- Gated Community
- Security System
- High Speed Internet & Cable Ready
- Private Balcony

**The Landings at Five Points**  
**853-6200**

*1232 Norview Ave. at Military Highway  
Directions: from 264, take 64 west,  
exit 279 A Norview Ave. 1/4 mile on right.*



*Visit us today and choose from  
three spacious floor plans.*

\* Limited time only, buyer agrees to use settlement agent and lender designated by seller

Landings at Five Points, a Condominium has now been registered by the Virginia Real Estate Board. Now accepting contract of sale or lease



**PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION**  
**PUBLIC OFFERING STATEMENT**

**NAME OF CONDOMINIUM:** THE LANDINGS AT FIVE POINTS, a  
Condominium

**LOCATION OF CONDOMINIUM:** 1232 Norview Avenue, Norfolk, Virginia 23513

**NAME OF DECLARANT:** The Landings at Five Points, Inc.,  
a Virginia corporation

**ADDRESS OF DECLARANT:** 1232-A Norview Avenue  
Norfolk, Virginia 23513

**EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT:** March 23, 2006

This Public Offering Statement presents information regarding Condominium Units being offered for sale by the Declarant. Virginia Law requires that a Public Offering Statement must be given to every Buyer in order to provide full and accurate disclosure of the significant features of the Condominium Units being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Buyer should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the Declarant to the Virginia Real Estate Board. The Virginia Real Estate Board has reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law, a Buyer of a Condominium Unit is afforded a ten-day period during which he or she may cancel the contract of sale and obtain a full refund of any sums deposited in connection with the contract. The ten-day period begins running on the contract date or the date of delivery of a Public Offering Statement, whichever is later. The Buyer should inspect the Condominium Unit and all common areas and obtain professional advice. If the Buyer elects to cancel, he or she must deliver notice of cancellation to the Declarant by hand or United States mail, return receipt requested.

The following are violations of Virginia Law and should be reported to the Virginia Real Estate Board, 3600 West Broad Street, Richmond, Virginia 23230-4917:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Virginia Real Estate Board has passed on the merits of the Condominium Units being offered or endorses the Condominium

**PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION**

**SUMMARY OF IMPORTANT CONSIDERATIONS**

Following are important matters to be considered in acquiring a Condominium Unit. They are highlights only. The Narrative Sections should be examined to obtain detailed information.

1. The Condominium is a conversion condominium.
2. The Condominium will be governed by a Unit Owners' Association (the "Association"). After a period of Declarant control described in paragraph 8 below, the Association will be governed by a Board of Directors elected annually by all the Unit Owners (including the Declarant as long as the Declarant is still a Unit Owner). Each Unit Owner will have a vote on certain decisions of the Association after the period of Declarant control, and each Unit Owner will be bound by all decisions of the Association and its Board of Directors, including those decisions with which he disagrees. See Narrative Section J.
3. Certain decisions of the Association will be made by its Board of Directors. See Narrative Section J.
4. The expenses of operating the Association will be paid by the Unit Owners on the basis of an annual budget, which may be adjusted during the fiscal year. Each Unit Owner will pay an annual assessment in monthly installments and may be required to pay special assessments. A Unit Owner cannot reduce the amount of his assessments by refraining from use of the Common Elements. See Narrative Section L.
5. If a Unit Owner fails to pay a common expense assessment (or an installment thereon) when due, the Association will have a lien against his Condominium Unit. Certain other penalties may also be applied. See Narrative Section L.
6. The Declarant must pay assessments on unsold Condominium Units. See Narrative Section L.
7. None of the Declarant, its predecessors, or principal officers has undergone a debtor's relief proceeding.
8. The Declarant will retain control of the Unit Owners' Association and will control the membership of the Board of Directors for a period ending on the earliest of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act), or (iii) the date specified by the Declarant in a notice to each Unit Owner that the Declarant is relinquishing the rights reserved by the Declarant under Section 55-79.74(a) of the Code of Virginia of 1950. See Narrative Sections C and D.

9. A managing agent will perform certain routine operations of the Association in conformity with the Bylaws. See Narrative Section J.
10. There are no restrictions on the right of the Declarant to rent unsold Condominium Units. The right of any other Unit Owner to rent his Condominium is subject to restrictions set forth in the Declaration and the Bylaws, which presently provide, among other things, that no Unit may be rented for transient or hotel purposes or for any period of less than twelve (12) months. See Narrative Section I.
11. All of the Units are restricted to residential use except that the Declarant may use any Units owned by the Declarant as sales offices, management offices, model units, or rental offices, and the Board of Directors may permit reasonable, temporary, nonresidential uses in designated Units (and/or Common Elements) from time to time. Unit Owners may also be allowed to use their Unit for home office purposes as allowed by the City of Norfolk zoning laws, provided that such office use is ancillary to the use of the Unit primarily as a residence.
12. The Unit Owner may not alter the structure of his or her Unit or modify the exterior of his or her Unit without the approval of the Covenants Committee or the Board of Directors or the Unit Owners' Association, as appropriate.
13. The Association will obtain certain insurance benefiting the Unit Owner, but the Unit Owner should obtain other insurance on his own. See Narrative Section M.
14. The Unit Owner will pay real estate taxes on his Condominium Unit. See Narrative Section N.
15. Marketing and sale of Condominium Units will be conducted in accordance with the Virginia Fair Housing Law (Code of Virginia Section 36-96.1 et seq.) and the Virginia Condominium Act (Code of Virginia Section 55-79.52(c)).
16. The Condominium is not subject to development as a timeshare.
17. The Unit Owner's right to bring legal action against the Declarant is limited by certain provisions of the purchase agreement in that if the Declarant prevails, the purchaser must pay Declarant's legal fees and costs. The purchase agreement also requires that the Unit Owner waive the right to demand a trial by jury for any proceedings arising from or in any way connected with the purchase agreement or the transaction contemplated by the purchase agreement.
18. The right of a Unit Owner to sell his or her Unit is not subject to restrictions.



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## A. THE CONDOMINIUM CONCEPT

**Units and Common Elements.** Some scholars trace variations of the condominium concept back to the Middle Ages or even more ancient times. In its modern American form, the condominium concept was rarely used in this country before the 1960's. In a contemporary American condominium, a parcel of land is divided into Units, each of which is individually owned, and Common Elements, which are collectively owned by all the Unit Owners. Each Unit Owner owns title to a Unit together with an undivided interest in all of the Common Elements which interest is assigned on an equal basis and expressed in a fraction. That fractional share is called the Unit Owner's "Common Element Interest." Since each Unit Owner's Common Element Interest is equal then the share of the Common Expenses of the Association which a Unit Owner will have to pay (except for some expenses which may be specifically assessed against the particular Unit Owners causing or specifically benefiting from them) is also equal. A Unit and its Common Element Interest cannot be sold separately from one another. They must always belong to the same person or group of persons. The Common Element Interests of the Units in this Condominium may not change for any reason, except for expansion of the Condominium. Some condominiums have Limited Common Elements, which are portions of the Common Elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the Units.

## B. CREATION OF THE CONDOMINIUM.

As of the effective date of this Public Offering Statement, the Condominium has not been created. It will be created, before any Condominium Unit is conveyed, by recording the Condominium Instruments described below. Copies of these Condominium Instruments are attached as Appendices 1, 2 and 3 to this Public Offering Statement. The Declarant reserves the right to amend the Condominium Instruments unilaterally at any time before they are recorded and thereafter to the extent permitted by law. If you sign a contract to purchase a Condominium Unit before the Declaration and the Bylaws have been recorded, the Declarant will send copies of them to you as recorded, within ten (10) days of the recordation date (unless you have previously exercised your right to cancel the contract).

**The Declaration.** The essential function of the Declaration is to describe property rights within the Condominium. It gives more details than this Public Offering Statement can about the Units and the Common Elements. (Those concepts are explained briefly in Narrative Section C, below). The Declaration also contains definitions, describes certain easements and contains various other provisions. The Bylaws and the Plat and Plans described below are integral parts of the Declaration. The Declaration is attached as Appendix 1 to this Public Offering Statement.

**Plat.** The essential function of the Plat is to graphically depict the Condominium. A reduced copy of the Plat is included as part of Appendix 2 to this Public Offering Statement, and a full-size copy may be examined at the office of the Declarant (the address of which appears on Page 1 of this Public Offering Statement) or at the office of the Virginia Real Estate Board in Richmond, at 3600 West Broad Street. The address for the Condominium is 1232 Norview Avenue, Norfolk, Virginia.

**The Plans.** The essential function of the Plans is to graphically depict the Units. The Plans show the structure which contains the Units, show the location and dimensions of the boundaries of the Units and bear the identifying numbers of the Units. A reduced copy of the Plans is included as a part of Appendix 2 of this Public Offering Statement, and a full size copy of the Plans may be examined at the office of the Declarant (the address of which appears on Page 1 of this Public Offering Statement) or at the office of the Virginia Real Estate Board in Richmond, at 3600 West Broad Street.

**The Bylaws.** The essential function of the Bylaws is to provide for the manner in which the Condominium is to be governed. The period of Declarant control is described, and so is the manner in which the Condominium will subsequently be governed by the Association, its Board of Directors, and Committees and agents to be selected by the Board. There are various other provisions, including among other things restrictions on the use of the Units and the Common Elements and the manner of setting the Association's budget and enforcing the collection of assessments. The Bylaws are attached as Appendix 3 to this Public Offering Statement.

**Amendments.** Under the Condominium Act, some amendments to the Condominium Instruments can be made by the Declarant or certain Unit Owners unilaterally. Other amendments require the written consent of the Unit Owners with two-thirds (2/3) of the votes in the Association. The consent of the Declarant, Mortgagees and/or particular Unit Owners is required for certain amendments of the Declaration and of the Bylaws.

**Availability of Documents.** In addition to being attached to this Public Offering Statement, copies of each of the documents referred to above may be found at the office of the Declarant at 1232-A Norview Avenue, Norfolk, Virginia 23513.

### **C. DESCRIPTION OF THE CONDOMINIUM**

The Condominium is a conversion condominium. A conversion condominium is one that contains structures which before recording of the declaration, were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with their consent. The Condominium is a conversion condominium because it was constructed in 2001 and has been occupied since that time by residential tenants and not by purchasers of units or those who occupy with their consent. The entire original structures will be retained.

The Condominium will contain twenty-six (26) Units in three (3) buildings on approximately 1.284 acres of land. The Condominium is located in the City of Norfolk at 1232 Norview Avenue. All of the Units are being offered for sale.

The Declaration restricts all of the Units in the Condominium to residential use only. See Section 7.1(d) of the Declaration. However, the Declarant may use unsold Units as models or as a sales office. Although the Declarant does not intend or plan to rent any of the Units, it may rent the unsold Units, if market conditions so warrant. At the time of registration of the Condominium, the Declarant does not intend to limit to twenty percent (20%) the number of

Units sold to persons who do not intend to occupy the Units as their primary residence but does intend to limit that number to twenty-five percent (25%) or six (6) Units. See Article 7 of the Declaration and the Rules and Regulations for use and occupancy restrictions.

Prospective purchasers of Units should be aware that, due to the fact that Units abut one another (both horizontally and vertically), the Units will not be a noise free environment. Unit Owners will be expected to comply with the City of Norfolk's ordinances regarding noise, and the Rules and Regulations of the Condominium that may now or hereafter be in effect regarding noise and noise generating activities.

The Condominium is not subject to development as a "time-share condominium."

#### **D. INDIVIDUAL UNITS**

1. Unit Boundaries. Generally speaking, each Unit consists of the space bounded by the walls, floor and the ceiling of the Unit. Units may also include interior partitions, floor coverings (carpet, hardwood flooring, tile, etc.), wall finishings and interior doors, and will include any portions of heating and air conditioning apparatus and hotwater heater which serve only that Unit, and any portion of the plumbing, electrical, and mechanical systems serving only that Unit, whether or not any of the foregoing are located within the physical boundaries of any Units. The Units will also include the nonstructural portions of exterior windows and doors.

2. Units Offered. There are planned to be three types of Units in the Condominium. The Sewells Point Model includes three bedrooms and one bath and contains approximately 1,090 square feet of floor area. The Norview Model includes three bedrooms and two baths and contains approximately 1,035 square feet of floor area. The Chesapeake Model includes three bedrooms and two baths and contains approximately 1,076 square feet of floor area. It should be noted that the number and size of decks assigned as Limited Common Elements to any particular model or Unit may vary such that two Units of the same model type may have a different number, or different size, of decks assigned as Limited Common Elements.

The measurements for finished floor area are from inside face of stud to inside face of stud.

3. Restrictions on Changes to Structure or Exterior of Units; Binding Effect of Condominium Instruments. Each Unit Owner will own his or her Unit subject to the restrictions, covenants, and conditions contained in the Declaration and the Bylaws. No Unit Owner shall make any structural addition, alteration, or improvement to his Unit without the prior written approval of the Covenants Committee or the Board of Directors of the Association, as appropriate. No Unit Owner shall paint or alter the exterior of any Unit, including the doors and windows of such Unit, nor shall any Unit Owner paint or alter the exterior of the building. Any signs are subject to the reasonable approval of the Covenants Committee. All present and future Unit Owners, tenants, and occupants of the Condominium Units shall be subject to and shall comply with the provisions of the Declaration, Bylaws, and the Rules and Regulations as they all may be amended from time to time.

4. Anticipated Completion Date. All of the Units are substantially complete, but some refinishing work and replacement of appliances will be performed after purchase agreements become binding and before the conveyance of Units to purchasers.

**E. COMMON ELEMENTS**

1. Introduction. The Declaration has allocated to each Unit an interest in the Common Elements on an equal basis.

2. Description of Common Elements. The Common Elements are all portions of the Condominium other than the Units. The Common Elements are of two types, depending on their intended use. General Common Elements (all Common Elements other than Limited Common Elements) are to be used by all Unit Owners, subject to certain easements. A Limited Common Element is to be used only by the owners and occupants of Units to which the Limited Common Element is assigned, subject to certain easements. Use of General and Limited Common Elements by Unit Owners and others is subject to the provisions of the Declaration, the Bylaws, and the Rules and Regulations. All Common Elements are owned in common by all Unit Owners and are available for use for their intended purpose by all Unit Owners or occupants of Units, except for those Common Elements designated as Limited Common Elements as described below, subject to the provisions of the Declaration, Bylaws, and the Rules and Regulations.

3. General Common Elements. The General Common Elements consist of the entire Property other than the Units and Limited Common Elements, including, without limitation, the land, the airspace above the land and above and around the building and all other improvements, the airspace within the buildings which is not part of a Unit, all foundations, roofs, attics, flashings and sealants of outer doors and windows, exterior walls, and all walls separating Units, all driveway areas, parking spaces not assigned as Limited Common Elements, utility distribution apparatus and installations for common use or common maintenance, and all common walkways. The use of the General Common Elements shall be conditioned upon certain requirements such as the payment of assessments levied against each Unit by the Board of Directors in order to pay the costs of operation, maintenance and repair of the Property (i.e., "common expenses").

4. Limited Common Elements. Limited Common Elements are Common Elements other than General Common Elements, reserved for the exclusive use of the occupants of a particular Unit or Units. Thus, any apparatus designed to serve at least one but less than all of the Units, but located outside the boundary of any Unit or Units served exclusively thereby, is a Limited Common Element and is assigned to and appertain to those Units exclusively. Each Unit will have one or more decks assigned as a Limited Common Elements for the exclusive use of the occupants of such Unit.

All of the Common Elements within the land initially submitted to the Condominium are expected to be substantially complete when submitted.

5. Assignment of Limited Common Elements. The following is intended to be only a brief summary of certain provisions relevant to assignment of the Limited Common Elements. Except for parking spaces, no Limited Common Element may be reassigned. All assignments and reassignments of Limited Common Elements shall be reflected in the condominium instruments or recorded amendments thereto. No Limited Common Element shall be assigned or reassigned except in accordance with the provisions of the Declaration and the Condominium Act. A Limited Common Element which is assignable may be reassigned to another Unit upon written application of the Unit Owners who are parties to such assignment to the principal officer of the Association. The Declarant may assign unassigned parking spaces.

6. Parking. The Condominium will have a total of not less than forty-one (41) parking spaces available (at least 1 space per Unit). One space will be assigned to each Unit as a Limited Common Element for the exclusive use of the occupants of that Unit. All of the parking spaces not initially assigned as Limited Common Elements will be General Common Elements with respect to which Declarant reserves the right to assign as Limited Common Elements, whether for additional consideration, or otherwise. The Declarant gives no assurance that any particular Unit will have more than one parking space assigned as a Limited Common Element.

#### F. THE DECLARANT

The Declarant, a corporation organized under the laws of the Commonwealth of Virginia, was created for the sole purpose of developing the Condominium. The President of the Declarant is Ulysses Turner and the Secretary/Treasurer is Josephine L. Turner, who have been associated with the Declarant since its formation. Mr. Turner has extensive experience (35 years) in construction and renovation of residential buildings primarily focusing on multifamily apartment buildings. Mr. Turner will be responsible for overseeing all aspects of the Condominium.

#### G. TERMS OF THE OFFERING

The offering prices for Units, as of the effective date of this Public Offering Statement, are \$200,000.

The Declarant may, but is not required, to offer any financing for the purchased Units. A Unit purchaser may apply for financing from any lender or may pay all cash at settlement. Each Unit purchaser will be responsible for satisfying the credit requirements and conditions established by the lender or lenders. Financing is subject to additional terms and conditions stated in the loan commitment or instruments which the Unit Owner receives from its lender.

The Declarant has reserved the right to terminate any Agreement of Sale or any Nonbinding Reservation Agreement for the sale of a Unit at any time prior to the expiration of 180 days after the date of the agreement if the requirements of any lender (such as a requirement that a certain number of units must be sold before any loan may be closed) providing financing for the Units cannot be met.

At settlement, the Unit purchaser will be required to pay, in addition to the purchase price of the Unit, the usual closing costs associated with the purchase of residential real estate. These closing costs include the recording fees and taxes for the deed (except the Virginia Grantor's tax which will be borne by the Declarant), any application or other fees charged by the purchaser's lender, the recording fees and taxes for the deed of trust, the premium for title insurance, if purchased, and the purchaser's attorney's fees.

Also, the purchaser of the Unit will be required to make a non-refundable initial capital contribution to the Association equal to the estimated assessments for common expense attributed to the particular Unit being purchased for three (3) months. (See Appendix 4(a), Projected Budget.) The general purpose for this contribution is to provide for certain prepaid items, such as insurance premiums, organizational expenses, equipment and supplies.

The Purchase Agreement (see Section 15) provides that the purchaser of a Unit will be required to pay the attorney's fees of the Declarant incurred in enforcing its rights against the purchaser in the event that the purchaser defaults under the Purchase Agreement. In the event that the Purchaser does not settle on the purchase of the Unit when obligated to do so, the Purchase Agreement provides that the purchaser shall be obligated to pay a daily charge to the Declarant as compensation for the delay (see Section 7(f)). The Purchase Agreement also provides that the Unit Owner waive the right to demand a trial by jury for any proceedings arising from or in any way connected with this Agreement or the transaction contemplated by this Agreement.

#### **H. ENCUMBRANCES**

The Condominium is and will be subject to the normal utility easements for water, cable, sewer, electricity, gas, drainage and telephone. In addition, the Condominium will be subject to certain easements created by the Declarant and by the Virginia Condominium Act. These easements include:

a. Easement for Encroachments. This easement protects the Unit Owner and the Unit Owners' Association in the event that a Unit or Common Element encroaches upon another Unit or Common Element.

b. Easement for Ingress and Egress. Each Unit Owner has a right of access to the Common Elements, subject to any rules, regulations and restrictions established by the Unit Owners' Association.

c. Easement for Access to Units. Authorized representatives of the Association, including the Declarant or the managing agent, may enter any Unit to the extent necessary to correct conditions threatening other Units or the Common Elements to make repairs to the Common Elements and the Limited Common Elements which are accessible only from the Unit, or to correct conditions which may constitute violations of the Declaration, the Bylaws or any regulations of the Association. Notice must be given to the Unit Owner prior to any entry, except in case of an emergency when a Unit may be entered without notice. The Declarant has the right to enter Units, regardless of whether the Unit Owner is present, for the purpose of performing warranty work. In the event of a violation of the Declaration or Bylaws, the violation



may be corrected without the consent of the Unit Owner and the Unit Owner may be charged with the resulting expense. The collection of such expenses may be enforced by means of the statutory lien for assessments.

d. Easement for Support. Each Unit Owner has the benefit of a restriction upon any action of a neighboring Unit Owner, or of the Association with respect to the Common Elements, which would endanger the structural integrity of the building or safety of his or her Unit.

e. Easement to Facilitate Sales. Initially, the Declarant may use one or more of the Units as a sales office and model unit. The Declarant may move either the sales office, the model unit, or both, to any other unsold Unit.

#### **I. RESTRICTIONS ON TRANSFER**

The Declaration provides that no part of the Condominium shall be made a part of any time share program.

Each Unit may be occupied by only one (1) family or by a maximum of two (2) persons per bedroom for unrelated persons.

No Unit Owner shall lease his condominium Unit except for residential purposes. A Unit shall be deemed leased by a Unit Owner for purposes of the Rules and Regulations, whenever it is occupied by a third party who is not a member of the Unit Owner's family, unless the Unit Owner is also occupying such Unit. The minimum initial term of any lease for any Unit is twelve (12) months.

The restrictions on leasing shall not apply to the Declarant or to any institutional mortgagee.

The right of a Unit Owner to sell his or her Unit is not subject to restrictions.

#### **J. UNIT OWNERS' ASSOCIATION**

The principal functions of the Association are to govern and provide insurance for the Condominium. Other functions of the Association, as described in the Bylaws and Articles, include adopting an annual budget and collecting assessments, overseeing the managing agent and the operation of the Condominium, and adopting and enforcing rules and regulations.

The affairs of the Association shall be managed by a Board of Directors. The Declarant will retain control of the Association by appointing all of the members of the Board of Directors during the period of Declarant Control which is the period ending on the earliest to occur of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act) or (iii) the date specified by the Declarant in a notice to each Unit Owner that the Declarant

is relinquishing its rights under Section 55-79.74(a) of the Code of Virginia of 1950. The Board of Directors will consist of three (3) directors elected annually by all the Unit Owners (including the Declarant so long as the Declarant is a Unit Owner) after the expiration of the Declarant Control Period. The number of Directors may be changed by an amendment to the Bylaws. The Board of Directors may delegate various powers to one or more directors, other officers or the Managing Agent pursuant to the Bylaws.

Under the provisions of the Bylaws, the Board of Directors shall be required to employ a professional manager for the Condominium.

The managing agent for the Condominium is Management Alternatives. The duration of the initial agreement to be signed with the managing agent is two (2) years. There is no relationship between the managing agent and the Declarant. Section 3.2 of the Bylaws addresses the criteria for the selection of managing agent. The criteria include that the agent be a bona fide business enterprise which manages common interest residential communities; that the firm shall have experience in real estate community management and that it employ persons possessing competence in the technical skills necessary for proper management of the Condominium. The agreement with the managing agent will provide that it may be terminated by the Association or the Board of Directors within sixty (60) days after the end of the Declarant Control Period, without penalty, upon ninety (90) days notice.

The officers of the Association will include a President, a Vice President, a Secretary and a Treasurer. Other officers may also be elected. All officers are elected by the Board of Directors. The President and Vice President must be residents of the Condominium and members of the Board of Directors, unless appointed by the Declarant.

Each owner shall have one vote in the affairs of the Association for each Unit owned.

All of the foregoing matters in this Section J are covered in detail by the Declaration and the Bylaws attached hereto as Appendices 1 and 3 to this Public Offering Statement.

The Board of Directors shall have the authority to adopt Rules and Regulations affecting the Condominium. A copy of the initial Rules and Regulations is attached to the Bylaws which are Appendix 3 to this Public Offering Statement.

The Board of Directors shall establish a Covenants Committee which shall be responsible for the external design, appearance, use and maintenance of the Common Elements.

#### **K. SURROUNDING AREA**

The Condominium is located in a mixed residential and commercial urban setting in Norfolk. The surrounding area is zoned for, and is currently being used primarily for commercial and residential purposes. The Condominium is near the Norfolk International Airport, the Lake Wright Resort Golf Course and the Five Points commercial area. The Project is located on Norview Avenue which is a major thoroughfare. Unit Owners should expect to experience the sights, noise levels and traffic issues which are customarily associated with such a location.

## L. FINANCIAL MATTERS

Each Unit Owner will be obliged to pay a share of the Common Expenses, which include the actual and anticipated expenses of the Association and any allocations to reserve funds which the Association may maintain. Each Unit Owner will be assessed an equal amount for any regular or special assessment. A Unit Owner cannot obtain a reduction of the Common Expenses assessed against his Unit by refraining from use of any of the Common Elements. A projected Budget for the Association is attached as Appendix 4(a). At the time of settlement of the purchase of any Unit, the Purchaser shall be required to pay a sum equal to three (3) month's regular assessments, which sum shall be placed in the Association account as its initial working capital. This payment is a capital contribution to the Association, not an advance payment of regular assessments.

The costs of maintenance, repair and replacement of the various portions of the Condominium are generally divided into three categories: (a) those apportioned among and assessed to all of the Units, (b) those apportioned among and assessed to less than all of the Units, and (c) those borne directly by individual Unit Owners. Generally speaking, the costs associated with maintaining, repairing and replacing the Common Elements, including the Limited Common Elements, will be assessed to all of the Units based on their respective Common Element Interests. Also, costs incurred for consumption of gas, water, sewer and related services will be included as Common Expenses and assessed against all Unit Owner's based on their respective Common Element Interests. Costs which may be apportioned among and assessed to less than all of the Units include costs incurred by the Association due to the conduct of a Unit Owner (or his or her family members, employees, agents or licensors or guests), costs incurred in making the same off-site amenities or paid subscription television service to some or all of the Units (including cable television and data transmission services and security monitoring services) and costs incurred in providing metered utility service to some or all of the Units, if any, (to be assessed based upon actual consumption of services). A Unit Owner may not unilaterally reduce his or her assessments if he or she refrains from using the utilities or services the cost of which is apportioned among and assessed to all of the Units based upon their respective Common Element Interests.

Each Unit Owner will pay all costs associated with the maintenance and repair of his or her Unit, including windows and doors. This includes the maintenance costs of the air conditioning system, plumbing and electrical systems which serve only that Unit. Certain utilities including electricity and telephone will be separately metered for each Unit with the Unit Owner being responsible for the payment thereof. Also, each Unit Owner will be responsible for the payment of the real estate taxes assessed against his or her Unit.

The Declaration and the Bylaws contain more detail about the manner in which Common Expenses are to be assessed. See also Appendix 4(a) to this Public Offering Statement for budgetary projections. Those budgetary projections are estimates only and are not guaranteed by the Declarant or anyone else. Budgetary projections for future years are especially unreliable. Not only is it impossible to predict the rate of inflation and the general economic conditions, but it is also impossible to predict things that could happen in the future within the Condominium itself, especially after the period of Declarant control ends. If the Association develops a

budgetary shortage, the Bylaws permit and require the Board of Directors to levy further assessments on the Unit Owners to make up the deficiency. The budget has been based on the assumption that the Condominium will contain 26 residential Units.

At the present time no regularly recurring common expenses are planned to be specially assessed.

The failure of any Unit Owner to pay his share of the Common Expenses, as assessed by the Board of Directors, could have consequences just as serious as failure to pay a promissory note secured by a mortgage or a deed of trust. Not only would the defaulting Unit Owner be subject to a lien on his Condominium Unit which could result in a forced sale thereof to pay the deficiency (together with interest, late charges, costs, attorney's fees, and a fair rent of his Unit), but he could also be sued personally for those same items, and the judgment could be enforced against other property of the Unit Owner besides his Unit. Failure to pay any monthly installment of his Common Expense assessment gives the Board of Directors, under the provisions of the Bylaws, the right to declare the entire remaining unpaid balance of that year's assessment immediately due and payable. A Unit Owner who becomes delinquent in the payment of any assessment for thirty (30) days also loses his right to vote in the Association. It is also noted that the Declarant has posted a bond with the Virginia Real Estate Board, conditioned on the payment of assessments against unsold Units owned by the Declarant.

A Unit Owner cannot obtain a reduction of the Common Expenses assessed against his Unit by refraining from use of any of the Common Elements or by reason of the Association's failure to furnish any services.

The Association may also establish, in such an amount as it may deem necessary, reserve funds for operating contingencies of a nonrecurring nature. A Unit Owner's share of such funds may not be utilized by him or her, and will be deemed conveyed with title to a Unit as an appurtenance.

The aggregate replacement cost of all physical assets whose replacement costs will constitute regular common expenses and whose expected useful lives are ten (10) years or less is \$35,250. The amount of common expense assessment per unit, in current dollars (ignoring the effects of inflation or any interest earned on deposited reserve payments) is \$1,355.77, or \$11.30 per month over the ten year period.

The budget provides for annual replacement reserves in the amount of \$7,000. That amount is based upon the recommendation (cash flow basis rather than component basis) contained in the Replacement Reserve Study attached as Appendix 8. If the period of Declarant Control, as provided for in the Bylaws, is two (2) years which is the maximum permitted by the Condominium Act, the amount of Reserves accumulated by the Association during that period would be \$14,000. If the actual period of Declarant Control is less, the amount of Reserves accumulated will be proportionately less.

The following is a table of the expenses incurred by the operation, maintenance, repair or other upkeep of the Condominium property during the calendar years 2004, 2005 and 2006:

<u>Expense</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Total</u>
Repairs – materials	\$3,408.81	\$2,405.14	\$2,041.08	
Landscaping	\$4,458.11	\$5,533.51	\$8,152.68 <sup>1</sup>	
Contract services, common elements	\$12,000.00 <sup>1</sup> (est.)	\$12,000.00 <sup>1</sup> (est.)	\$12,000.00 <sup>1</sup> (est.)	
Contract services - units	\$8,503.44 <sup>1</sup> (est.)	\$5,505.24 <sup>1</sup> (est.)	\$11,566.27 <sup>1</sup> (est.)	
Insurance	\$8,642.50	\$8,590.99	\$6,984.00	
Trash Deposal	\$1,434.80	\$1,630.13	\$1,986.15	
Electric Service	\$3,687.69	\$3,771.61	\$3,414.21	
Water & Sewer Service	\$675.04 <sup>2</sup>	\$487.01 <sup>2</sup>	\$768.71 <sup>2</sup>	

<sup>1</sup> An unquantified portion of these amounts was expended to upgrade the Units and Common Elements.

<sup>2</sup> An estimated \$500 per year of this amount was for water and sewer services provided to the Unit used by the owner as an office and will not be common expenses after conversion to condominium.

All of the expenses set forth above other than those labeled "Contract Services – Unit" would have constituted regular common expenses if the property had been converted to condominium prior to commencement of the three year period.

The following is a table showing the breakdown of the expenses incurred during the years 2003, 2004, and 2005 in the same proportion that common expenses will be assessed against the Condominium units:

<u>Unit Type</u>	<u>Proportion of Common Expenses Per Unit Type</u>	<u>2003 Common Expenses</u> <sup>3</sup>	<u>2003 Unit Expenses</u> <sup>4</sup>	<u>2004 Common Expenses</u> <sup>5</sup>	<u>2004 Unit Expenses</u> <sup>6</sup>	<u>2005 Common Expenses</u> <sup>7</sup>	<u>2005 Unit Expenses</u> <sup>8</sup>
The Sewells Point	1,090/27,690	\$1,350.47	\$334.73	\$1,354.86	\$216.71	\$1,391.41	\$455.30
The Norview	1,035/27,690	\$1,282.33	\$317.84	\$1,286.49	\$205.78	\$1,321.20	\$432.33
The Chesapeake	1,076/27,690	\$1,333.13	\$330.43	\$1,337.46	\$213.93	\$1,373.54	\$449.45

<sup>3</sup> \$34,306.95 (total Common Expenses for 2003).

<sup>4</sup> \$8,503.44 (total Unit Expenses for 2003).

<sup>5</sup> \$34,418.39 (total Common Expenses for 2004).

<sup>6</sup> \$5,505.24 (total Unit Expenses for 2004).

<sup>7</sup> \$35,346.83 (total Common Expenses for 2005).

<sup>8</sup> \$11,566.27 (total Unit Expenses for 2005).

## M. INSURANCE

The Association will purchase a master policy of "all risk" or "special risks" casualty insurance protecting the Association and, to a limited extent, the individual Unit Owners. The building will be covered by fire and property damage insurance with an "all risk" "special risks" endorsement, if available. This policy shall be written in an amount equal to the full replacement value of the property covered, with such deductibles as may be determined by the Association. This insurance will not cover (a) the personal property of a Unit Owner located in his or her Unit or (b) improvements to a Unit constructed by its Owner which increases the value of the Unit beyond the limits of coverage provided in the Association's policy.

The Association and the Unit Owners shall also be insured against liability for injury to any person or property arising from ownership of the Common Elements of the Condominium. This insurance will not insure Unit Owners against liability arising from an accident or injury occurring within a Unit or liability arising from the act or negligence of a Unit Owner.

The Association will also maintain flood insurance if available and appropriate, workmen's compensation insurance and fidelity coverage to protect against dishonest acts on the part of any person who handles funds on behalf of the Association and director and officer insurance and such other insurance as the Directors of the Association determine to be in the best interests of the Association. The premiums for all insurance obtained by the Association are a common expense which is a part of the condominium assessments paid by each Unit Owner.

Each Unit Owner should obtain insurance coverage on his or her personal property and personal liability protection to the extent that these risks are not covered by the Association's master policy. In particular Unit Owners should obtain liability coverage against any water damages to other Units or the Common Elements arising from a leak by any apparatus within, or by any component of, his Unit. Unit Owner may also insure any improvements to his or her Unit to the extent that these improvements increase the value of the Unit beyond the limit of coverage provided by the master policy. However, before a Unit Owner obtains an individual policy providing this additional coverage, an Owner or his representative should review the provisions of the Bylaws (especially Article 6) for the provisions required in those policies.

## N. TAXES

Each Unit Owner will receive an individual real property tax bill from the City of Norfolk and will be individually responsible for payment of the real property taxes and assessments. There are no other taxes relating to the ownership of Units of which the Declarant is aware.

As of the effective date of this Public Offering Statement, real property in the City of Norfolk is required to be assessed at one hundred percent (100%) of the fair market value. The tax rate for the City of Norfolk per \$100.00 of assessed value is currently \$1.35. The Unit Owners will be able to estimate the annual real property tax on his Unit by dividing the purchase price of his Unit by One Hundred (100) and multiplying the result by the \$1.35 tax rate.

**O. GOVERNMENTAL APPROVAL**

The project, when constructed in 2001, was fully permitted, inspected, and approved by the appropriate governmental authorities and was in compliance with all zoning ordinances and building codes at such time.

**P. WARRANTIES**

Each Unit will be covered by the statutory warranty provided by Section 55-79.79(b) of the Code of Virginia of 1950 for two (2) years from the date of each Unit is conveyed; and each Common Element will likewise be covered for two (2) years from the date the first Unit of the Condominium is conveyed or from completion of that Common Element, whichever is later. Further, the Declarant will warrant the Units to be fit for habitation and constructed in a workmanlike manner so as to pass without objection in the trade. The warranties provided by the Declarant will exclude the following:

- (a) Cracks, peeling paint, popping nails or other effects of aging, normal settlement, or expansion, contraction, shrinkage or warping of materials that may occur in walls, floors, ceilings, doors or any of the components of the Unit, as long as such defect will not prevent the normal intended use of all or part of the Unit. Due to the nature of cement/concrete construction, non-structural cracks and fissures, including surface cracking, are to be anticipated and should not be considered to be defects or non-conformities.
- (b) Defects or smudges in painted surfaces, chipping and/or cracking of marble, formica, fiberglass, or tiles, defective or broken glass, spots on carpeting, or similar defects readily visible to the human eye (e.g., a broken window), which are not noted for correction at the time of inspection by the Unit Owner before closing.
- (c) Normal maintenance items or conditions resulting from wear and tear and/or misuse or negligence.

Nothing contained in the warranty provided by the Declarant shall limit the protection afforded by the statutory warranty.

**Q. PRESENT CONDITION OF CONVERSION CONDOMINIUM.**

The Building and other improvements comprising the Condominium were constructed in 2001.

A summary of the present condition of the various classes of physical assets is set forth below:

<u>Class of Physical Assets</u>	<u>Condition</u>
<b>Exterior Building Components</b>	
Roof system	
Asphalt shingles	Good
Roof gutters	Good
Flexible tubing	Good
Attic fence	Good
Louvered gable in-vents	Good
<b>Exterior Cladding and Components</b>	
Vinyl siding and trim	Good
Brick veneer accent panels	Good
Mortar joints	Good
Steel lintels	Good
Aluminum clad wood trim	Good (some deteriorated wood to be replaced)
Sealant	Fair to poor (to be replaced)
Doors	Good
Windows	Good
Front Balconies/Railings/Stair Structures	Good (to be stained)
Dwelling Unit Balconies	Good (to be stained)
<b>Exterior Light Fixtures</b>	
Soffit mounted light fixtures	Good
Stair tower mounted light fixtures	Good
Wall mounted flood light fixtures	Good
Pole mounted flood light fixtures	Good
Landscape flood lamps	Good
Canvas awnings	Good
<b>Building Structure</b>	
Concrete floor slab/foundation walls	Good (ground erosion and slab undercutting to be corrected)
<b>Electrical and Mechanical</b>	
Electrical wiring/panels	Good
Plumbing System	Good
Heating, Ventilation and Air Conditioning Units	Good
<b>Site Improvements</b>	



<u>Class of Physical Assets</u>	<u>Condition</u>
Sidewalks	Good
Pavement	Good
Curbs	Good
Parking lot: Striping	Good
Concrete wheel stops	Good
Mailbox centers	Good
Bicycle rack	Good
Signage	Good
Chain link fencing: 6 feet high chain link fence and swing gates	Good
4 foot high chain link fence	Fair to Good
Drainage Components (concrete valley gutters, storm water pond, concrete bulkhead, concrete pipe and catch basins)	Good
Brick Fence Column	Good

The Present Condition Report prepared by HBA Architecture Engineering Interior Design (David L. May, Jr., Architect), dated October 27, 2005, is attached as Appendix 7. All of the repairs or replacements of various physical assets that are in the report have been made or will be made by the Declarant prior to the conveyance of the first Unit. The Present Condition Report was based on multiple inspections performed during the month of October, 2005.

**R. REPLACEMENT REQUIREMENTS.**

The expected usual lives and the replacement cost of the physical assets (or class of physical assets), of the Condominium improvements are as follows:

<u>Class of Physical Assets</u>	<u>Expected Useful Life in Years</u>	<u>Replacement Cost in Current Dollars</u>
Exterior Cladding (Brick Repointing)	26	\$2,228
Exterior Cladding (Moisture Study)	6	\$7,200
Canvas Awnings	5	\$2,600
Exterior Light Fixtures	10	\$7,200
Concrete Sidewalks	10	\$3,630
Concrete Curb	26	\$1,721
Concrete Pavement	10	\$3,325
Asphalt Shingle Roofing	16	\$26,250
Gutters & Downspouts	16	\$4,225
Sealants	5	\$4,350
Wood Stair Structures	10	\$3,250
Wood Entrance Decking	10	\$2,645

<u>Class of Physical Assets</u>	<u>Expected Useful Life in Years</u>	<u>Replacement Cost in Current Dollars</u>
Site Fencing	26	\$26,600
Site Signage	10	\$1,050
Site Furnishings	15	\$2,700

The inspection to determine the useful lives of the various physical assets was conducted in October, 2005. The expected useful lives of the physical assets run from October 1, 2005. The expected useful lives of the various physical assets are based upon the assumption that they will receive the normal and customary level of maintenance. The determination as to expected useful lives and replacement costs of the physical assets are based upon the Replacement Reserve Study, dated October 21, 2005, prepared by HBA Architecture Engineering Interior Design. A copy of the Replacement Reserve Study is attached as Appendix 8.

All of the physical assets listed above are Common Elements, the cost of replacement of which will be funded by common expense assessments. See the "Financial Matters" section above for a discussion of the amount of such replacement costs.

**The Landings at Five Points, a Condominium**

**Public Offering Statement**

**Appendix 1**

**DECLARATION**

DECLARATION  
OF  
THE LANDINGS AT FIVE POINTS, A CONDOMINIUM

ARTICLE 1

SUBMISSION; DEFINED TERMS

Section 1.1. Submission of Property. The Landings at Five Points, Inc., a Virginia corporation ("Declarant"), owner in fee simple of the land described in EXHIBIT A-1 annexed hereto as the "Submitted Land," located within the City of Norfolk, Virginia ("Land"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging ("Property") to the provisions of Chapter 4.2 of Title 55 of the Code of Virginia, as amended, known as the Virginia Condominium Act ("Condominium Act") and hereby creates with respect to the Property a condominium to be known as "The Landings at Five Points, a Condominium" ("Condominium").

Section 1.2. Defined Terms. As provided in Section 55-79.50(a) of the Condominium Act, terms not otherwise defined herein or in the Bylaws attached hereto as EXHIBIT C, as the same may be amended from time to time ("Bylaws"), or the Plats and Plans, shall have the meanings specified in section 55-79.41 of the Condominium Act.

ARTICLE 2

BUILDINGS ON THE LAND; UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Buildings. The location and dimensions of the Land and of each building on the Land are depicted on the "Plat" to be recorded contemporaneously with this instrument, a reduced copy of which is attached as EXHIBIT A-2 hereto.

Section 2.2. Units. There are twenty six (26) Units in the Condominium. The location of Units within the building and their dimensions are shown on the "Plans" to be recorded contemporaneously with this instrument, a reduced copy of which is attached as EXHIBIT A-3 hereto. Each Unit Owner shall own his or her Unit in fee simple absolute and, in addition, shall own an equal undivided interest, as a tenant in common with the other Unit Owners, in the Common Elements.

Tax Identification No. 31104050  
Prepared by: Kaufman & Canoles  
P.O. Box 3037  
Norfolk, VA 23514-3037

Section 2.3. Unit Boundaries. The boundaries of each Unit are as depicted on the plans and are more particularly described as follows:

(a) Upper and Lower (Horizontal) Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The horizontal plane of the upper surface of the drywall or other material forming the ceiling.

(2) Lower Boundary: The horizontal plane of the top surface of the concrete slab forming the floor of the first floor Units and the wood sub-floor forming the second and third floor Units.

(b) Vertical (Perimetric) Boundaries: The vertical boundaries of the Unit shall be the vertical plane which includes the back surface of the drywall of all walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries.

(c) The Unit shall include all interior doors therein, and all wallboard, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof.

(d) The Unit boundaries as above described and as delineated on "Exhibit A-3" shall be governed by the provisions of Section 55-79.50(c) and (d) of the Condominium Act.

(e) The Unit shall include the heating and air conditioning apparatus and hot water heater which serve only the Unit (even if located outside of the boundaries of the Unit). Any portion of a utility system serving only one Unit shall be part of the Unit and any portion of a utility system serving more than one Unit which is partially within and partially without the Unit shall be part of the Common Elements.

Section 2.4. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the Unit Owner and the Association.

Section 2.5. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between Units is permitted subject to compliance with the provisions therefor in Sections 5.7 and 8.5 of the Bylaws and in Section 55-79.69 of the Condominium Act.

## ARTICLE 3

### COMMON ELEMENTS

Section 3.1. Limited Common Elements. In addition to Limited Common Elements which are Limited Common Elements by virtue of Section 55-79.50(e) of the Condominium Act, there are Limited Common Elements delineated on the Plat and/or the Plans, including but not limited to the deck or decks shown adjacent to a Unit on the Plans and such are Limited Common Elements appurtenant to that Unit. Limited Common Elements shall also include Unit entry doors, hardware, frame and appurtenances; Unit stormdoors, hardware, frame, and appurtenances; Unit deck doors, hardware, frame, and appurtenances; and Unit windows, hardware, frames, and appurtenances which, in each case shall be appurtenant to the Units to which it is adjacent.

Section 3.2. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the Common Elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

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

(a) The Declarant hereby reserves the right to assign as Limited Common Elements all parking spaces shown on the Plat or Plans which are not assigned as Limited Common Elements and may receive valuable consideration therefor. The Declarant's right to assign parking spaces as Limited Common Elements shall survive the expiration of the Declarant Control Period (defined in the Bylaws).

(b) The Declarant may, at any time, by the preparation, execution and recordation of an amendment to this Declaration, relinquish to the Association its right to assign the parking spaces as Limited Common Elements. If the Declarant relinquishes such rights, the Association may assign any unassigned parking spaces as Limited Common Elements in the same manner as provided above for the Declarant.

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

Section 3.4. Allocation of Interests in Common Elements. Each Unit is hereby allocated an undivided interest in the Common Elements based on relative size as shown on the Common Element Interest Table attached hereto as EXHIBIT B. The "size" of each Unit is the total number of square feet of floor area contained therein determined by reference to the dimensions shown on the Plans, or the Plat, as the case may be.

## ARTICLE 4

### EASEMENTS

In addition to the easements created by sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted:

Section 4.1. Easement for Ingress and Egress. Each Unit Owner is hereby granted a perpetual easement in common with each other Unit Owner for ingress and egress through all Common Elements intended for the purposes of ingress and egress. Such easement shall run with title to the Unit.

Section 4.2. Easement to Facilitate Sales. All Units shall be subject to an easement in favor of the Declarant pursuant to section 55-79.66 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Condominium; upon relocation, the furnishings thereof may be removed. Any furnishings or other personal property placed in any of the Units by the Declarant in connection with the use of such Units as models, management offices, sales offices or customer service offices shall remain the property of the Declarant. The Declarant further reserves the right to maintain on the Condominium such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Condominium and may be relocated or removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain Common Element parking spaces as designated from time to time by Declarant for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain Common Elements for models, sales, management, construction, customer service and similar purposes for this or any other project. This easement shall continue until the Declarant has conveyed all Units in the Condominium (including all Units located on the Additional Land) to Unit Owners other than the Declarant.

Section 4.3. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant and the managing agent and/or any other person authorized by the Board of Directors the right of access to any Unit as provided in section 55-79.79 of the Condominium Act and Section 5.9 of the Bylaws. In case of emergency, such entry shall be immediate whether or not the Unit Owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to perform warranty-related work (for the benefit of the Unit being entered, other Units or the Common Elements) whether or not the Unit Owner consents or is present at the time.

(b) Support. Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element which provides lateral or subjacent support thereto.

Section 4.4. Declarant's Right to Grant Easements. The Declarant shall have the right, prior to termination of the Declarant Control Period, to grant and reserve temporary and perpetual easements and rights-of-way through, under, over and across the Common Elements for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, cable television and other utilities.

## ARTICLE 5

### AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

No amendment of the Declaration may be made without the prior written consent of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by the Condominium Act. No amendment shall be made to any condominium instrument during the Declarant Control Period without the prior written consent of the Declarant. Except as provided in the Bylaws, no amendment to the condominium instruments shall diminish or impair the rights of Mortgagees under the condominium instruments without the prior written consent of all Mortgagees, nor diminish or impair the rights of the Declarant under the condominium instruments including, but not limited to, the rights reserved to the Declarant in Article 4 hereof, without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the condominium instruments, no provision of the condominium instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of Mortgagees.

## ARTICLE 6

### DECLARANT'S RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium Unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant shall enjoy the same rights and assumes the same duties with respect to the Units and by it as enjoyed and assumed by all other owners of Units, except to the extent provided to the contrary in the Declaration or Bylaws. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant.

## ARTICLE 7

### RESTRICTIONS

Section 7.1. Each Unit and the Common Elements shall be occupied and used as follows:

(a) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Condominium without the prior written consent of the



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

(b) No immoral, improper, offensive or unlawful use shall be made of the Condominium or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. No nuisance shall be allowed in any Unit or Common Elements, and the Board of Directors shall have authority to prohibit any practice which is a source of annoyance to other Unit Owners or which interferes with the peaceful enjoyment and use of any Unit or Common Elements. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction and relating to any portion of the Condominium shall be complied with, by and at the sole expense of the Unit Owner or the Unit Owners Association, whichever shall have the obligation to maintain or repair such portion of the Condominium, and, if the Unit Owners Association, then the cost of such compliance shall be a Common Expense.

(c) No Unit Owner shall obstruct any of the Common Elements, nor shall any Unit Owner store anything upon any of the Common Elements (except in those areas, if any, designated for storage by the Board of Directors) without the approval of the Board of Directors. Vehicular parking in parking spaces designated as a Common Element and not assignable as a Limited Common Element, may be regulated or assigned by the Board of Directors. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Board of Directors.

(d) No Unit shall be used for other than residential purposes except that a Unit may be used for home office purposes as permitted by the City of Norfolk Zoning laws, provided that any office use shall in all cases be ancillary to primary use of a Unit primarily as a residence. No Unit may be occupied by more than one (1) family or more than two (2) persons per bedroom for unrelated persons.

(e) The Common Elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Units.

(f) Without the prior written consent of the Board of Directors, except on replacements of any initial construction, no Unit Owner shall install any electrical or telephone wire, television, satellite, or other communication antenna, air conditioning unit, awning or other machine, device or improvement upon any Unit or Common Elements in such a fashion that it protrudes from or through any roof, balcony, wall or window.

(g) Except for such signs as may be posted by the Declarant for construction, promotional or marketing purposes and traffic control and such "for sale" or "for lease" signs as may be posted by a Mortgagee on Units owned by the Mortgagee or under foreclosure, no signs, posters, lettering, notice or advertisements of any character shall be erected, posted or displayed

upon, in, from or about any Unit or Common Element, except as authorized by the Board of Directors or by the Rules and Regulations.

(h) The Association may prohibit or prescribe the location of heavy objects (such as, for example, safes and waterbeds).

(i) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind shall be prohibited within any Unit or the Common Elements except pets shall be allowed in the Condominium to the extent (if at all) and under the conditions prescribed by the Rules and Regulations.

(j) No trailers, campers, recreational vehicles, boats or other large vehicles may be parked in the Common Elements including parking spaces. The Board of Directors shall have the power to tow or "boot" any vehicle immediately in violation of this section.

(k) No Unit shall be subject to or used for any timesharing, cooperative, leasing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple Unit Owner, cooperation, licensees, or timesharing participants.

Section 7.2. Each Unit, the Limited Common Elements and the Common Elements shall be occupied and used in compliance with such Rules and Regulations as may be promulgated and amended from time to time by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner. Amendments to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

## ARTICLE 8

### SPECIAL DECLARANT RIGHTS; TRANSFER

Section 8.1. Special Declarant Rights. Special declarant rights are those rights reserved for the benefit of the Declarant as provided for in the Condominium Act and the condominium instruments, and shall include without limitation the following rights: (a) to complete improvements indicated on the Plat and Plans recorded with the Declaration; (b) to maintain sales offices, management offices, customer service offices, signs advertising the Condominium and models; (c) to use easements through the Common Elements for the purpose of making improvements within the Condominium; and (d) to appoint or remove any officer or director of the Association during the Declarant Control Period.

### Section 8.2. Transfer of Special Declarant Rights.

(a) The transfer of special declarant rights shall be governed by Section 55-79.74:3 of the Condominium Act.

ARTICLE 9

DECLARANT'S OBLIGATION TO COMPLETE IMPROVEMENTS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, renovate or provide any improvements except to the extent required by the Condominium Act.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officer, this \_\_\_\_ day of \_\_\_\_\_, 2006.

THE LANDINGS AT FIVE POINTS, INC.,  
a Virginia corporation

By: \_\_\_\_\_  
Ulysses Turner, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in \_\_\_\_\_, Virginia, by Ulysses Turner, who is either:  personally known to me or  who produced \_\_\_\_\_ as identification, as President of The Landings at Five Points, Inc., a Virginia corporation, on its behalf.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT A-1**  
to Declaration of The Landings at Five Points, a Condominium

SUBMITTED LAND:

Parcel One

All that certain lot, piece or parcel of land, with the buildings and improvements thereon, lying and situate in the City of Norfolk (formerly Norfolk County), Virginia, known, numbered and designated as Lot No. 3, (erroneously referred to as Lot 1 in previous deed) in Block No. 1, on the "Plat of a Portion of the Property belonging to Alexander Realty Corporation," said plat having been duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake (formerly Norfolk County) on the 3<sup>rd</sup> day of July, 1935, together with a deed from Alan J. Hoffmeier, Trustee, et al., to Conrad Brothers, Incorporated, the said property being more particularly bounded and described as follows:

Beginning at a point in the Northern line of Bell's Road as shown on said plat, between Lots Nos. 2 and 3 in said Block No. 1, and running thence in a Northerly direction along the Eastern boundary line of Lot No. 2 four hundred (400) feet to the Southern line of Lot No. 5 in said block; thence Easterly along the Southern line of Lot No. 5 one hundred (100) feet to the Western line of Lot No. 4, in said Block; thence in a Southern direction along the Western line of Lot No. 4, four hundred (400) feet to the Northern line of Bell's Road as shown on said plat; (the following was erroneously omitted from previous deed) thence in a Westerly direction along the Northern line of Bell's Road as shown on said plat one hundred (100) feet to the point of beginning.

Parcel Two

All that certain parcel of land, with the buildings and improvements thereon, lying in the City of Norfolk (formerly Norfolk County), Virginia, known, numbered and designated on the plat of the Alexander Realty Corporation, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake (formerly Norfolk County), in Map Book 21 at Page 56; as the Eastern twenty-five (25) feet of Lot Two (2) in Block 1; fronting 25 feet on the Northern side of Bell's Road and running back between parallel lines four hundred (400) feet.

LESS AND EXCEPT that portion of property conveyed to City of Norfolk in Deed Book 1032, page 85, by deed dated September 7, 1965 and duly recorded September 24, 1965, in Map Book 22, page 45.

Parcel Three

An irregular-shaped lot, piece or parcel of land situate, lying and being in the Norview section of the City of Norfolk, Virginia, said parcel being bounded on the south by Norview Avenue and on the east by Alexander Street, said parcel being further described as follows:

BEGINNING at a point that is the intersection of the northern line of Norview Avenue and the point of curvature on the western line of Alexander Street, said point of beginning being shown on a plat entitled "Plat Showing Proposed Widening of Norview Ave.," said plat being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia in Map Book 22, at page 45; thence, from the point of beginning thus described, northeastwardly 23.24 feet, more or less, along the arc of a curve to the left, the radius of which is 15.00 feet, to a point of tangency on the western line of Alexander Street; thence N 9 degrees 35' 55" W, 65.04 feet, more or less, along said western line to a point; thence, S 80 degrees 24' 05" W, 100.00 feet, more or less to a point; thence, S 9 degrees 35' 55" E, 81.87 feet, more or less, to a point on the northern line of Norview Avenue; thence N 79 degrees 10' 08" E, 85.34 feet, more or less, along said northern line to the point of beginning.

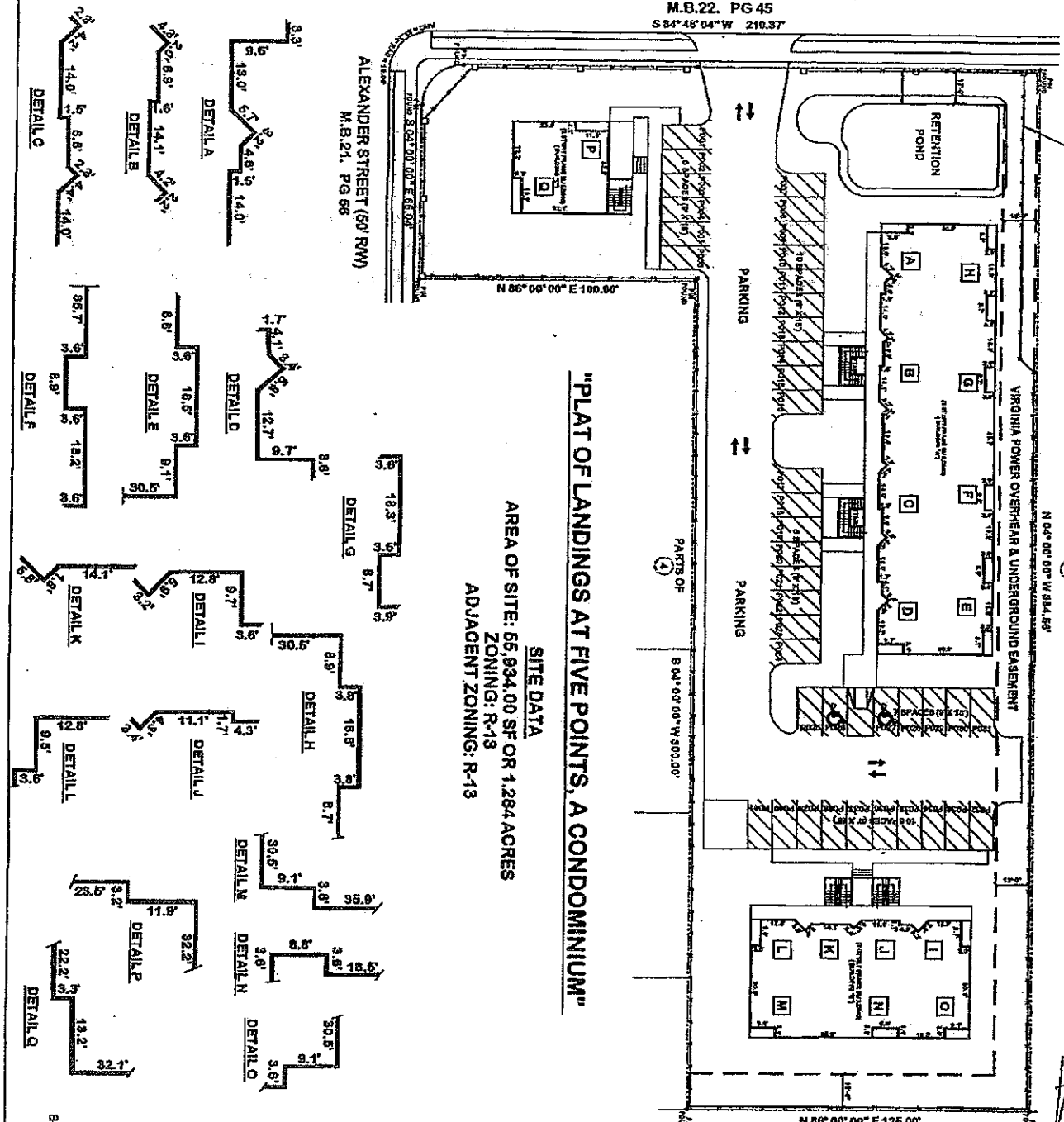
LESS AND EXCEPT that certain portion of land conveyed to the City of Norfolk, Virginia by deed dated January 28, 1966 and recorded in the Clerk's Office of the Circuit Court for the City of Norfolk, Virginia (the "Clerk's Office") in Deed Book 1045, page 355, for widening of Norview Avenue.

It being the same property as that conveyed to Declarant by deed from 1232 Norview Avenue LLC, a Virginia limited liability company, dated \_\_\_\_\_ and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_.

**EXHIBIT A-2**  
to Declaration of The Landings at Five Points, a Condominium

Plat

The plat for The Landings at Five Points, a Condominium is to be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia contemporaneously with this Declaration. A photo-reduced copy of the plat, containing one (1) page(s), follows this cover sheet.



**"PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM"**

**SITE DATA**  
**AREA OF SITE: 66,934.00 SF OR 1.284 ACRES**  
**ZONING: R-13**  
**ADJACENT ZONING: R-13**

WILMER H. AYGARIN  
LAND SURVEYOR  
No. 00001  
1-13-06

WILMER H. AYGARIN  
LAND SURVEYOR  
1232 NORVIEW AVENUE, NORFOLK, VIRGINIA  
PART OF LOT 4, THE REMAINDER OF LOT 3,  
AND THE REMAINDER OF THE EASTERN 25% OF LOT 2  
ALEXANDER REALTY CORP.  
MAP BOOK 24, PAGE 68 (NORFOLK 00)  
FOR ULVBEES TURNER  
DATE: SEPTEMBER 29, 2006  
SCALE: 1" = 80'-0"  
WILMER H. AYGARIN, LAND SURVEYOR  
NORFOLK, VIRGINIA



THIS IS TO CERTIFY THAT ON BEPT. 29, 2006, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND PHYSICAL UNITS ARE SHOWN ON THIS PLAT. THE UNITS STAY BRIGHTLY WITHIN THE TITLE LINES AND THERE ARE NO ENDOACHMENTS OR VISIBLE EMBLEMETS EXCEPT AS SHOWN.

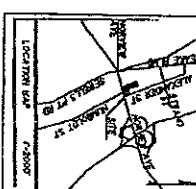
I HEREBY CERTIFY THAT THIS PLAT IS ACCURATE AND IS IN COMPLIANCE WITH SECTION 56-79.560A OF THE CODE OF VIRGINIA.

NOTE: A CURRENT TITLE REPORT WAS NOT FURNISHED

**LEGEND**

**COMMON ELEMENTS**  
NOTE: PARKING SPACES WHICH DEPARTMENT RESERVES THE RIGHT TO ASSIGN AS LIMITED COMMON ELEMENTS.

**LEGEND**  
PROPERTY LINE BOUNDARY  
SECURITY FENCE  
EXISTING ELEVATION: 15.3  
(NOTE: ELEVATIONS ARE NORFOLK DATUM - 100)



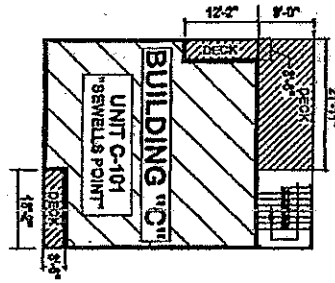
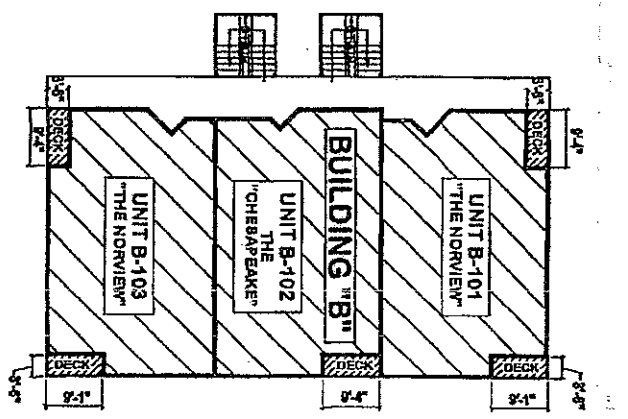
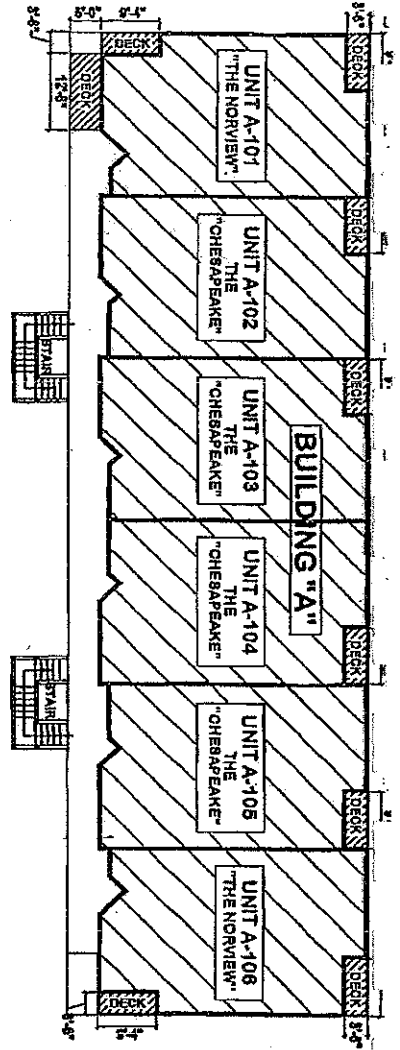
PROJECT	PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM 1232 NORVIEW AVENUE, NORFOLK, VA 23513	DATE	SEPTEMBER 29, 2006
CLIENT	WILMER H. AYGARIN LAND SURVEYOR NORFOLK, VIRGINIA (757) 366-1101	SCALE	1" = 80'-0"
NO. OF SHEETS	1	DATE	SEPTEMBER 29, 2006
SHEET NO.	10	PROJECT NO.	

**EXHIBIT A-3**  
to Declaration of The Landings at Five Points, a Condominium

Plans

The plans for The Landings at Five Points, a Condominium are to be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia contemporaneously with this Declaration. A photo-reduced copy of the plans, containing ten (10) page(s), follows this cover sheet.

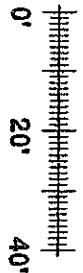




PLANS FOR THE LANDINGS AT FIVE POINTS,  
A CONDOMINIUM

(3 STORY FRAME BUILDING)

FIRST FLOOR



NOTE:

1. ALL AREAS TAKEN TO THE NEAREST SQ. FT.
2. FINISHED FLOOR ELEVATIONS SHOWN ARE BASED UPON SPOT ELEVATIONS TAKEN BY AN INDEPENDENT LICENSED LAND SURVEYOR.
3. DECLARANT RESERVES THE RIGHT TO ASSIGN ALL PARKING SPACES AS LIMITED COMMON ELEMENTS.
4. SEE SHEETS 0-8 FOR UNIT TYPE DIMENSIONS.

MODEL "A" (THE BEVELLS POINT) AREA: 1,090.11 SF	MODEL "B" (THE NORVIEW) AREA: 1,094.97 SF	MODEL "C" (THE CHEESAPEAKE) AREA: 1,076.74 SF
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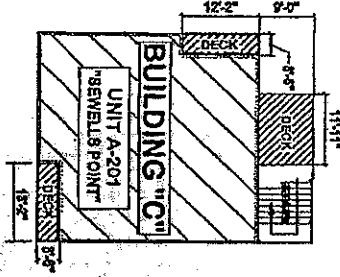
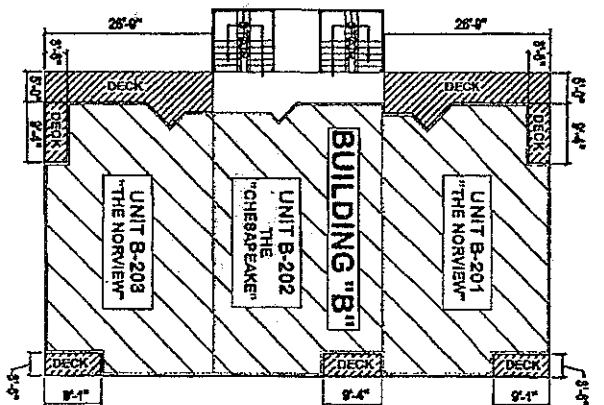
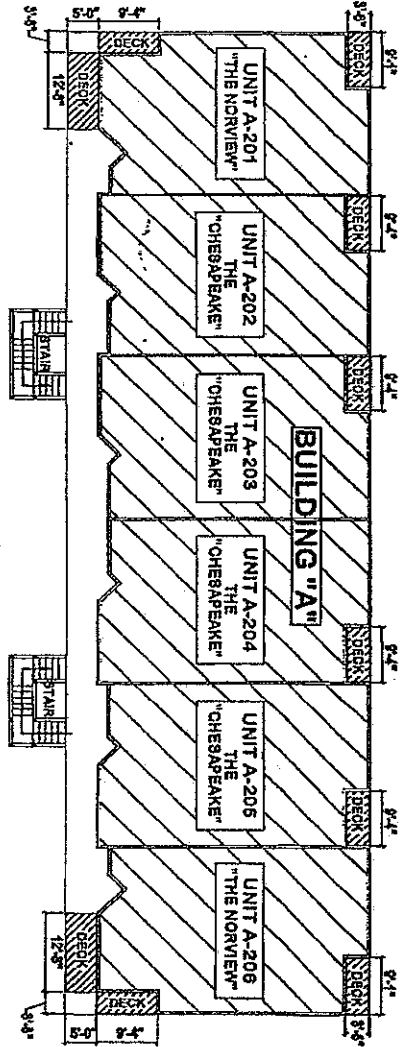
LEGEND

- UNIT AREA
- LIMITED COMMON ELEMENTS
- COMMON ELEMENTS

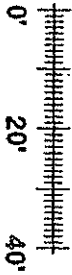


I HEREBY CERTIFY THAT THE CONSTRUCTION OF THE UNITS DEPICTED HEREON IS SUBSTANTIALLY ACCORDING TO THE PLAN AND THAT THIS PLAN IS ACCURATE, CORRECT AND IN COMPLIANCE WITH THE PROVISIONS OF SUBSECTION 55-79.55B, VA CODE

*Elemuel A. Watts, R.A.*  
ELEMUEL WATTS, REGISTERED ARCHITECT



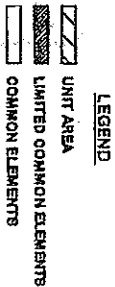
PLANS FOR THE LANDINGS AT FIVE POINTS,  
A CONDOMINIUM  
(3 STORY FRAME BUILDING)  
**SECOND FLOOR**

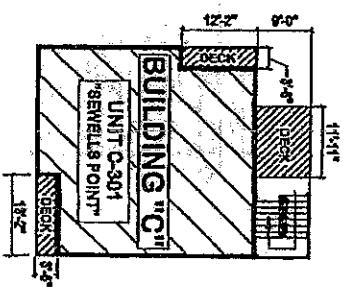
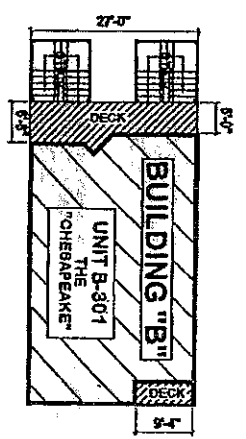
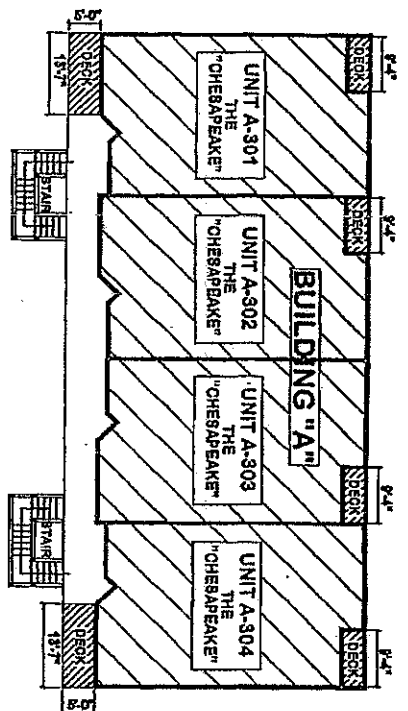


MODEL "A"  
(THE BEVELLS POINT)  
AREA: 1,090.41 SF

MODEL "B"  
(THE NORVIEW)  
AREA: 1,054.97 SF

MODEL "C"  
(THE CHESSAPEAKE)  
AREA: 1,076.74 SF

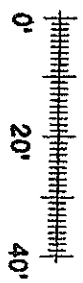




PLANS FOR THE LANDINGS AT FIVE POINTS,  
A CONDOMINIUM

(3 STORY FRAME BUILDING)

THIRD FLOOR



MODEL "A"  
(THE CHEESAPEAKE)  
AREA: 1,078.74 SF

MODEL "B"  
(THE CHEESAPEAKE)  
AREA: 1,090.11 SF

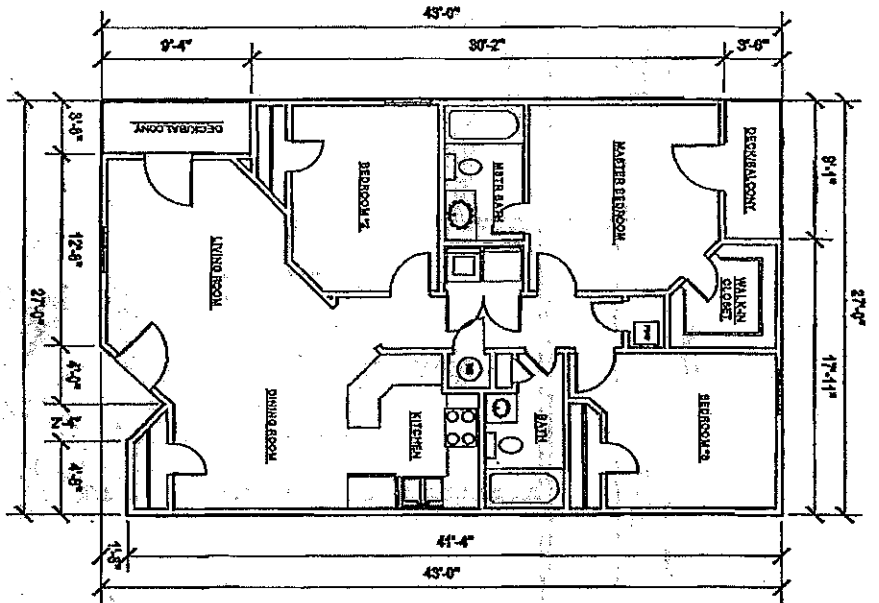
MODEL "C"  
(THE CHEESAPEAKE)  
AREA: 1,078.74 SF

LEGEND

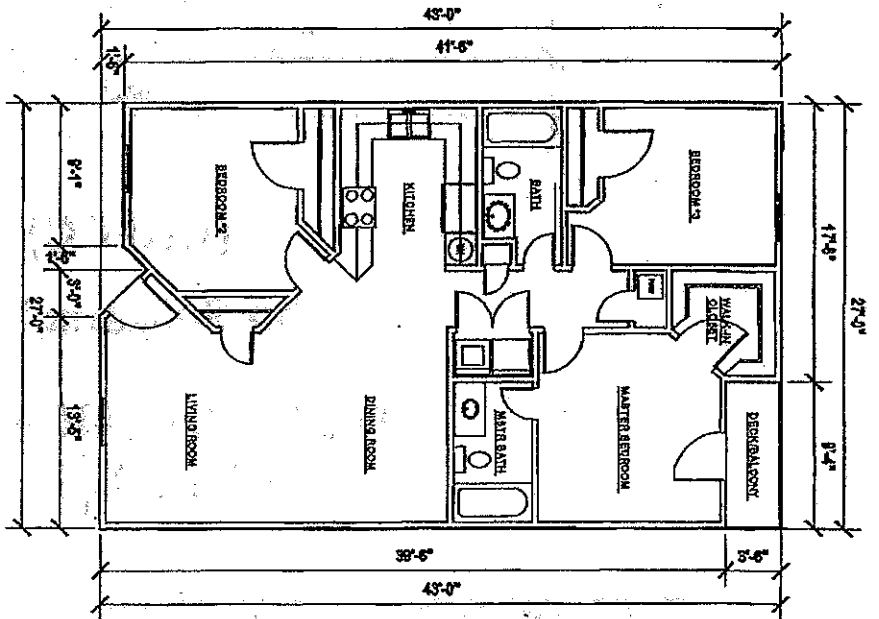
UNIT AREA

LIMITED COMMON ELEMENTS

COMMON ELEMENTS



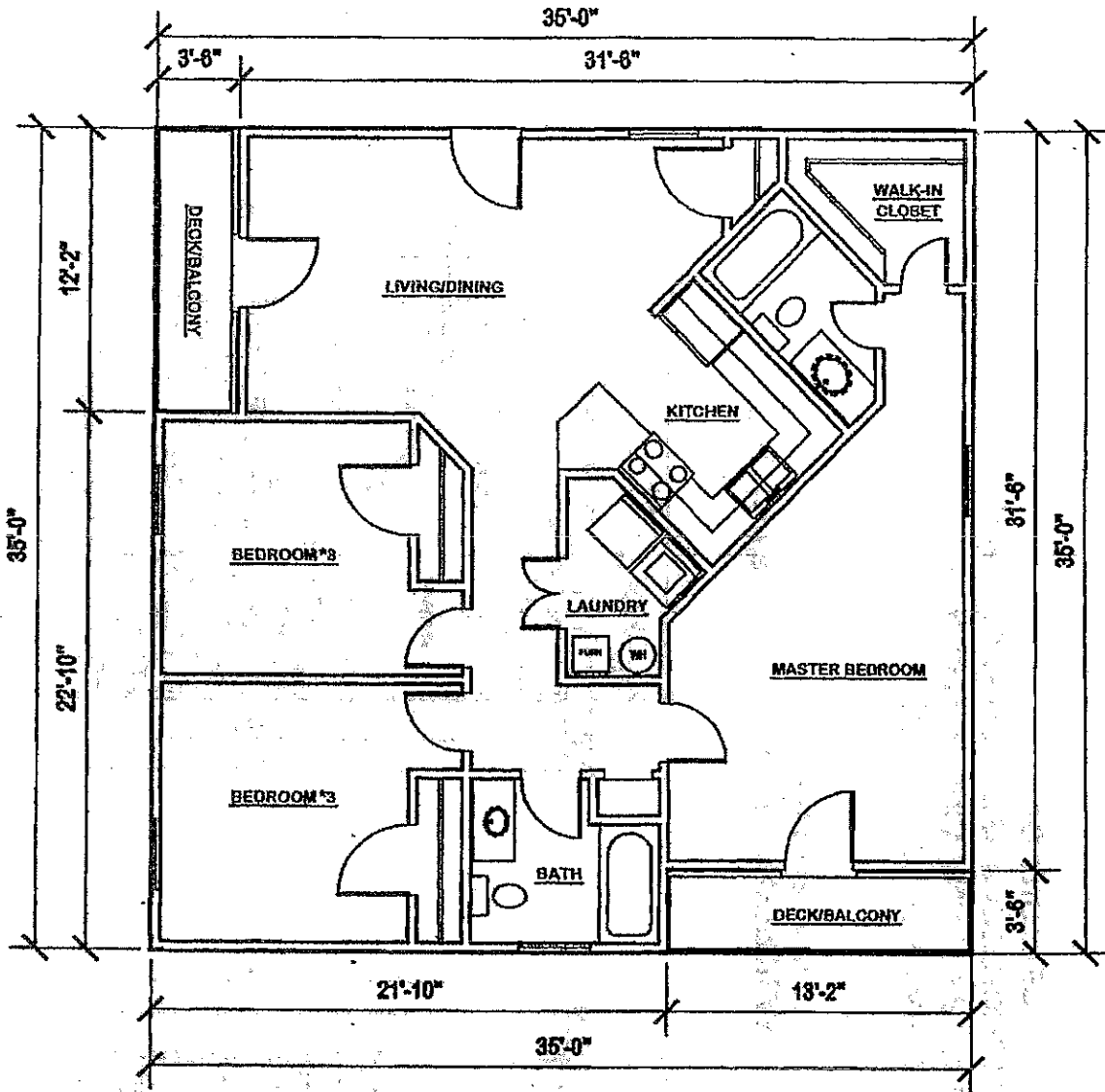
"The Norview"



"The Chesapeake"

TYPICAL FLOOR PLAN  
BUILDINGS "A & B"

THE INTERIOR PARTITIONS ARE SHOWN FOR  
INFORMATION ONLY AND THERE MAY BE MINOR  
VARIATIONS OF THOSE PARTITIONS FROM ONE UNIT  
TO ANOTHER



(UNIT C)

"The Sewells Point"

**TYPICAL FLOOR PLAN  
BUILDING "C"**

**THE INTERIOR PARTITIONS ARE SHOWN FOR  
INFORMATION ONLY AND THERE MAY BE MINOR  
VARIATIONS OF THOSE PARTITIONS FROM ONE UNIT  
TO ANOTHER**

ADVANCED DRAFTING & DESIGN  
2828 HEMPLE STREET  
CHEESAPEAKE, VA 23320  
ALPHONSO GRIFFIN, DESIGNER  
OFFICE: 227-8280/CELL: 615-2400

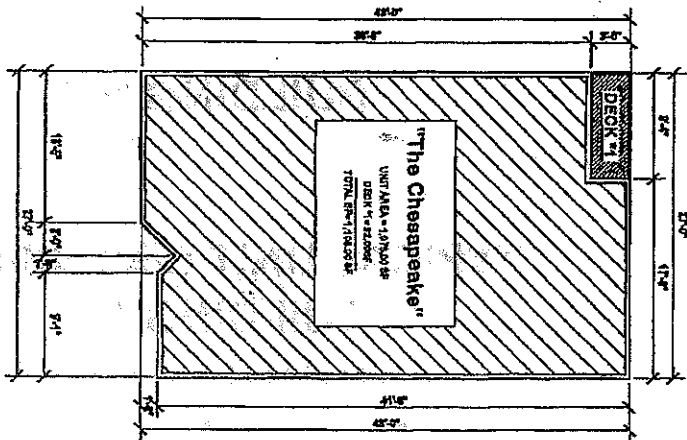
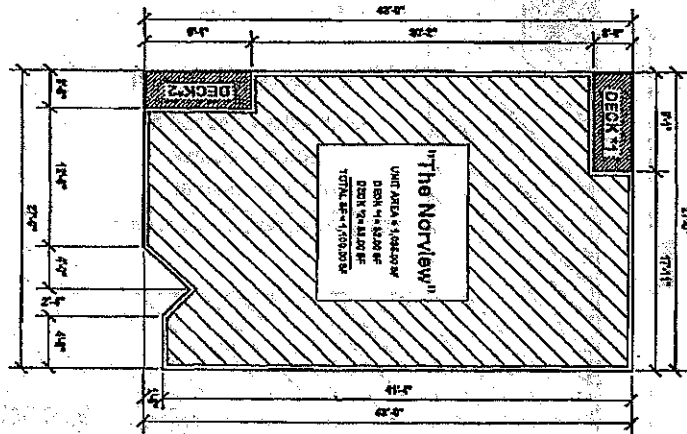
PROJECT: PLANS FOR THE  
LANDINGS AT FIVE POINTS, A CONDOMINIUM  
1282 NORVIEW AVENUE, NORFOLK, VA 23513

ARCHITECT: ELEMUEL A. WATTS, R.A.  
2738 COLCHESTER CRESCENT  
NORFOLK, VIRGINIA 23504  
1-757-622-5369

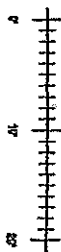
DRAWN BY: A. GRIFFIN  
DATE: 11/29/05  
JOB NO.: LANDINGS  
SCALE: AS NOTED

REVISIONS:

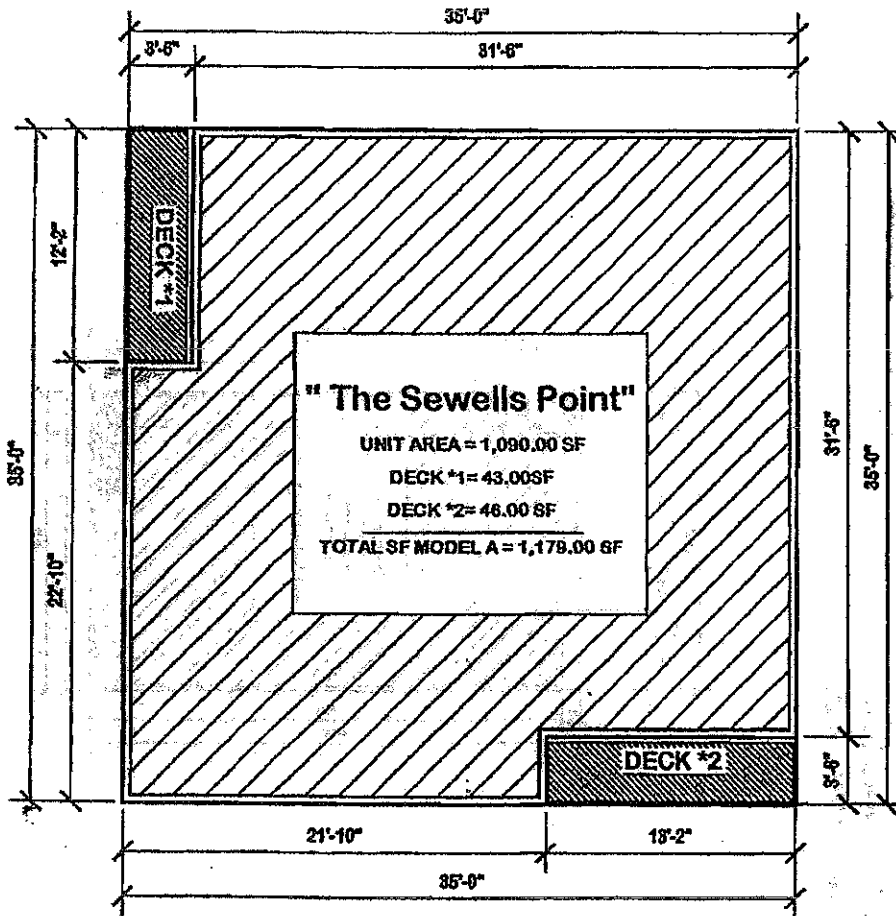
SHEET NO.  
**5**  
5 OF 10



**TYPICAL UNIT DIMENSIONS  
BUILDINGS "A & B"**

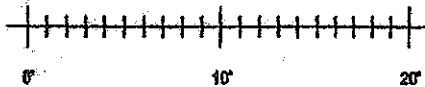


**LEGEND**  
 UNIT AREA  
 LIMITED COMMON ELEMENTS



**BUILDING "C"**

**TYPICAL UNIT DIMENSIONS  
 BUILDING "C"**



**LEGEND**

- UNIT AREA
- LIMITED COMMON ELEMENTS

ADVANCED DRAFTING & DESIGN  
 2023 HEMPLE STREET  
 CHESAPEAKE, VA 23320  
 ALPHONSO GRIFFIN, DESIGNER  
 OFFICE: 227-6200/CELL: 616-2400

PROJECT: PLANS FOR THE  
 LANDINGS AT FIVE POINTS, A CONDOMINIUM  
 1232 NORVIEW AVENUE, NORFOLK, VA 23513

ARCHITECT: ELEMUEL A. WATTS, R.A.  
 2739 COLCHESTER CRESCENT  
 NORFOLK, VIRGINIA 23504  
 1-757-622-6369

DRAWN BY: A. GRIFFIN  
 DATE: 11/09/06  
 JOB NO.: LANGATOPC-110005  
 SCALE: AS NOTED

REVISIONS: SHEET NO. 7 OF 10

# LANDINGS AT FIVE POINTS

## 1232 NORVIEW AVE. NORFOLK, VA 23513

UNIT	THE CHELSEA BLVD	THE CHELSEA BLVD	THE CHELSEA BLVD	THE CHELSEA BLVD	THE NORVIEW	THE NORVIEW
UNIT A-201	UNIT A-201	UNIT A-202	UNIT A-203	UNIT A-204	UNIT A-205	UNIT A-206
TOTAL LIVING AREA = 1,036.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,036.00 SF
UNIT A-101	UNIT A-102	UNIT A-103	UNIT A-104	UNIT A-105	UNIT A-106	UNIT A-108
TOTAL LIVING AREA = 1,036.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,036.00 SF

# BUILDING "A"

### NOTES

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF LJOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF LJOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.



**LANDINGS AT FIVE POINTS  
1232 NORVIEW AVE. NORFOLK, VA 23513**

UNIT B-301 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-202 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-103 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	90 * 143.35 65 * 166.00 85 * 126.00
UNIT B-201 "THE NORVIEW" TOTAL LIVING AREA * 1,080.00 SF	UNIT B-203 "THE NORVIEW" TOTAL LIVING AREA * 1,080.00 SF	UNIT B-102 "THE NORVIEW" TOTAL LIVING AREA * 1,078.00 SF	85 * 143.35 90 * 143.35 85 * 126.00
UNIT B-101 "THE NORVIEW" TOTAL LIVING AREA * 1,080.00 SF	UNIT B-104 "THE NORVIEW" TOTAL LIVING AREA * 1,078.00 SF	UNIT B-105 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	90 * 143.35 85 * 126.00 85 * 126.00

**BUILDING "B"**

**NOTES**

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF I-JOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF I-JOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.

# LANDINGS AT FIVE POINTS

## 1232 NORVIEW AVE., UNIT A, NORFOLK, VA 23513

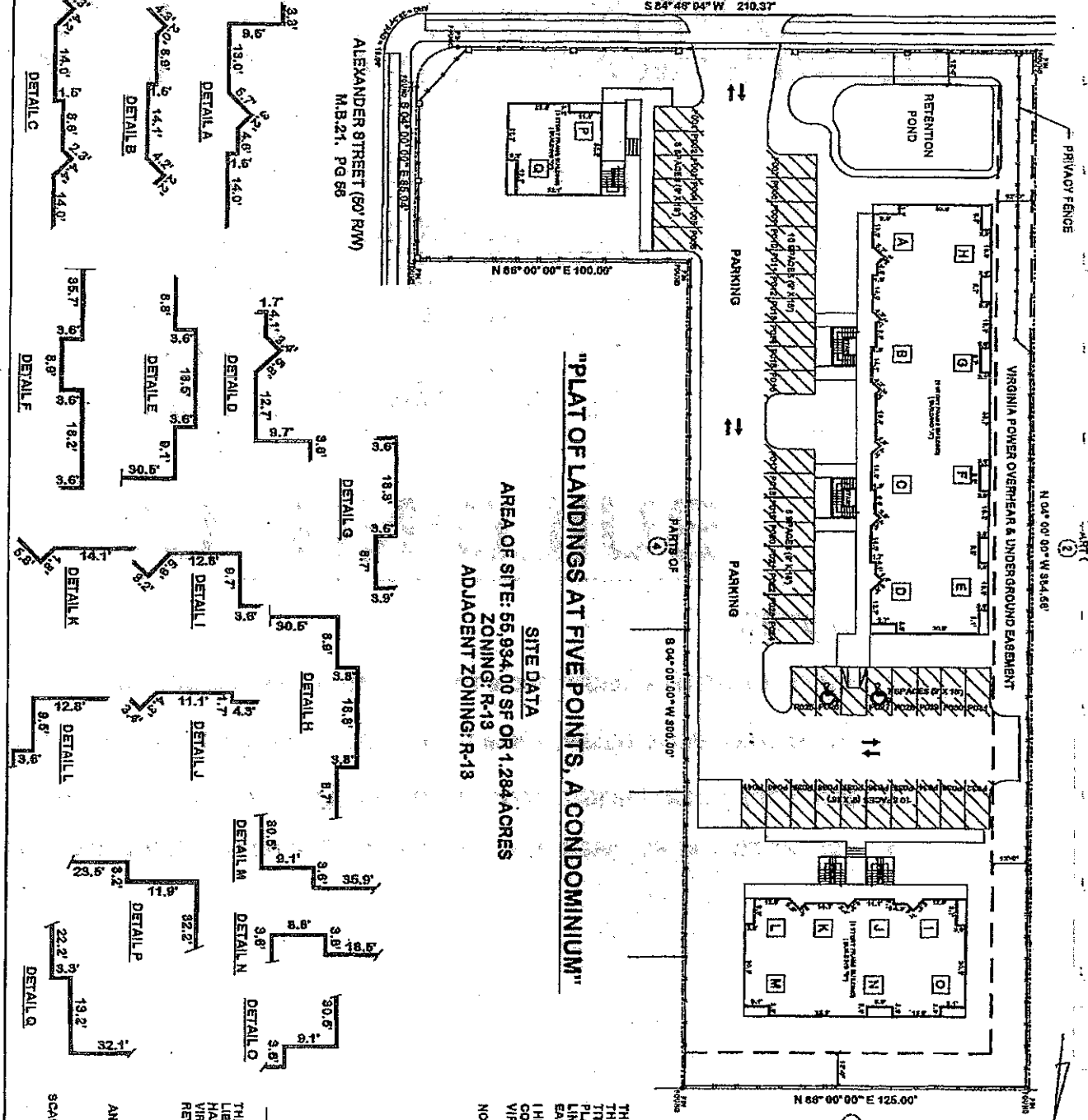
<b>UNIT C-301</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 4142.83  FF = 134.93	3RD FL NOTE 3	
<b>UNIT C-201</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 139.81  FF = 126.81		2ND FL NOTE 2
<b>UNIT C-101</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 124.70  FF = 116.70		1ST FL NOTE 1

# BUILDING "C"

### NOTES

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF I-JOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF I-JOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.

NORVIEW AVENUE (90' RW VARIABLE)  
 M.B.22, PG 45  
 S24°48'04"W 210.37'



**"PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM"**

**SITE DATA**  
 AREA OF SITE: 55,934.00 SF OR 1.284 ACRES  
 ZONING: R-13  
 ADJACENT ZONING: R-13

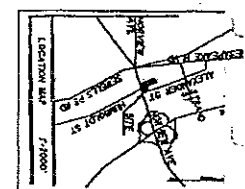
AG-BUILD SURVEY  
 OF  
 #1232 NORVIEW AVENUE, NORFOLK, VIRGINIA  
 PART OF LOT 4, THE REMAINDER OF LOT 5,  
 AND THE REMAINDER OF THE EASTERN 25' OF LOT 2  
 ALEXANDER REALTY CORP.  
 MAP BOOK 21, PAGE 68 (NORFOLK CO)  
 FOR ULVESSES TURNER  
 DATE: SEPTEMBER 23, 2005  
 SCALE: 1" = 50'-0"

WILMER H. ATGARN  
 LAND SURVEYOR  
 1-18-06



THIS IS TO CERTIFY THAT ON SEPT. 23, 2005, I SURVEYED  
 THE PROPERTY SHOWN ON THIS PLAT AND THAT THE  
 TITLE LINES AND PHYSICAL UNITS ARE SHOWN ON THIS  
 PLAT. THE UNITS STAND STRICTLY WITHIN THE TITLE  
 LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE  
 EASEMENTS EXCEPT AS SHOWN.  
 I HEREBY CERTIFY THAT THIS PLAT IS ACCURATE AND IS IN  
 COMPLIANCE WITH SECTION 65-78.58A OF THE CODE OF  
 VIRGINIA.  
 NOTE: A CURRENT TITLE REPORT WAS NOT FURNISHED

**LEGEND**  
 COMMON ELEMENTS  
 NOTE: PARKING SPACES WHICH  
 DECLARED RESERVED THE RIGHT  
 TO ASSIGN AS LIMITED COMMON  
 ELEMENTS.  
 PROPERTY LINE BOUNDARY  
 SECURITY FENCE  
 EXISTING ELEVATION: 16.3  
 (NOTE: ELEVATIONS ARE  
 NORFOLK DATUM + 100)



PROJECT:	PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM 1232 NORVIEW AVENUE, NORFOLK, VA 23513	DATE:	SEPTEMBER 23, 2005
BY:	WILMER H. ATGARN LAND SURVEYOR NORFOLK, VIRGINIA (757) 366-1101	SCALE:	AS SHOWN

**EXHIBIT B**  
to Declaration of The Landings at Five Points, a Condominium  
Common Element Interest Table

<b>UNIT TYPE</b>	<b>UNIT NUMBER(S)</b>	<b>FLOOR AREA PER UNIT IN SQUARE FEET</b>	<b>FRACTIONAL INTEREST IN COMMON ELEMENTS PER UNIT</b>	<b>FRACTIONAL INTEREST IN COMMON ELEMENTS PER UNIT TYPE</b>
The Sewells Point	C-101, C-102, C-103	1,090	1,090/27,690	3,270/27,690
The Norview	A-101, A-106, A-201, A-206, B-101, B-103, B-201, B-203	1,035	1,035/27,690	8,280/27,690
The Chesapeake	A-102, A-103, A-104, A-105, A-202, A-203, A-204, A-205, A-301, A-302, A-303, A-304, B-102, B-202, B-301	1,076	1,076/27,690	16,140/27,690
<b>Total:</b>				<b>1</b>

\*As provided in § 55-79.41 in the definition of "Size," the number of square feet of floor area has in each case been rounded off to the nearest whole number. The measurements of floor area for the purpose of determining the Common Element Interests are taken from the exterior face of brick or exterior walls, the corridor or exterior face of corridor or the Common Element walls, all from the center line of walls between Units.

**EXHIBIT C**

**TO THE DECLARATION**

**BYLAWS**

**OF**

**THE LANDINGS AT FIVE POINTS, A CONDOMINIUM**

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## BYLAWS

### ARTICLE I

#### General Provisions

Section 1.1. Applicability. These Bylaws provide for the governance of the Condominium pursuant to the requirements of Article 3 of the Condominium Act. The property, located in the City of Norfolk, Virginia and more particularly described in the Declaration, has been submitted to the provisions of the Condominium Act by recordation simultaneously herewith of the Declaration among the land records of the City of Norfolk, Virginia.

Section 1.2. Office. The office of the Condominium, the Unit Owners' Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Capitalized or other terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as EXHIBIT B, or if not defined therein, the meanings specified for such terms in Section 55-79.41 of the Condominium Act. The following terms have the following meanings in the Condominium Instruments:

(a) "Board of Directors" or "Board" means the executive organ established pursuant to Article III of these Bylaws.

(b) "Common Element Interest" means each Unit's undivided interest in the Common Elements and shall be equal to one divided by the total number of Units.

(c) "Declarant Control Period" means the period expiring on the earlier of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Condominium Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act). For purposes of the preceding sentence, the calculation of Common Element Interests shall be based, at any given time, on the Common Element Interests to be assigned to all Units then registered with the Virginia Real Estate Board.

(d) "Limited Common Expenses" means expenses separately assessed against more than one but less than all of the Condominium Units generally in accordance with the use of the services, as permitted by Section 55-79.83(B) of the Condominium Act.

(e) "Maintain" means acts on the physical components of the Condominium which do not involve their removal, required to compensate for wear and tear or to prevent a decline, lapse or cessation from existing state or condition on a periodic basis of three years or less.

(f) "Majority Vote" means a vote by those Unit Owners owning Condominium Units to which is appurtenant more than fifty percent of the aggregate votes actually voted in person or by proxy at a duly convened meeting at which a quorum is present. The vote or approval of any specified percentage of the Unit Owners shall mean a vote or approval by the Unit Owners owning Condominium Units to which is appurtenant such percentage of the total votes in the Unit Owners' Association. The vote or approval of any specified percentage of the Mortgagees shall mean a vote or approval by the Mortgagees of Condominium Units which are subject to a Mortgage held by a Mortgagee to which such percentage of the total number of votes appertain.

(g) "Mortgagee" means an institutional lender holding a first mortgage or first deed of trust ("Mortgage") encumbering a Condominium Unit in the Condominium which has notified the Unit Owners' Association in writing of its status and has requested all rights under the Condominium Instruments. For purposes of Article VIII of these Bylaws only, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

(h) "Officer" means any person holding office pursuant to Article IV of these Bylaws, but contrary to the definition contained in Section 55-79.41(t) of the Condominium Act, shall not mean members of the Board of Directors unless directors are also Officers pursuant to Article IV.

(i) "Repair" means to mend, remedy, restore, or renovate one or more of the physical components of the Condominium to a sound or good state after decay, injury, dilapidation, or partial destruction and thereby restore it to the condition in which it originally existed, as near as may be.

(j) "Replace" means to remove, demolish and dispose of one or more of the physical components of the Condominium and place again, with new materials, in a condition substantially similar as existed before.

(k) "Reserved Common Element" means a Common Element, which is not a Limited Common Element, in which the Board of Directors or Declarant has granted a revocable license for exclusive use by less than all of the Unit Owners.

(l) "Unit Owners' Association" or "Association" means the Landings at Five Points Condominium Association, Inc., an incorporated, non-profit association of all the Unit Owners owning Condominium Units in the Condominium.

(m) "Upgrade" means to remove, demolish and dispose of the Common Elements of the Association and place again with new materials in a condition substantially improved in performance, size, quantity or durability than existed before.

## ARTICLE II

### Unit Owners' Association

Section 2.1. Composition. The Association shall consist of all of the Unit Owners, and for all purposes, shall act merely as agent for the Unit Owners as a group. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium, and performing all of the other acts that may be required or permitted by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article III of these Bylaws.

Section 2.2. Annual Meeting. The annual meetings of the Association shall be held in the month of \_\_\_\_\_ each year on a date other than a Saturday or Sunday or legal holiday or at such other time as shall be established by the Board of Directors. At such annual meetings the Board of Directors shall be elected by ballot of the Unit Owners in accordance with Article III, Section 3.4 of these Bylaws. During the Declarant Control Period, the Declarant shall be entitled to designate members of the Board of Directors pursuant to Article II, Section 2.4(b) of these Bylaws. The first annual meeting shall be held within one year after the conveyance of the first Unit by the Declarant.

Section 2.3. Place of Meetings. Meetings of the Association shall be held at such suitable place convenient to the Unit Owners as designated by the Board of Directors.

#### Section 2.4. Special Meetings.

(a) The President shall call a Special Meeting of the Association if so directed by resolution of the Board of Directors or, after the termination of the Declarant Control Period, upon a petition signed and presented to the Secretary by Unit Owners of not less than twenty-five percent of the Units. The notice of any Special Meeting shall state the time, place and purpose thereof. No business shall be transacted at a Special Meeting except as stated in the notice.

(b) Not later than the termination of the Declarant Control Period, a Special Meeting of the Association shall be held at which the Unit Owners, including the Declarant if the Declarant owns one or more units, shall elect a majority of the directors. A director elected at such election shall not take office until the earlier of the termination of the Declarant Control Period or resignation of a director appointed by the Declarant without appointment of a replacement within ten days. The elected directors shall assume office in the order of the highest number of votes received. Any remaining directors designated by the Declarant shall continue to serve until their terms expire, provided, however, that no more than two such directors may serve until the first annual meeting thereafter and no more than one such director may serve until the second annual meeting thereafter.

Section 2.5. Notice of Meetings. The Secretary shall mail to each Unit Owner a notice of each annual or regularly scheduled meeting of the Association at least twenty-one but not more than thirty days, and of each Special Meeting of the Association at least seven but not more than thirty days, prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this section and Article XI, Section 11.1 of the Bylaws shall be considered service of notice, provided that if a notice is delivered personally, the Secretary shall certify in writing that the notice was delivered to the person of the Unit Owner.

Section 2.6. Quorum and Adjournment of Meetings. The presence in person or by proxy of twenty-five percent or more of the Unit Owners shall constitute a quorum at all meetings of the Unit Owners' Association. If at any meeting of the Unit Owners' Association a quorum is not present, Unit Owners owning Units to which appertain a majority of the votes which are represented at such meeting in person or by proxy may adjourn such meeting to a time not less than forty-eight hours after the time the original meeting was called.

Section 2.7. Order of Business. The order of business at all annual meetings of the Unit Owners' Association shall be as follows: (a) roll call (proof of quorum); (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g) election or appointment of inspectors of election (when so required); (h) election of members of the Board of Directors (when so required); (i) unfinished business; and (j) new business.

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Condominium Act or the Condominium Instruments. All votes shall be tallied by tellers appointed by the President or other Officer presiding over the meeting.

Section 2.9. Voting.

(a) Voting at all meetings of the Unit Owners' Association shall be on an equal basis such that each Unit Owner shall be entitled to one vote for each Unit owned. Where the ownership of a Unit is in more than one person (an entity can be a "person"), the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement, pursuant to Section 55-79.77C. of the Condominium Act. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of Section 55-79.72:1 of the Condominium Act, wherever the approval or disapproval of a Unit Owner is required by the Condominium Act or the Condominium Instruments, such approval or

disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Association.

(b) Except where a greater number is required by the Condominium Act or the Condominium Instruments, a Majority Vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Unit Owners' Association to cast the votes to which such Unit or Units are entitled.

(c) No Unit Owner may vote at any meeting of the Unit Owners' Association or be elected to or serve on the Board of Directors if payment of any installment of the assessment for Common Expenses on the Unit is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meeting or election. There shall be no cumulative voting.

Section 2.10. Proxies. A vote may be cast in person or by proxy. Such proxy may be instructed or non-instructed and may be granted by any Unit Owner only in favor of another Unit Owner, his Mortgagee, or an Officer of the Association, or in the case of a non-resident Unit Owner, the lessee of such Unit Owner's Unit; provided, however, that an Officer of the Association shall hold only instructed proxies. Proxies shall be duly executed in writing signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of the Unit Owner (if more than one Unit Owner, the proxy must be signed by a person or by persons having the authority to sign deeds on behalf of all such persons), shall be dated, shall be witnessed by a person who shall sign his full name and address, shall be valid only for the particular meeting designated therein (or any recess or adjournment of such meeting) and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Unit. Except with respect to proxies in favor of a Mortgagee, no proxy shall in any event be valid for a period in excess of one hundred and eighty days after the execution thereof. A proxy, once given, shall be revocable only by notice given by the Unit Owner or Owners, or by persons authorized to sign deeds on behalf of the Unit Owner or Owners, to the person presiding over the meeting. All proxies shall contain a brief explanation of the effect of leaving the proxy uninstructed.

### ARTICLE III

#### Board of Directors

Section 3.1. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Condominium Act or the Condominium Instruments required to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Condominium; provided, however, that such Rules and Regulations shall not conflict with the Condominium Act or the Condominium Instruments. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of

the Board on such matters relating to the duties of the Managing Agent (as defined in Article III, Section 3.2 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

- (a) Prepare an annual budget, in which there shall be expressed the assessments of each Unit Owner for the Common Expenses.
- (b) Adopt an annual budget as prepared in Section 3.1(a) above.
- (c) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners, and establish the period of the installment payment of the annual assessment for Common Expenses.
- (d) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.
- (e) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.
- (f) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.
- (g) Make and amend the Rules and Regulations.
- (h) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (i) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Condominium property, and repairs to and restoration of the Condominium property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (j) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations, act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit Owners of any litigation against the Association involving a claim in excess of ten percent of the amount of the annual budget.

(k) Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.

(l) Pay the cost of all authorized services rendered to the Association and not billed to Unit Owners of individual Units or otherwise provided for in Article V, Sections 5.1 and 5.2 of these Bylaws.

(m) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers shall be available for examination by the Unit Owners, their attorneys, accountants, Mortgagees and authorized agents during normal business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with generally accepted accounting principles, and for each year during which the Condominium consists of fifty (50) or more Units, the same shall be audited at least once each year by an independent auditor retained by the Board of Directors who shall not be a resident of the Condominium nor a Unit Owner. The cost of such audit shall be a Common Expense. The audit shall be available within 120 days after the end of the Association's fiscal year. A copy of the audit shall be provided to any Mortgagee upon written request. The Board shall also keep available for inspection during normal business hours by Unit Owners, their attorneys, accountants, Mortgagees and authorized agents current copies of the Declaration, Bylaws and Rules and Regulations.

(n) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, if such default continues for a period exceeding sixty days.

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

(p) Notwithstanding the borrowing limitations set forth in Article III, Section 3.1(o) of these Bylaws, acquire, hold and dispose of Condominium Units and mortgage the same without limitations as to amount if such expenditures and hypothecations are included in the budget adopted by the Board of Directors.

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

(r) Furnish the statement required by Section 55-79.97 of the Condominium Act, within ten days after the receipt of a written request therefor from any Unit Owner substantially in the form set forth on EXHIBIT A to these Bylaws and designated "Certificate for Resale."

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

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

Section 3.2. Managing Agent. The Board of Directors shall employ for the Condominium a "Managing Agent" at a compensation to be established by the Board.

(a) Requirements. The Managing Agent shall be a bona fide business enterprise which manages common interest residential communities. Such firm shall have experience in community association management and shall employ persons possessing competence in the technical skills necessary to proper management of the Condominium. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation.

(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall direct. Such duties and services may include, without limitation, the duties listed in Article III, Section 3.1(a), (d), (e), (f), (i), (j), (k), (l), (m), (n), (r) and (t) of these Bylaws. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in Article III, Section 3.1(b), (c), (g), (h), (o), (p), (q) and (s) of these Bylaws. The Managing Agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the agreement between the Managing Agent and



the Association provides otherwise or the Managing Agent is instructed otherwise by the Board of Directors:

- (1) the method of accounting employed shall be consistent with the standards published by the American Institute of Certified Public Accountants; expenses required by these Bylaws to be charged to more than one but less than all Unit Owners shall be accounted for separately;
- (2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
- (3) cash accounts of the Association shall not be commingled with any other accounts;
- (4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Unit Owners' Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;
- (5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (6) a detailed quarterly financial report shall be prepared for the Association containing such information as the Board of Directors may deem relevant; and
- (7) the managing Agent shall maintain fidelity coverage providing the same coverage as is required for the Association pursuant to Section 6.4(a) of the Bylaws.

(d) Limitations. The Unit Owners' Association and the Board of Directors shall not undertake "self-management" or fail to employ a Managing Agent without the consent of at least sixty-seven percent of the Unit Owners and at least fifty-one percent of the Mortgagees. Any contract with the Managing Agent entered into prior to the expiration of the Declarant Control Period must provide that it may be terminated, without payment of a termination fee, without cause at any time following the expiration of the Declarant Control Period. No contract with a Managing Agent shall exceed a term of two years. Any contract with a Managing Agent must be terminable without cause and without payment of a termination fee upon not more than ninety (90) days advance written notice.

### Section 3.3. Number and Term of Office.

(a) Designated Members. The initial Board of Directors shall consist three persons, all of whom shall be designated by the Declarant. The term of office of at least two directors shall expire at the first annual meeting and the term of office of any remaining director shall expire at the second annual meeting. The term of each designee shall be fixed by the Declarant. On or before the Special Meeting required by Article II, Section 2.4(b) of these

Bylaws, a number of the directors designated by the Declarant shall resign if necessary so that a majority of the directors shall have been elected in accordance with Article II, Section 2.4(b) of these Bylaws. The persons elected shall serve for the remainder of the terms of office of the resigning directors who such persons replace, or if no resignation was required, for the terms of office necessary so that the term of office of one director shall expire at each of the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the Special Meeting held pursuant to Article II, Section 2.4(b) of these Bylaws, all successor directors shall be elected to serve for a term of three years. For a period of one year following the termination of service by the directors designated by the Declarant, the Declarant may appoint and replace from time to time a representative who shall be entitled to notice of all meetings of the Board of Directors and to attend and speak (but not vote) at all Board meetings, in all respects as if such delegate were a member of the Board.

(b) Elected Members. No later than the Special Meeting held pursuant to Article II, Section 2.4(b) of the Bylaws meeting of the Unit Owners' Association, the Board of Directors shall consist of three (3) persons, all of whom shall be Unit Owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant. Except for resignation or removal, the directors shall hold office until their respective successors shall have been elected by the Unit Owners' Association. The number of directors may be changed by amendment of these Bylaws.

Section 3.4. Election of Directors.

(a) Elections Committee. At least thirty days prior to the Special Meeting required by Article II, Section 2.4(b) of these Bylaws and each annual meeting of the Unit Owners' Association, the Board of Directors shall appoint an Elections Committee consisting of one member of the Board whose term is not then expiring and at least two other Unit Owners other than the Declarant. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board.

(b) Nominations. Persons qualified to be directors may be nominated for election by a nominating petition submitted to the chairman of the Elections Committee at least ten days before the meeting at which the election is to be held signed by Unit Owners representing at least three Units and either signed by the nominee or accompanied by a document signed by the nominee indicating his willingness to serve as a director. Additional nominations may be made from the floor at the meeting at which the election is held. The nominee must either be present and consent to the nomination or have indicated in writing his willingness to serve. This subsection (b) does not apply to persons appointed to the Board by the Declarant.

(c) Qualifications. Except for Directors appointed by the Declarant during the Declarant Control Period, no person shall be eligible for election as a member of the Board of Directors unless such person is (alone or together with one or more other persons) a Unit Owner. No person shall be elected as a director or continue to serve as a director if such person is, at such time, more than thirty days delinquent in meeting his financial obligations to the Unit Owners' Association.

Section 3.5. Removal or Resignation of Directors. Except with respect to directors designated by the Declarant, at any regular or Special Meeting duly called at which a quorum is present, any one or more of the directors may be removed with or without cause by a vote of two-thirds (2/3) of those present at such meeting in person or by proxy and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least seven days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time. Except for a director designated by the Declarant, a director shall be deemed to have resigned upon disposition of his Unit as provided for officers in Section 55-79.78A. of the Condominium Act, or if not in attendance at three consecutive regular meetings of the Board, unless the minutes reflect consent to such absence.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of the majority of the remaining directors at a Special Meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum. Each person so elected shall be a director until a successor shall be elected at the next annual meeting of the Association. During the Declarant Control Period, the Declarant shall designate the successor to any director previously designated by the Declarant who resigns or is removed.

Section 3.7. Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Association shall be held within thirty days thereafter at such time and place as shall be fixed by the Association at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly-elected directors in order legally to constitute such meeting; provided, that, a majority of the entire Board of Directors is present at the meeting.

Section 3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least once every four months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telegraph or telephone, at least three business days prior to the day named for such meeting.

Section 3.9. Special Meetings. Special meetings of the Board of Directors may be called by the President on three business days notice to each director, given personally or by mail, telegraph, telephone, teletype, or electronic mail message, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

Section 3.10. Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time,

place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Quorum of Board of Directors. At all meetings of the Board of Directors, 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 of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

Section 3.12. Compensation. No director shall receive any compensation from the Association for acting as such.

Section 3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of all resolutions adopted by the Board and of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act or the Condominium Instruments.

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

Section 3.15. Board of Directors as Attorney-in-Fact. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Unit Owners in the Common Elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors; (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to Section 55-79.44 of the Condominium Act; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to Article XI, Section 11.1 of the Bylaws within thirty days after receipt of notice of the damage pursuant to Article VI, Section 6.2(c) of the Bylaws or notice of the taking in condemnation or by eminent domain pursuant to Article VII, Section 7.2 of the Bylaws. The powers hereby granted shall be in addition to any rights granted by Section 55-79.80B. of the Condominium Act. The Board of Directors may grant and accept easements and licenses pursuant to Section 55-79.80B. of the Condominium Act.

Section 3.16. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners' Association.

(a) The officers, directors and members of the Covenants Committee shall not be liable to the Association or to any Unit Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments, except to the extent that such liability is satisfied by directors and officers liability insurance. Officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Association. The liability of any Unit Owner arising out of any contract made by any Officer or the Board of Directors, or out of the indemnification of the Officers or directors, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his ownership of a Common Element Interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by his Common Element Interest. Every agreement made by the Officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, the directors or the Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Element Interest. The Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of their responsibilities unless their action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he is or was an Officer or director of the Association or a member of the Covenants Committee against expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) Except to the extent prohibited by §55-79.80:1 of the Condominium Act, the Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Condominium Unit, or any other person. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order of directive of any governmental authority.

Section 3.17. Common or Interested Directors. Each director shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. Contracts and

other transactions between the Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are otherwise interested, are not void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or her vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

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

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

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

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Association were not an officer or director of such other corporation, firm or association or not so interested.

#### Section 3.18. Covenants Committee.

(a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three members appointed by the Board, each to serve for a term of one year, to assure that the Condominium shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the esthetic or property values of the Condominium; (3) furthering the comfort of the Unit Owners, their guests and tenants; and (4) promoting the general welfare and safety of the Condominium community.

(b) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the Common Elements. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses, or consultations required in connection with improvements or changes proposed by a Unit Owner. Upon petition of any Unit Owner or upon its own motion, the Covenants Committee shall have the power to impose reasonable fines (pursuant to Section 55-79.80:2.B) of the Condominium Act and Article IX, Section 9.1(g) of these Bylaws upon, and issue a cease and desist request to, a Unit Owner, his guests, invitees, or lessees whose actions are inconsistent with the provisions of the Condominium Instruments, the Rules and Regulations or resolutions of the Board of Directors. The Covenants Committee shall from time to time, as required, provide interpretations of the Condominium Instruments, Rules and Regulations and resolutions pursuant

to the intents, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board to have standing as an aggrieved party. The Board may affirm, modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board of Directors.

## ARTICLE IV

### Officers

Section 4.1. Designation. The principal Officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as may be necessary. The President and Vice President shall be residents of the Condominium (except for those appointed by the Declarant) and members of the Board of Directors. Any other Officers may, but need not, be Unit Owners or members of the Board of Directors.

Section 4.2. Election of Officers. The Officers of the Unit Owners' Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Except for the Presidency, a person may hold more than one office at a time.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any Special Meeting of the Board called for such purpose.

Section 4.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, have general and active management of the business of the Association subject to the control of the Board, see that all orders and resolutions of the Board are carried into effect, and appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

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

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Unit Owners' Association and of the Board of Directors, have charge of such books and papers as the Board may direct, give or cause to be given all notices required to be given by the Association, maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered, and, in general, perform all the duties incident to the office of secretary.

Section 4.7. Treasurer. The Treasurer shall (together with the Managing Agent) be responsible for Unit Owners' Association funds and securities, keep full and accurate financial records and books of account showing all receipts and disbursements, prepare all required financial data, deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board, and, in general, perform all the duties incident to the office of treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of two thousand dollars, and all checks drawn upon reserve accounts, shall be executed by two persons designated by the Board of Directors, except to the extent such duties have been lawfully delegated to the Managing Agent. All such instruments for expenditures or obligations of two thousand dollars or less, except from reserve accounts, may be executed by any one person designated by the Board of Directors, except to the extent such duties have been lawfully delegated to the Managing Agent.

Section 4.9. Compensation of Officers. No Officer who is also a director shall receive compensation from the Association for acting as such Officer.

## ARTICLE V

### Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Unit Owners' Association shall be January 1 through December 31 unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) At least seventy-five days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units which the Association has the responsibility to maintain, repair and replace, and the cost of the wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses



by the Condominium Act, the Condominium Instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The budget shall reflect the separate assessment of Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and the repair, restoration and replacement of capital components. The budget shall include provisions with respect to reserves for the repair, restoration and replacement of capital components as required by the Condominium Act. At least sixty days before the beginning of each fiscal year, the Board of Directors shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Condominium. Any budget which provides for increases in assessments by more than twenty-five percent (25%) over the assessments for the prior year shall require the approval of fifty-one percent (51%) of the Mortgagees as provided in Section 8.5(b) below.

(c) Assessment and Payment of Common Expenses. Except to the extent that the provisions of these Bylaws require the Board of Directors to assess particular expenses against less than all of the Units or the Board of Directors does so pursuant to authority granted by these Bylaws (including but, not limited to, the provisions of this Section and Sections 5.5(a) and 9.1(a)), the total amount of estimated funds required from assessments for operation of the Condominium property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in an amount proportionate to his Common Element Interest, and shall be a lien against each Unit Owner's Unit as provided in Article IX, Section 9.2 of these Bylaws. The Board of Directors shall have the authority to charge as Limited Common Expenses and assess against the benefited Unit or Units (a) any costs or expenses incurred by the Association, which are caused by the conduct of less than all those entitled to occupy the Units or their licensees or invitees (b) any costs or expenses incurred in making available the same off-site amenities or paid subscription television service to some or all of the units, if any, (including cable television and data transmission services and security monitoring services) and (c) any cost or expenses incurred in providing metered utility service, if any, to some or all of the units (to be assessed based upon actual consumption of services). On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Unit Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board), one-twelfth of such assessment (together with one-twelfth of any other amount assessed against his Unit on an annual basis). Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners, and to each Mortgagee requesting the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, or be credited according to each Unit Owner's Common Element Interest to the

next monthly installments due from Unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interests and shall be payable either: (1) in full with payment of the next monthly installment due; or (2) in not more than six equal monthly installments, as the Board of Directors may determine. Assessments shall commence as to all Units when the Declarant conveys the first Unit. Assessments for any Units created on the Additional Land shall commence on the date of recordation of the amendment to the Declaration creating such Units.

(d) Reserves and Special Assessments. The Board of Directors shall conduct and review reserve studies for the repair, restoration and replacement of capital components as required by the Condominium Act and shall build up and maintain reasonable reserves for working capital, operations, contingencies and for the repair, restoration and replacement of capital components. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Units according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on the Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment, if payable in monthly installments, shall, unless otherwise specified in the notice or unless rescinded by a vote of the Unit Owners as provided in Section 55-79.83.E. of the Condominium Act, become effective with the next monthly payment which is due more than ten days after the delivery or mailing of such notice. If the special assessment is payable in a lump sum, the payment shall be due and payable not less than ninety (90) days after the delivery or mailing of such notice. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection (c).

(e) Initial Capital Payment.

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

(ii) The Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement an "initial capital payment" equal to three (3) times the estimated monthly installment of the Common Expense assessment for such purchaser's Unit. The Declarant will deliver the funds so collected to the Board of Directors. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine. Such initial capital payment shall be in addition to, and not in lieu of the regular monthly installments of the Common Expense Assessment.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall only be obligated to continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notified of the monthly payment which is due more than ten days after such new annual or adjusted budget is adopted.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund or held for each Unit Owner in accordance with his Common Element Interest.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall be personally liable for, and pay, the Common Expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Article V, Section 5.1 of these Bylaws. No Unit Owner may be exempt from liability for the assessment for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against the Unit subsequent to the date of recordation of a conveyance by such Unit Owner in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Unit shall be subject to the lien in favor of the Association (but shall not be personally liable) for all unpaid assessments against the selling Unit Owner for the proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten days following a written request therefor to the Board of Directors or Managing Agent and the Unit conveyed shall not be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Condominium Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Condominium Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Condominium Units including the mortgaged Condominium Unit and except for claims included in any memorandum of lien recorded prior to such mortgage. Assessments shall be annual, but payable in monthly installments.

Section 5.3. Collection of Assessments. The Board of Directors, or the Managing Agent at the request of the Board, shall take prompt action to collect any assessment for Common Expenses due from any Unit Owner which remains unpaid for more than thirty days from the due date for payment thereof. Any assessment, or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of twenty-five dollars, or such other amount as may be established from time to time by the Board of Directors, and shall accrue interest from the date due until paid at a rate specified in Section 9.1(d).

Section 5.4. Statement of Common Expenses. The Board of Directors or the Managing Agent shall promptly provide any Unit Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation, not to exceed the amount permitted by the Act.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) By the Association. The Association shall be responsible for the maintenance, repair and replacement (unless in the opinion of not less than two-thirds of the Board of Directors, such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common Expense, except to the extent such expenses are required by the provisions of these Bylaws to be assessed against less than all of the Units or the Board of Directors directs such expenses to be assessed against less than all of the units pursuant to authority granted by these Bylaws. Notwithstanding the foregoing however, each Unit Owner shall perform maintenance and repair, but not replacement, on the Limited Common Elements appurtenant to his Unit (excluding Limited Common Element parking spaces but including Limited common Element doors and windows) and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulations has given him permission to utilize.

(b) By the Unit Owner.

(1) Each Unit Owner shall keep the Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from (A) such Unit Owner's failure or negligence to make any of the repairs required by this Section or (B) regardless of fault, the failure or rupture of any water heater, plumbing fixtures, refrigerator ice maker lines, or any other appliance, fixture or pipe which is either located within or is part of, his Unit (excluding any appliance, fixture, or pipe which is a part of the Common Elements) including, but not limited to, overflows from any such appliance or fixture or a blockage in any air conditioning condensation drain line. Each Unit Owner shall perform his maintenance responsibilities in such manner as not to disturb unreasonably or interfere with other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Association is responsible.

(2) Any Unit Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(c) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.6. Additions, Alterations or Improvements by the Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations or improvements during any fiscal year costing in excess of ten percent (10%) of that fiscal year's annual budget, the making of such additions, alterations or improvements shall require a Majority Vote of the Unit Owners as contained in Article I § 1.3(e) of these Bylaws, and the Board of Directors shall assess all Unit Owners benefited for the cost thereof as a Common Expense (or Limited Common Expense). Any additions, alterations or improvements during any fiscal year costing ten percent (10%) or less of that fiscal year's annual budget may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a Common Expense or Limited Common Expense, depending on the nature of the additions, alterations or improvements. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent of the members of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by the Unit Owners; Relocation of Unit Boundaries. No Unit Owner shall make any structural addition, alteration or improvement in or to the Unit without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. No Unit Owner shall paint or alter the exterior of the Unit, including the doors and windows, nor shall any Unit Owner paint or alter the exterior of any building without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. The Board of Directors shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within sixty days after such request, and failure to do so within such time shall constitute consent by the Board of Directors or the Covenants Committee to the proposed structural addition, alteration or improvement. Provided consent has been given by the Board of Directors, if any application to any governmental authority for a permit to make such structural addition, alteration or improvement in or to any Unit requires execution by the Association, then the application shall be executed on behalf of the Association by an authorized Officer only; without however, incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of such affected Units, the Board of Directors and any Unit Owner affected thereby, owners of adjoining Units may relocate the boundaries between them. The Secretary shall record any necessary amendment to the Declaration to effectuate such action pursuant to Section 55-79.69 of the Condominium Act. The provisions of this Section shall not apply to Units owned by the Declarant until deeds of conveyance of such Units shall have been recorded; provided, however, that the Declarant's

construction or alterations shall be architecturally compatible with existing Units. The Declarant shall have the right to make such alterations or subdivisions without the consent of the Board of Directors, and an authorized Officer shall execute any such application required.

**Section 5.8. Rules and Regulations.**

(a) **Initial Rules and Regulations.** Each Unit and the Common Elements shall be occupied and used in accordance with the Rules and Regulations which may be adopted and amended by the Board of Directors. Initial Rules and Regulations are attached to these Bylaws as Exhibit B.

(b) **Changes to Rules and Regulations.** Changes to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

**Section 5.9. Right of Access.** By acceptance of the deed of conveyance, each Unit Owner thereby grants a right of access to the Unit, pursuant to Section 55-79.79(a) of the Condominium Act and Article IV, Section 4.2(a) of the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the Managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities including without limitation making inspections, correcting any condition originating in the Unit or in a Common Element to which access is obtained through the Unit and threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or utility systems or the Common Elements in the Unit or elsewhere in the Property, or to correct any condition which violates any Mortgage; provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right to entry shall be immediate, whether or not the Unit Owner is present.

**Section 5.10. Utility Charge.** The cost of utilities serving the Condominium and not individually metered to a Unit shall be a Common Expense or Limited Common Expenses, as the case may be.

**Section 5.11. Parking Spaces.** During the time that Units are being sold by the Declarant, all of the parking spaces in the Common Elements other than Limited Common Elements, if any, may be restricted to the Declarant's use for sales purposes.

**ARTICLE VI**

**Insurance**

**Section 6.1. Authority to Purchase; Notice.**

(a) Except as otherwise provided in Article VI, Section 6.5 of these Bylaws, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board of Directors, the Managing Agent and the Declarant shall not be liable for failure to obtain

any coverages required by this Article VI or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are available but only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Unit Owners' Association, in compliance with Section 55-79.81(b) of the Condominium Act.

(b) Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the Managing Agent or the Unit Owner, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner (including his invitees, agents, employees and members of his household) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within sixty days after such demand;

(3) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least sixty days prior written notice to the Board of Directors, the Managing Agent and all Mortgagees;

(c) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article VI shall not be deemed to protect or be for the benefit of any general contractor engaged by the Declarant nor shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims;

(d) All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia. Physical damage policies shall be in form and substance and with carriers acceptable to Mortgagees holding a majority of the Mortgages (based upon one vote for each Mortgage owned); and

(e) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense; provided, however, that the Association may, pursuant to Article V, Section 5.5(a) of these Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a Unit Owner against such Unit Owner. Any Unit Owner filing a claim against the insurance policy purchased by the Board of Directors shall be liable for the deductible.

**Section 6.2. Physical Damage Insurance.**

(a) The Board of Directors shall obtain and maintain a blanket, "all-risk" or "special risks" form policy of fire insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire Property (including all of the Units and the bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Unit Owners or improvements constructed by a Unit Owner), together with all air-conditioning and heating equipment and other service machinery contained therein and covering the interests of the Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee contained in Article VI, Section 6.6 and Article VII of these Bylaws), in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Association.

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (ii) "cost of demolition"; (iii) "contingent liability from operation of building laws or codes"; (iv) "increased cost of construction"; (v) "condominium replacement cost"; and (vi) "agreed amount" or elimination of co-insurance clause; and

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

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of premium payments shall be delivered by the insurer to any Mortgagee



requesting the same, at least thirty days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the Land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Section. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to the Common Elements in excess of one percent of the then current replacement cost of the Property. The Mortgagee of a Unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such Unit.

Section 6.3. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including without limitation libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board may from time to time determine, insuring each director, each Officer, the Managing Agent and each Unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a "comprehensive liability basis" and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars covering all claims for bodily injury or property damage and personal injury arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than three million dollars (\$3,000,000.00).

Section 6.4. Other Insurance. The Board of Directors shall obtain and maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of the Officers, directors, trustees and employees of the Unit Owners' Association and all others who handle, or are responsible for handling, funds of the Association, excluding the Managing Agent. Such fidelity coverage shall (i) be written in an amount not less than one-half the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (ii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasi-governmental agency, including without limitation the Federal National Mortgage Association, Federal Home Loan Mortgage

Corporation, Veterans Administration, or Federal Housing Administration, flood insurance in accordance with the then applicable regulations of such agency;

(c) workmen's compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

(d) broad form machinery and pressure vessel explosion insurance (if applicable) in an amount not less than five hundred thousand dollars per accident per location;

(e) directors and officers liability insurance in an amount not less than one million dollars; and

(f) such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority Vote.

**Section 6.5. Separate Insurance.** Each Unit Owner may obtain insurance for such Unit Owner's benefit, at such Unit Owner's expense, covering such Unit Owner's personal property and personal liability, as well as any improvements made to the Unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); provided, however, that no Unit Owner shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this Section.

**Section 6.6. Insurance Trustee.**

(a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners' Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of Article VII of these Bylaws.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

**ARTICLE VII**

**Repair and Reconstruction After Fire or Other Casualty**

**Section 7.1. When Repair and Reconstruction are Required.** Except as otherwise provided in Article VII, Section 7.4 of these Bylaws, in the event of damage to or destruction of all or any part of any building, or other improvement as a result of fire or other casualty, the

Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including any damaged Units, and the floor coverings, kitchen or bathroom fixtures and appliances initially installed by the Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the Units). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his Unit.

Section 7.2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any portion of any building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including any damaged Units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by the Declarant, and the replacements thereof installed by the Declarant, but not including any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the Unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) Assessments. If the proceeds of insurance are insufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair, the funds for the payment of the costs thereon are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve or replacement fund and/or shall be deemed a Common Expense and a special assessment shall be levied therefor.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty-one percent of the Mortgagees.

Section 7.3. Disbursements of Construction Funds.

(a) Construction Fund and Disbursement. The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than ten percent of the then current replacement cost of the Property, then construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent of the Mortgagees (based upon one vote for each Mortgage owned), such fund shall be disbursed pursuant to Paragraph (2).

(2) If the estimated cost of reconstruction and repair is ten percent of the then current replacement cost of the Property or more, then the construction fund shall,

unless waived by sixty-seven percent of the Mortgagees, be disbursed in payment of such costs upon approval of an architect qualified to practice in Virginia and employed by the insurance trustee to supervise such work, with payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each Unit.

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

(d) Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (i) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund whether or not surplus funds to be distributed are less than the assessments paid by the Unit Owners; and (iii) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

Section 7.4. When Reconstruction Is Not Required. If the Board of Directors elects not to repair insubstantial damage to the Common Elements, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium and the balance of any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Common Element Interests. If the Condominium shall be terminated pursuant to Section 55-79.72:1 of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective Common Element Interest after first paying out of the share of each Unit Owner, to the extent sufficient therefor, the amount of any unpaid liens on his Unit in the order of priority of such liens.

## ARTICLE VIII

### Mortgages

Section 8.1. Notice to Board of Directors. A Unit Owner who mortgages his Unit shall notify the Board of Directors of the name and address of the Mortgagee and shall file a conformed copy of the note and deed of trust with the Board.

Section 8.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of any default in the performance by the Unit Owner of any obligation under the Condominium Instruments, including any default in paying assessments for Common Expenses which default remains uncured for sixty days, shall simultaneously send a copy of such notice to the Mortgagee of such Unit. Each Mortgagee shall also be notified promptly of any casualty when required by Article VI, Section 6.2(c) of these Bylaws, all actions taken under Article VII of these Bylaws, and any taking in condemnation or by eminent domain pursuant to Section 55-79.44 of the Condominium Act that affects either a material portion of the Condominium or the Unit securing its Mortgage and actions of the Unit Owners' Association with respect thereto.

Section 8.3. Notice of Proposed Action Requiring Mortgagee Approval. The Board of Directors shall give notice to all Mortgagees seven days prior to the date on which the Unit Owners' Association proposes to take any action requiring Mortgagee approval pursuant to these Bylaws.

Section 8.4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees requesting such notice thirty days prior to changing the Managing Agent.

#### Section 8.5. Mortgagees' Approvals.

(a) Two-Thirds Vote. Unless at least sixty-seven percent of the Mortgagees have given their prior written approval, the Association shall not (except following substantial destruction or condemnation) by act or omission withdraw the submission of the Property to the Condominium Act.

(b) Majority Vote. Unless at least fifty-one percent of the Mortgagees and at least sixty-seven percent of the Unit Owners have given their prior written approval, the Association shall not (i) amend the provisions of the Declaration, these Bylaws or any of the other Condominium Instruments governing the following: (1) voting rights; (2) assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the general or limited Common Elements, or rights to their use; (6) redefinition of any Unit boundaries; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project; (9) hazard of fidelity insurance requirements; (10) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; or (11) any provision

that expressly benefits Mortgage holders, insurers or guarantors; or (ii) take any of the following actions: (1) a decision by the Association to establish self-management if the Condominium consists of fifty (50) or more Units; (2) restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents; (3) any termination of the legal status of the Condominium after a substantial destruction or condemnation occurs; or (4) increasing assessments that raise the amount assessed for the prior year by more than 25%,

(c) Presumptive Approval. A Mortgagee who is notified of additions or amendments and who does not submit to the requesting party a negative response within sixty (60) days after receipt of such notice (provided the notice was delivered by certified or registered mail, return receipt requested) shall be deemed to have approved such request.

Section 8.6. Other Rights of Mortgagees. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners' Association, but shall not have the right to vote at such meetings unless so provided by the Condominium instruments or the Condominium Act. All such Mortgagees shall have the right to examine the Condominium Instruments, the Rules and Regulations and books and records of the Condominium during regular business hours and after reasonable advance written notice, to receive the annual report filed by Declarant pursuant to Section 55-79.93 of the Condominium Act, and to require the submission of annual financial reports and other budgetary information. If the Condominium contains less than fifty (50) Units and the Association has not prepared an audited financial statement, a Mortgagee shall have the right to have one prepared at its own expense.

## ARTICLE IX

### Compliance and Default

Section 9.1. Relief. Each Unit Owner shall be governed by, and shall comply with, the Condominium Instruments and the Condominium Act as the same may be amended. In addition to the remedies provided in Section 55-79.53 of the Condominium Act, a default by a Unit Owner shall entitle the Unit Owners' Association, acting through its Board of Directors or through the Managing Agent, to the following relief:

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

(b) Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and reasonable attorney's fees.

(c) No Waiver of Rights. The failure of the Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Condominium Instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Condominium Instruments or the Condominium Act, or at law or in equity.

(d) Interest. If any Unit Owner shall default in paying any sum assessed against the Condominium Unit which continues for a period in excess of ten days, interest at a rate equal to the "Prime Rate" plus five percent (5%) may be imposed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid. "Prime Rate" shall mean the prime rate (or base rate) reported in the "Money Rates" column or section of The Wall Street Journal as being the base rate on corporate loans at larger U.S. Money Center banks on the first date on which The Wall Street Journal is published in each month. In the event The Wall Street Journal ceases publication of the Prime Rate, then the "Prime Rate" shall mean the "prime rate" or "base rate" announced by the bank with which the Association has its principal banking relationship (whether or not such rate has actually been charged by that bank). In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers. If any Unit Owner that is more than thirty (30) days delinquent in their assessments, the assessments for that entire fiscal year shall become due and payable in full.

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

(f) Legal Proceedings. Failure to comply with any of the Condominium Instruments and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent, or, if appropriate, by any aggrieved Unit Owner (including actions against the Association) and shall not constitute an election of remedies.

(g) Charges. The Board of Directors and the Covenants Committee may levy reasonable charges against Unit Owners for violations of the Rules and Regulations, the Condominium Instruments or the Condominium Act. No charge may be levied for more than the maximum amount permitted by the Act.

(h) Suspension of Services. The Board of Directors may suspend a Unit Owner's right to use facilities or nonessential services offered by the Association for nonpayment of assessments to the extent that access to the unit through the Common Elements is not precluded.

(i) Hearings. Prior to the assessment of any fine or charge or the suspension of the right to use any facilities or services, the Unit Owner shall be given the opportunity to be heard and to be represented by counsel before the Board of Directors or the Covenants Committee, as the case may be. If a Unit Owner requests in writing a hearing before the fine or charge is imposed or the right to use the facilities or services is suspended, the imposition of the fine shall be suspended until the hearing is held. Fines are special assessments and shall be collectible as such.

#### Section 9.2. Lien for Assessments.

(a) Lien. The total annual assessment of each Unit Owner for Common Expenses or any special assessment, or any other sum duly levied (including without limitation fines, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the Condominium Unit of such Unit Owner pursuant to Section 55-79.84 of the Condominium Act, which lien shall with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than ten days after notice to the Unit Owner of such special assessment or levy. The Board of Directors or the Managing Agent may file or record such other for further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) Acceleration. If an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of such assessment may be declared due and payable in full by notice to the defaulting Unit Owner and his Mortgagee by the Board of Directors or the Managing Agent.

(c) Enforcement. The lien for assessments may be enforced and foreclosed in any manner permitted by the laws of the Commonwealth of Virginia by power of sale pursuant to Article IX, Section 9.3 of these Bylaws or by an action in the name of the Board of Directors, or the Managing Agent, acting on behalf of the Association. During the pendency of such suit the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the Commonwealth of Virginia.



Section 9.3. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity for the enforcement of the lien established by the Condominium Instruments or the Condominium Act, all of the Unit Owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such obligations by recording a declaration of trust in the land records where the Condominium Instruments are recorded granting unto one or more trustees appropriate powers such that upon default in the performance of such bond, such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a Unit shall take title subject thereto and shall assume the obligations provided for therein.

Section 9.4. Subordination and Mortgage Protection. Notwithstanding anything to the contrary herein, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage recorded prior to the perfection of the lien for assessments; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

## ARTICLE X

### Amendments to Bylaws

Section 10.1. Amendments. These Bylaws may not be modified or amended except in compliance with Section 55-79.71 of the Condominium Act; provided, however, that until the expiration of the Declarant Control Period, Article II, Sections 2.2 and 2.9, Article III, Section 3.3 and Article X, Section 10.1 of these Bylaws may not be amended without the prior written consent of the Declarant. All amendments to the Bylaws shall be prepared and recorded by the Secretary.

Section 10.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies, and interest of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagees, subject to the provisions of Section 8.5(c) above.

ARTICLE XI

Miscellaneous

Section 11.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid (pursuant to Section 55-79.75 of the Condominium Act), or if notification is of a default or lien, sent by certified United States mail, return receipt requested, postage prepaid: (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary, if any, and at the address of the Unit of such Unit Owner; or (ii) if to the Association, the Board of Directors or to the Managing Agent, at the principal office of the Managing Agent, at the office of the Association's registered agent, or at the principal address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

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

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

Section 11.4. Construction. The Condominium Instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied. In these Bylaws, whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, shall be deemed to include the words "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

IN WITNESS WHEREOF, the Declarant has caused this Bylaws to be executed by its duly authorized agent, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

The Landings at Five Points, Inc.,  
a Virginia corporation

By: \_\_\_\_\_  
Ulysses Turner, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in \_\_\_\_\_, Virginia, by Ulysses Turner, who is either:  personally known to me or  who produced \_\_\_\_\_ as identification, as President of The Landings at Five Points, Inc., a Virginia corporation, on its behalf.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

EXHIBIT A  
to the Bylaws

**THE LANDINGS AT FIVE POINTS, A CONDOMINIUM  
CERTIFICATE FOR RESALE**

TO: \_\_\_\_\_

FROM: Landings at Five Points Condominium Association, Inc. (the "Unit Owners Association")

RE: Condominium Unit No. \_\_\_\_\_, The Landings at Five Points, a Condominium, Norfolk, Virginia

Pursuant to Section 55-79.97 of the Condominium Act, as amended, we hereby certify that as of the date hereof, except as herein stated:

A. The status of assessments with respect to the condominium unit is as follows:

Current Assessment Due _____	\$ _____
Assessment in arrears _____	\$ _____
<b>TOTAL DUE</b>	<b>\$ _____</b>

B. The Condominium Instruments do not create any rights of first refusal or other restraints on free alienability of any of the condominium units.

C. The following, if any, is a list of all expenditures approved by the Unit Owners' Association or its Board of Directors which will require an assessment in addition to the regular assessment during the current or immediately succeeding fiscal year:

[Fill in if Applicable]

D. The current annual assessment for common expenses levied against the captioned unit is \$ \_\_\_\_\_ and is payable in monthly installments of \$ \_\_\_\_\_. There are no assessments, fees or charges currently imposed by the Unit Owners' Association associated with the purchase, disposition or maintenance of the condominium unit or the use of the Common Elements except as follows:

[Fill in if Applicable]

E. Upon acquisition of a Unit, you may become liable for the payment of fees or other charges to the following:

[Fill in if Applicable]

F. As of the date of this certificate, there is a balance in the reserve for replacement fund (reserve account) of approximately \$ \_\_\_\_\_. Of that balance, the following amounts, if any, have been designated by the Board of Directors for the following specific projects:

[Fill in if Applicable]

G. Attached to this certificate are both a copy of the Unit Owners' Association's current budget (or a summary of the budget) and a copy of the statement of financial condition (balance sheet) of the Unit Owners' Association of the year ended \_\_\_\_\_, \_\_\_\_\_, the most recent fiscal year for which such statement is available.

H. There are no unsatisfied judgments against the Unit Owners' Association nor any pending suits to which the Unit Owners' Association is a party which either could or would have a material impact on the Unit Owners' Association or the Unit Owners or which relates to the Unit being purchased except as follows:

[Fill in if Applicable]

I. The Unit Owners' Association holds hazard, property damage and liability insurance policies covering the Common Elements and the units as required by the Bylaws. The Unit Owners' Association also maintains fidelity coverage. It is suggested that each Unit Owner obtain insurance covering property damage to betterments and improvements installed in the unit and personal property contained therein (which are not covered by the Unit Owners' Association policy) as well as insurance covering personal liability. You are urged to consult with your insurance agent.

J. Improvements or alterations, if any, made to the condominium unit or the limited Common Elements assigned thereto are not in violation of the Condominium Instruments except as follows:

[Fill in if Applicable]

K. Attached hereto is a copy of the Bylaws of the Unit Owners' Association, with all amendments thereto and a copy of the Rules and Regulations of the Unit Owners' Association, with all amendments thereto.

L. The Condominium is not located within a development subject to the Virginia Property Owners' Association Act (Code of Virginia, § 55-508 et seq.).

M. The Unit Owners' Association has filed with the Real Estate Board the annual report required by § 55-516.1 of the Code of Virginia. The filing number assigned to such report by the Virginia Real Estate Board is \_\_\_\_\_. The expiration date of such filing is \_\_\_\_\_.

N. The limitation on the number of persons who may occupy a Unit as a dwelling is \_\_\_\_\_.

The information contained in this Certificate for Resale, issued pursuant to Section 55-79.97 of the Condominium Act, as amended, based on the best knowledge and belief of the Unit Owners' Association, is current as of the date hereof.

The Unit Owners' Association may charge a fee for the preparation of this Certificate for Resale as allowed by law.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

LANDINGS AT FIVE POINTS  
CONDOMINIUM ASSOCIATION, INC.

By: \_\_\_\_\_  
Officer

I hereby acknowledge that I received this Certificate for Resale on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Unit Owner

I hereby acknowledge that I have received and read the information contained in this Certificate for Resale on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Purchaser

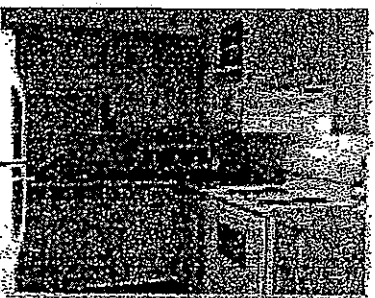
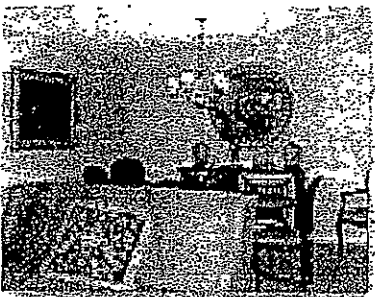
\_\_\_\_\_  
Purchaser



*Affordable Elegance near the Airport*

# Landings

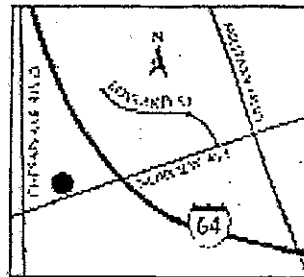
AT FIVE POINTS



- Access to Interstate 64
- Close to Bases, Airport
- 3 Bedrooms, 2 Full Baths
- Plush Carpeting & Ceramic Tile
- Gated Community
- Security System
- High Speed Internet & Cable Ready
- Private Balcony

**The Landings at Five Points**  
**853-6200**

*1232 Norview Ave. at Military Highway  
Directions: from 264, take 64 west,  
exit 279 A Norview Ave. 1/4 mile on right.*



*Visit us today and choose from  
three spacious floor plans.*

\* Limited time only, buyer agrees to use settlement agent and lender designated by seller

Landings at Five Points, a Condominium has now been registered by the Virginia Real Estate Board. Now accepting contract of sale or lease



**PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION**  
**PUBLIC OFFERING STATEMENT**

**NAME OF CONDOMINIUM:** THE LANDINGS AT FIVE POINTS, a  
Condominium

**LOCATION OF CONDOMINIUM:** 1232 Norview Avenue, Norfolk, Virginia 23513

**NAME OF DECLARANT:** The Landings at Five Points, Inc.,  
a Virginia corporation

**ADDRESS OF DECLARANT:** 1232-A Norview Avenue  
Norfolk, Virginia 23513

**EFFECTIVE DATE OF PUBLIC OFFERING STATEMENT:** March 23, 2006

This Public Offering Statement presents information regarding Condominium Units being offered for sale by the Declarant. Virginia Law requires that a Public Offering Statement must be given to every Buyer in order to provide full and accurate disclosure of the significant features of the Condominium Units being offered. The Public Offering Statement is not intended, however, to be all-inclusive. The Buyer should consult other sources for details not covered by the Public Offering Statement.

The Public Offering Statement summarizes information and documents furnished by the Declarant to the Virginia Real Estate Board. The Virginia Real Estate Board has reviewed the Public Offering Statement to ensure that it is an accurate summary but does not guarantee its accuracy. In the event of any inconsistency between the Public Offering Statement and the material it is intended to summarize, the latter will control.

Under Virginia Law, a Buyer of a Condominium Unit is afforded a ten-day period during which he or she may cancel the contract of sale and obtain a full refund of any sums deposited in connection with the contract. The ten-day period begins running on the contract date or the date of delivery of a Public Offering Statement, whichever is later. The Buyer should inspect the Condominium Unit and all common areas and obtain professional advice. If the Buyer elects to cancel, he or she must deliver notice of cancellation to the Declarant by hand or United States mail, return receipt requested.

The following are violations of Virginia Law and should be reported to the Virginia Real Estate Board, 3600 West Broad Street, Richmond, Virginia 23230-4917:

- a misrepresentation made in the Public Offering Statement
- an oral modification of the Public Offering Statement
- a representation that the Virginia Real Estate Board has passed on the merits of the Condominium Units being offered or endorses the Condominium



**PURCHASER SHOULD READ THIS DOCUMENT FOR HIS OWN PROTECTION**

**SUMMARY OF IMPORTANT CONSIDERATIONS**

Following are important matters to be considered in acquiring a Condominium Unit. They are highlights only. The Narrative Sections should be examined to obtain detailed information.

1. The Condominium is a conversion condominium.
2. The Condominium will be governed by a Unit Owners' Association (the "Association"). After a period of Declarant control described in paragraph 8 below, the Association will be governed by a Board of Directors elected annually by all the Unit Owners (including the Declarant as long as the Declarant is still a Unit Owner). Each Unit Owner will have a vote on certain decisions of the Association after the period of Declarant control, and each Unit Owner will be bound by all decisions of the Association and its Board of Directors, including those decisions with which he disagrees. See Narrative Section J.
3. Certain decisions of the Association will be made by its Board of Directors. See Narrative Section J.
4. The expenses of operating the Association will be paid by the Unit Owners on the basis of an annual budget, which may be adjusted during the fiscal year. Each Unit Owner will pay an annual assessment in monthly installments and may be required to pay special assessments. A Unit Owner cannot reduce the amount of his assessments by refraining from use of the Common Elements. See Narrative Section L.
5. If a Unit Owner fails to pay a common expense assessment (or an installment thereon) when due, the Association will have a lien against his Condominium Unit. Certain other penalties may also be applied. See Narrative Section L.
6. The Declarant must pay assessments on unsold Condominium Units. See Narrative Section L.
7. None of the Declarant, its predecessors, or principal officers has undergone a debtor's relief proceeding.
8. The Declarant will retain control of the Unit Owners' Association and will control the membership of the Board of Directors for a period ending on the earliest of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act), or (iii) the date specified by the Declarant in a notice to each Unit Owner that the Declarant is relinquishing the rights reserved by the Declarant under Section 55-79.74(a) of the Code of Virginia of 1950. See Narrative Sections C and D.

9. A managing agent will perform certain routine operations of the Association in conformity with the Bylaws. See Narrative Section J.
10. There are no restrictions on the right of the Declarant to rent unsold Condominium Units. The right of any other Unit Owner to rent his Condominium is subject to restrictions set forth in the Declaration and the Bylaws, which presently provide, among other things, that no Unit may be rented for transient or hotel purposes or for any period of less than twelve (12) months. See Narrative Section I.
11. All of the Units are restricted to residential use except that the Declarant may use any Units owned by the Declarant as sales offices, management offices, model units, or rental offices, and the Board of Directors may permit reasonable, temporary, nonresidential uses in designated Units (and/or Common Elements) from time to time. Unit Owners may also be allowed to use their Unit for home office purposes as allowed by the City of Norfolk zoning laws, provided that such office use is ancillary to the use of the Unit primarily as a residence.
12. The Unit Owner may not alter the structure of his or her Unit or modify the exterior of his or her Unit without the approval of the Covenants Committee or the Board of Directors or the Unit Owners' Association, as appropriate.
13. The Association will obtain certain insurance benefiting the Unit Owner, but the Unit Owner should obtain other insurance on his own. See Narrative Section M.
14. The Unit Owner will pay real estate taxes on his Condominium Unit. See Narrative Section N.
15. Marketing and sale of Condominium Units will be conducted in accordance with the Virginia Fair Housing Law (Code of Virginia Section 36-96.1 et seq.) and the Virginia Condominium Act (Code of Virginia Section 55-79.52(c)).
16. The Condominium is not subject to development as a timeshare.
17. The Unit Owner's right to bring legal action against the Declarant is limited by certain provisions of the purchase agreement in that if the Declarant prevails, the purchaser must pay Declarant's legal fees and costs. The purchase agreement also requires that the Unit Owner waive the right to demand a trial by jury for any proceedings arising from or in any way connected with the purchase agreement or the transaction contemplated by the purchase agreement.
18. The right of a Unit Owner to sell his or her Unit is not subject to restrictions.

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APPENDIX 8

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Replacement Reserve Study

## A. THE CONDOMINIUM CONCEPT

**Units and Common Elements.** Some scholars trace variations of the condominium concept back to the Middle Ages or even more ancient times. In its modern American form, the condominium concept was rarely used in this country before the 1960's. In a contemporary American condominium, a parcel of land is divided into Units, each of which is individually owned, and Common Elements, which are collectively owned by all the Unit Owners. Each Unit Owner owns title to a Unit together with an undivided interest in all of the Common Elements which interest is assigned on an equal basis and expressed in a fraction. That fractional share is called the Unit Owner's "Common Element Interest." Since each Unit Owner's Common Element Interest is equal then the share of the Common Expenses of the Association which a Unit Owner will have to pay (except for some expenses which may be specifically assessed against the particular Unit Owners causing or specifically benefiting from them) is also equal. A Unit and its Common Element Interest cannot be sold separately from one another. They must always belong to the same person or group of persons. The Common Element Interests of the Units in this Condominium may not change for any reason, except for expansion of the Condominium. Some condominiums have Limited Common Elements, which are portions of the Common Elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the Units.

## B. CREATION OF THE CONDOMINIUM.

As of the effective date of this Public Offering Statement, the Condominium has not been created. It will be created, before any Condominium Unit is conveyed, by recording the Condominium Instruments described below. Copies of these Condominium Instruments are attached as Appendices 1, 2 and 3 to this Public Offering Statement. The Declarant reserves the right to amend the Condominium Instruments unilaterally at any time before they are recorded and thereafter to the extent permitted by law. If you sign a contract to purchase a Condominium Unit before the Declaration and the Bylaws have been recorded, the Declarant will send copies of them to you as recorded, within ten (10) days of the recordation date (unless you have previously exercised your right to cancel the contract).

**The Declaration.** The essential function of the Declaration is to describe property rights within the Condominium. It gives more details than this Public Offering Statement can about the Units and the Common Elements. (Those concepts are explained briefly in Narrative Section C, below). The Declaration also contains definitions, describes certain easements and contains various other provisions. The Bylaws and the Plat and Plans described below are integral parts of the Declaration. The Declaration is attached as Appendix 1 to this Public Offering Statement.

**Plat.** The essential function of the Plat is to graphically depict the Condominium. A reduced copy of the Plat is included as part of Appendix 2 to this Public Offering Statement, and a full-size copy may be examined at the office of the Declarant (the address of which appears on Page 1 of this Public Offering Statement) or at the office of the Virginia Real Estate Board in Richmond, at 3600 West Broad Street. The address for the Condominium is 1232 Norview Avenue, Norfolk, Virginia.

**The Plans.** The essential function of the Plans is to graphically depict the Units. The Plans show the structure which contains the Units, show the location and dimensions of the boundaries of the Units and bear the identifying numbers of the Units. A reduced copy of the Plans is included as a part of Appendix 2 of this Public Offering Statement, and a full size copy of the Plans may be examined at the office of the Declarant (the address of which appears on Page 1 of this Public Offering Statement) or at the office of the Virginia Real Estate Board in Richmond, at 3600 West Broad Street.

**The Bylaws.** The essential function of the Bylaws is to provide for the manner in which the Condominium is to be governed. The period of Declarant control is described, and so is the manner in which the Condominium will subsequently be governed by the Association, its Board of Directors, and Committees and agents to be selected by the Board. There are various other provisions, including among other things restrictions on the use of the Units and the Common Elements and the manner of setting the Association's budget and enforcing the collection of assessments. The Bylaws are attached as Appendix 3 to this Public Offering Statement.

**Amendments.** Under the Condominium Act, some amendments to the Condominium Instruments can be made by the Declarant or certain Unit Owners unilaterally. Other amendments require the written consent of the Unit Owners with two-thirds (2/3) of the votes in the Association. The consent of the Declarant, Mortgagees and/or particular Unit Owners is required for certain amendments of the Declaration and of the Bylaws.

**Availability of Documents.** In addition to being attached to this Public Offering Statement, copies of each of the documents referred to above may be found at the office of the Declarant at 1232-A Norview Avenue, Norfolk, Virginia 23513.

### **C. DESCRIPTION OF THE CONDOMINIUM**

The Condominium is a conversion condominium. A conversion condominium is one that contains structures which before recording of the declaration, were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with their consent. The Condominium is a conversion condominium because it was constructed in 2001 and has been occupied since that time by residential tenants and not by purchasers of units or those who occupy with their consent. The entire original structures will be retained.

The Condominium will contain twenty-six (26) Units in three (3) buildings on approximately 1.284 acres of land. The Condominium is located in the City of Norfolk at 1232 Norview Avenue. All of the Units are being offered for sale.

The Declaration restricts all of the Units in the Condominium to residential use only. See Section 7.1(d) of the Declaration. However, the Declarant may use unsold Units as models or as a sales office. Although the Declarant does not intend or plan to rent any of the Units, it may rent the unsold Units, if market conditions so warrant. At the time of registration of the Condominium, the Declarant does not intend to limit to twenty percent (20%) the number of

Units sold to persons who do not intend to occupy the Units as their primary residence but does intend to limit that number to twenty-five percent (25%) or six (6) Units. See Article 7 of the Declaration and the Rules and Regulations for use and occupancy restrictions.

Prospective purchasers of Units should be aware that, due to the fact that Units abut one another (both horizontally and vertically), the Units will not be a noise free environment. Unit Owners will be expected to comply with the City of Norfolk's ordinances regarding noise, and the Rules and Regulations of the Condominium that may now or hereafter be in effect regarding noise and noise generating activities.

The Condominium is not subject to development as a "time-share condominium."

#### **D. INDIVIDUAL UNITS**

1. Unit Boundaries. Generally speaking, each Unit consists of the space bounded by the walls, floor and the ceiling of the Unit. Units may also include interior partitions, floor coverings (carpet, hardwood flooring, tile, etc.), wall finishings and interior doors, and will include any portions of heating and air conditioning apparatus and hotwater heater which serve only that Unit, and any portion of the plumbing, electrical, and mechanical systems serving only that Unit, whether or not any of the foregoing are located within the physical boundaries of any Units. The Units will also include the nonstructural portions of exterior windows and doors.

2. Units Offered. There are planned to be three types of Units in the Condominium. The Sewells Point Model includes three bedrooms and one bath and contains approximately 1,090 square feet of floor area. The Norview Model includes three bedrooms and two baths and contains approximately 1,035 square feet of floor area. The Chesapeake Model includes three bedrooms and two baths and contains approximately 1,076 square feet of floor area. It should be noted that the number and size of decks assigned as Limited Common Elements to any particular model or Unit may vary such that two Units of the same model type may have a different number, or different size, of decks assigned as Limited Common Elements.

The measurements for finished floor area are from inside face of stud to inside face of stud.

3. Restrictions on Changes to Structure or Exterior of Units; Binding Effect of Condominium Instruments. Each Unit Owner will own his or her Unit subject to the restrictions, covenants, and conditions contained in the Declaration and the Bylaws. No Unit Owner shall make any structural addition, alteration, or improvement to his Unit without the prior written approval of the Covenants Committee or the Board of Directors of the Association, as appropriate. No Unit Owner shall paint or alter the exterior of any Unit, including the doors and windows of such Unit, nor shall any Unit Owner paint or alter the exterior of the building. Any signs are subject to the reasonable approval of the Covenants Committee. All present and future Unit Owners, tenants, and occupants of the Condominium Units shall be subject to and shall comply with the provisions of the Declaration, Bylaws, and the Rules and Regulations as they all may be amended from time to time.

4. Anticipated Completion Date. All of the Units are substantially complete, but some refinishing work and replacement of appliances will be performed after purchase agreements become binding and before the conveyance of Units to purchasers.

**E. COMMON ELEMENTS**

1. Introduction. The Declaration has allocated to each Unit an interest in the Common Elements on an equal basis.

2. Description of Common Elements. The Common Elements are all portions of the Condominium other than the Units. The Common Elements are of two types, depending on their intended use. General Common Elements (all Common Elements other than Limited Common Elements) are to be used by all Unit Owners, subject to certain easements. A Limited Common Element is to be used only by the owners and occupants of Units to which the Limited Common Element is assigned, subject to certain easements. Use of General and Limited Common Elements by Unit Owners and others is subject to the provisions of the Declaration, the Bylaws, and the Rules and Regulations. All Common Elements are owned in common by all Unit Owners and are available for use for their intended purpose by all Unit Owners or occupants of Units, except for those Common Elements designated as Limited Common Elements as described below, subject to the provisions of the Declaration, Bylaws, and the Rules and Regulations.

3. General Common Elements. The General Common Elements consist of the entire Property other than the Units and Limited Common Elements, including, without limitation, the land, the airspace above the land and above and around the building and all other improvements, the airspace within the buildings which is not part of a Unit, all foundations, roofs, attics, flashings and sealants of outer doors and windows, exterior walls, and all walls separating Units, all driveway areas, parking spaces not assigned as Limited Common Elements, utility distribution apparatus and installations for common use or common maintenance, and all common walkways. The use of the General Common Elements shall be conditioned upon certain requirements such as the payment of assessments levied against each Unit by the Board of Directors in order to pay the costs of operation, maintenance and repair of the Property (i.e., "common expenses").

4. Limited Common Elements. Limited Common Elements are Common Elements other than General Common Elements, reserved for the exclusive use of the occupants of a particular Unit or Units. Thus, any apparatus designed to serve at least one but less than all of the Units, but located outside the boundary of any Unit or Units served exclusively thereby, is a Limited Common Element and is assigned to and appertain to those Units exclusively. Each Unit will have one or more decks assigned as a Limited Common Elements for the exclusive use of the occupants of such Unit.

All of the Common Elements within the land initially submitted to the Condominium are expected to be substantially complete when submitted.



5. Assignment of Limited Common Elements. The following is intended to be only a brief summary of certain provisions relevant to assignment of the Limited Common Elements. Except for parking spaces, no Limited Common Element may be reassigned. All assignments and reassignments of Limited Common Elements shall be reflected in the condominium instruments or recorded amendments thereto. No Limited Common Element shall be assigned or reassigned except in accordance with the provisions of the Declaration and the Condominium Act. A Limited Common Element which is assignable may be reassigned to another Unit upon written application of the Unit Owners who are parties to such assignment to the principal officer of the Association. The Declarant may assign unassigned parking spaces.

6. Parking. The Condominium will have a total of not less than forty-one (41) parking spaces available (at least 1 space per Unit). One space will be assigned to each Unit as a Limited Common Element for the exclusive use of the occupants of that Unit. All of the parking spaces not initially assigned as Limited Common Elements will be General Common Elements with respect to which Declarant reserves the right to assign as Limited Common Elements, whether for additional consideration, or otherwise. The Declarant gives no assurance that any particular Unit will have more than one parking space assigned as a Limited Common Element.

#### F. THE DECLARANT

The Declarant, a corporation organized under the laws of the Commonwealth of Virginia, was created for the sole purpose of developing the Condominium. The President of the Declarant is Ulysses Turner and the Secretary/Treasurer is Josephine L. Turner, who have been associated with the Declarant since its formation. Mr. Turner has extensive experience (35 years) in construction and renovation of residential buildings primarily focusing on multifamily apartment buildings. Mr. Turner will be responsible for overseeing all aspects of the Condominium.

#### G. TERMS OF THE OFFERING

The offering prices for Units, as of the effective date of this Public Offering Statement, are \$200,000.

The Declarant may, but is not required, to offer any financing for the purchased Units. A Unit purchaser may apply for financing from any lender or may pay all cash at settlement. Each Unit purchaser will be responsible for satisfying the credit requirements and conditions established by the lender or lenders. Financing is subject to additional terms and conditions stated in the loan commitment or instruments which the Unit Owner receives from its lender.

The Declarant has reserved the right to terminate any Agreement of Sale or any Nonbinding Reservation Agreement for the sale of a Unit at any time prior to the expiration of 180 days after the date of the agreement if the requirements of any lender (such as a requirement that a certain number of units must be sold before any loan may be closed) providing financing for the Units cannot be met.

At settlement, the Unit purchaser will be required to pay, in addition to the purchase price of the Unit, the usual closing costs associated with the purchase of residential real estate. These closing costs include the recording fees and taxes for the deed (except the Virginia Grantor's tax which will be borne by the Declarant), any application or other fees charged by the purchaser's lender, the recording fees and taxes for the deed of trust, the premium for title insurance, if purchased, and the purchaser's attorney's fees.

Also, the purchaser of the Unit will be required to make a non-refundable initial capital contribution to the Association equal to the estimated assessments for common expense attributed to the particular Unit being purchased for three (3) months. (See Appendix 4(a), Projected Budget.) The general purpose for this contribution is to provide for certain prepaid items, such as insurance premiums, organizational expenses, equipment and supplies.

The Purchase Agreement (see Section 15) provides that the purchaser of a Unit will be required to pay the attorney's fees of the Declarant incurred in enforcing its rights against the purchaser in the event that the purchaser defaults under the Purchase Agreement. In the event that the Purchaser does not settle on the purchase of the Unit when obligated to do so, the Purchase Agreement provides that the purchaser shall be obligated to pay a daily charge to the Declarant as compensation for the delay (see Section 7(f)). The Purchase Agreement also provides that the Unit Owner waive the right to demand a trial by jury for any proceedings arising from or in any way connected with this Agreement or the transaction contemplated by this Agreement.

#### **H. ENCUMBRANCES**

The Condominium is and will be subject to the normal utility easements for water, cable, sewer, electricity, gas, drainage and telephone. In addition, the Condominium will be subject to certain easements created by the Declarant and by the Virginia Condominium Act. These easements include:

- a. Easement for Encroachments. This easement protects the Unit Owner and the Unit Owners' Association in the event that a Unit or Common Element encroaches upon another Unit or Common Element.
- b. Easement for Ingress and Egress. Each Unit Owner has a right of access to the Common Elements, subject to any rules, regulations and restrictions established by the Unit Owners' Association.
- c. Easement for Access to Units. Authorized representatives of the Association, including the Declarant or the managing agent, may enter any Unit to the extent necessary to correct conditions threatening other Units or the Common Elements to make repairs to the Common Elements and the Limited Common Elements which are accessible only from the Unit, or to correct conditions which may constitute violations of the Declaration, the Bylaws or any regulations of the Association. Notice must be given to the Unit Owner prior to any entry, except in case of an emergency when a Unit may be entered without notice. The Declarant has the right to enter Units, regardless of whether the Unit Owner is present, for the purpose of performing warranty work. In the event of a violation of the Declaration or Bylaws, the violation

may be corrected without the consent of the Unit Owner and the Unit Owner may be charged with the resulting expense. The collection of such expenses may be enforced by means of the statutory lien for assessments.

d. Easement for Support. Each Unit Owner has the benefit of a restriction upon any action of a neighboring Unit Owner, or of the Association with respect to the Common Elements, which would endanger the structural integrity of the building or safety of his or her Unit.

e. Easement to Facilitate Sales. Initially, the Declarant may use one or more of the Units as a sales office and model unit. The Declarant may move either the sales office, the model unit, or both, to any other unsold Unit.

#### **I. RESTRICTIONS ON TRANSFER**

The Declaration provides that no part of the Condominium shall be made a part of any time share program.

Each Unit may be occupied by only one (1) family or by a maximum of two (2) persons per bedroom for unrelated persons.

No Unit Owner shall lease his condominium Unit except for residential purposes. A Unit shall be deemed leased by a Unit Owner for purposes of the Rules and Regulations, whenever it is occupied by a third party who is not a member of the Unit Owner's family, unless the Unit Owner is also occupying such Unit. The minimum initial term of any lease for any Unit is twelve (12) months.

The restrictions on leasing shall not apply to the Declarant or to any institutional mortgagee.

The right of a Unit Owner to sell his or her Unit is not subject to restrictions.

#### **J. UNIT OWNERS' ASSOCIATION**

The principal functions of the Association are to govern and provide insurance for the Condominium. Other functions of the Association, as described in the Bylaws and Articles, include adopting an annual budget and collecting assessments, overseeing the managing agent and the operation of the Condominium, and adopting and enforcing rules and regulations.

The affairs of the Association shall be managed by a Board of Directors. The Declarant will retain control of the Association by appointing all of the members of the Board of Directors during the period of Declarant Control which is the period ending on the earliest to occur of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act) or (iii) the date specified by the Declarant in a notice to each Unit Owner that the Declarant

is relinquishing its rights under Section 55-79.74(a) of the Code of Virginia of 1950. The Board of Directors will consist of three (3) directors elected annually by all the Unit Owners (including the Declarant so long as the Declarant is a Unit Owner) after the expiration of the Declarant Control Period. The number of Directors may be changed by an amendment to the Bylaws. The Board of Directors may delegate various powers to one or more directors, other officers or the Managing Agent pursuant to the Bylaws.

Under the provisions of the Bylaws, the Board of Directors shall be required to employ a professional manager for the Condominium.

The managing agent for the Condominium is Management Alternatives. The duration of the initial agreement to be signed with the managing agent is two (2) years. There is no relationship between the managing agent and the Declarant. Section 3.2 of the Bylaws addresses the criteria for the selection of managing agent. The criteria include that the agent be a bona fide business enterprise which manages common interest residential communities; that the firm shall have experience in real estate community management and that it employ persons possessing competence in the technical skills necessary for proper management of the Condominium. The agreement with the managing agent will provide that it may be terminated by the Association or the Board of Directors within sixty (60) days after the end of the Declarant Control Period, without penalty, upon ninety (90) days notice.

The officers of the Association will include a President, a Vice President, a Secretary and a Treasurer. Other officers may also be elected. All officers are elected by the Board of Directors. The President and Vice President must be residents of the Condominium and members of the Board of Directors, unless appointed by the Declarant.

Each owner shall have one vote in the affairs of the Association for each Unit owned.

All of the foregoing matters in this Section J are covered in detail by the Declaration and the Bylaws attached hereto as Appendices 1 and 3 to this Public Offering Statement.

The Board of Directors shall have the authority to adopt Rules and Regulations affecting the Condominium. A copy of the initial Rules and Regulations is attached to the Bylaws which are Appendix 3 to this Public Offering Statement.

The Board of Directors shall establish a Covenants Committee which shall be responsible for the external design, appearance, use and maintenance of the Common Elements.

#### **K. SURROUNDING AREA**

The Condominium is located in a mixed residential and commercial urban setting in Norfolk. The surrounding area is zoned for, and is currently being used primarily for commercial and residential purposes. The Condominium is near the Norfolk International Airport, the Lake Wright Resort Golf Course and the Five Points commercial area. The Project is located on Norview Avenue which is a major thoroughfare. Unit Owners should expect to experience the sights, noise levels and traffic issues which are customarily associated with such a location.

## L. FINANCIAL MATTERS

Each Unit Owner will be obliged to pay a share of the Common Expenses, which include the actual and anticipated expenses of the Association and any allocations to reserve funds which the Association may maintain. Each Unit Owner will be assessed an equal amount for any regular or special assessment. A Unit Owner cannot obtain a reduction of the Common Expenses assessed against his Unit by refraining from use of any of the Common Elements. A projected Budget for the Association is attached as Appendix 4(a). At the time of settlement of the purchase of any Unit, the Purchaser shall be required to pay a sum equal to three (3) month's regular assessments, which sum shall be placed in the Association account as its initial working capital. This payment is a capital contribution to the Association, not an advance payment of regular assessments.

The costs of maintenance, repair and replacement of the various portions of the Condominium are generally divided into three categories: (a) those apportioned among and assessed to all of the Units, (b) those apportioned among and assessed to less than all of the Units, and (c) those borne directly by individual Unit Owners. Generally speaking, the costs associated with maintaining, repairing and replacing the Common Elements, including the Limited Common Elements, will be assessed to all of the Units based on their respective Common Element Interests. Also, costs incurred for consumption of gas, water, sewer and related services will be included as Common Expenses and assessed against all Unit Owner's based on their respective Common Element Interests. Costs which may be apportioned among and assessed to less than all of the Units include costs incurred by the Association due to the conduct of a Unit Owner (or his or her family members, employees, agents or licensors or guests), costs incurred in making the same off-site amenities or paid subscription television service to some or all of the Units (including cable television and data transmission services and security monitoring services) and costs incurred in providing metered utility service to some or all of the Units, if any, (to be assessed based upon actual consumption of services). A Unit Owner may not unilaterally reduce his or her assessments if he or she refrains from using the utilities or services the cost of which is apportioned among and assessed to all of the Units based upon their respective Common Element Interests.

Each Unit Owner will pay all costs associated with the maintenance and repair of his or her Unit, including windows and doors. This includes the maintenance costs of the air conditioning system, plumbing and electrical systems which serve only that Unit. Certain utilities including electricity and telephone will be separately metered for each Unit with the Unit Owner being responsible for the payment thereof. Also, each Unit Owner will be responsible for the payment of the real estate taxes assessed against his or her Unit.

The Declaration and the Bylaws contain more detail about the manner in which Common Expenses are to be assessed. See also Appendix 4(a) to this Public Offering Statement for budgetary projections. Those budgetary projections are estimates only and are not guaranteed by the Declarant or anyone else. Budgetary projections for future years are especially unreliable. Not only is it impossible to predict the rate of inflation and the general economic conditions, but it is also impossible to predict things that could happen in the future within the Condominium itself, especially after the period of Declarant control ends. If the Association develops a

budgetary shortage, the Bylaws permit and require the Board of Directors to levy further assessments on the Unit Owners to make up the deficiency. The budget has been based on the assumption that the Condominium will contain 26 residential Units.

At the present time no regularly recurring common expenses are planned to be specially assessed.

The failure of any Unit Owner to pay his share of the Common Expenses, as assessed by the Board of Directors, could have consequences just as serious as failure to pay a promissory note secured by a mortgage or a deed of trust. Not only would the defaulting Unit Owner be subject to a lien on his Condominium Unit which could result in a forced sale thereof to pay the deficiency (together with interest, late charges, costs, attorney's fees, and a fair rent of his Unit), but he could also be sued personally for those same items, and the judgment could be enforced against other property of the Unit Owner besides his Unit. Failure to pay any monthly installment of his Common Expense assessment gives the Board of Directors, under the provisions of the Bylaws, the right to declare the entire remaining unpaid balance of that year's assessment immediately due and payable. A Unit Owner who becomes delinquent in the payment of any assessment for thirty (30) days also loses his right to vote in the Association. It is also noted that the Declarant has posted a bond with the Virginia Real Estate Board, conditioned on the payment of assessments against unsold Units owned by the Declarant.

A Unit Owner cannot obtain a reduction of the Common Expenses assessed against his Unit by refraining from use of any of the Common Elements or by reason of the Association's failure to furnish any services.

The Association may also establish, in such an amount as it may deem necessary, reserve funds for operating contingencies of a nonrecurring nature. A Unit Owner's share of such funds may not be utilized by him or her, and will be deemed conveyed with title to a Unit as an appurtenance.

The aggregate replacement cost of all physical assets whose replacement costs will constitute regular common expenses and whose expected useful lives are ten (10) years or less is \$35,250. The amount of common expense assessment per unit, in current dollars (ignoring the effects of inflation or any interest earned on deposited reserve payments) is \$1,355.77, or \$11.30 per month over the ten year period.

The budget provides for annual replacement reserves in the amount of \$7,000. That amount is based upon the recommendation (cash flow basis rather than component basis) contained in the Replacement Reserve Study attached as Appendix 8. If the period of Declarant Control, as provided for in the Bylaws, is two (2) years which is the maximum permitted by the Condominium Act, the amount of Reserves accumulated by the Association during that period would be \$14,000. If the actual period of Declarant Control is less, the amount of Reserves accumulated will be proportionately less.

The following is a table of the expenses incurred by the operation, maintenance, repair or other upkeep of the Condominium property during the calendar years 2004, 2005 and 2006:

<u>Expense</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>Total</u>
Repairs – materials	\$3,408.81	\$2,405.14	\$2,041.08	
Landscaping	\$4,458.11	\$5,533.51	\$8,152.68 <sup>1</sup>	
Contract services, common elements	\$12,000.00 <sup>1</sup> (est.)	\$12,000.00 <sup>1</sup> (est.)	\$12,000.00 <sup>1</sup> (est.)	
Contract services - units	\$8,503.44 <sup>1</sup> (est.)	\$5,505.24 <sup>1</sup> (est.)	\$11,566.27 <sup>1</sup> (est.)	
Insurance	\$8,642.50	\$8,590.99	\$6,984.00	
Trash Deposal	\$1,434.80	\$1,630.13	\$1,986.15	
Electric Service	\$3,687.69	\$3,771.61	\$3,414.21	
Water & Sewer Service	\$675.04 <sup>2</sup>	\$487.01 <sup>2</sup>	\$768.71 <sup>2</sup>	

<sup>1</sup> An unquantified portion of these amounts was expended to upgrade the Units and Common Elements.

<sup>2</sup> An estimated \$500 per year of this amount was for water and sewer services provided to the Unit used by the owner as an office and will not be common expenses after conversion to condominium.

All of the expenses set forth above other than those labeled "Contract Services – Unit" would have constituted regular common expenses if the property had been converted to condominium prior to commencement of the three year period.

The following is a table showing the breakdown of the expenses incurred during the years 2003, 2004, and 2005 in the same proportion that common expenses will be assessed against the Condominium units:

<u>Unit Type</u>	<u>Proportion of Common Expenses Per Unit Type</u>	<u>2003 Common Expenses</u> <sup>3</sup>	<u>2003 Unit Expenses</u> <sup>4</sup>	<u>2004 Common Expenses</u> <sup>5</sup>	<u>2004 Unit Expenses</u> <sup>6</sup>	<u>2005 Common Expenses</u> <sup>7</sup>	<u>2005 Unit Expenses</u> <sup>8</sup>
The Sewells Point	1,090/27,690	\$1,350.47	\$334.73	\$1,354.86	\$216.71	\$1,391.41	\$455.30
The Norview	1,035/27,690	\$1,282.33	\$317.84	\$1,286.49	\$205.78	\$1,321.20	\$432.33
The Chesapeake	1,076/27,690	\$1,333.13	\$330.43	\$1,337.46	\$213.93	\$1,373.54	\$449.45

<sup>3</sup> \$34,306.95 (total Common Expenses for 2003).

<sup>4</sup> \$8,503.44 (total Unit Expenses for 2003).

<sup>5</sup> \$34,418.39 (total Common Expenses for 2004).

<sup>6</sup> \$5,505.24 (total Unit Expenses for 2004).

<sup>7</sup> \$35,346.83 (total Common Expenses for 2005).

<sup>8</sup> \$11,566.27 (total Unit Expenses for 2005).

## M. INSURANCE

The Association will purchase a master policy of "all risk" or "special risks" casualty insurance protecting the Association and, to a limited extent, the individual Unit Owners. The building will be covered by fire and property damage insurance with an "all risk" "special risks" endorsement, if available. This policy shall be written in an amount equal to the full replacement value of the property covered, with such deductibles as may be determined by the Association. This insurance will not cover (a) the personal property of a Unit Owner located in his or her Unit or (b) improvements to a Unit constructed by its Owner which increases the value of the Unit beyond the limits of coverage provided in the Association's policy.

The Association and the Unit Owners shall also be insured against liability for injury to any person or property arising from ownership of the Common Elements of the Condominium. This insurance will not insure Unit Owners against liability arising from an accident or injury occurring within a Unit or liability arising from the act or negligence of a Unit Owner.

The Association will also maintain flood insurance if available and appropriate, workmen's compensation insurance and fidelity coverage to protect against dishonest acts on the part of any person who handles funds on behalf of the Association and director and officer insurance and such other insurance as the Directors of the Association determine to be in the best interests of the Association. The premiums for all insurance obtained by the Association are a common expense which is a part of the condominium assessments paid by each Unit Owner.

Each Unit Owner should obtain insurance coverage on his or her personal property and personal liability protection to the extent that these risks are not covered by the Association's master policy. In particular Unit Owners should obtain liability coverage against any water damages to other Units or the Common Elements arising from a leak by any apparatus within, or by any component of, his Unit. Unit Owner may also insure any improvements to his or her Unit to the extent that these improvements increase the value of the Unit beyond the limit of coverage provided by the master policy. However, before a Unit Owner obtains an individual policy providing this additional coverage, an Owner or his representative should review the provisions of the Bylaws (especially Article 6) for the provisions required in those policies.

## N. TAXES

Each Unit Owner will receive an individual real property tax bill from the City of Norfolk and will be individually responsible for payment of the real property taxes and assessments. There are no other taxes relating to the ownership of Units of which the Declarant is aware.

As of the effective date of this Public Offering Statement, real property in the City of Norfolk is required to be assessed at one hundred percent (100%) of the fair market value. The tax rate for the City of Norfolk per \$100.00 of assessed value is currently \$1.35. The Unit Owners will be able to estimate the annual real property tax on his Unit by dividing the purchase price of his Unit by One Hundred (100) and multiplying the result by the \$1.35 tax rate.



**O. GOVERNMENTAL APPROVAL**

The project, when constructed in 2001, was fully permitted, inspected, and approved by the appropriate governmental authorities and was in compliance with all zoning ordinances and building codes at such time.

**P. WARRANTIES**

Each Unit will be covered by the statutory warranty provided by Section 55-79.79(b) of the Code of Virginia of 1950 for two (2) years from the date of each Unit is conveyed; and each Common Element will likewise be covered for two (2) years from the date the first Unit of the Condominium is conveyed or from completion of that Common Element, whichever is later. Further, the Declarant will warrant the Units to be fit for habitation and constructed in a workmanlike manner so as to pass without objection in the trade. The warranties provided by the Declarant will exclude the following:

- (a) Cracks, peeling paint, popping nails or other effects of aging, normal settlement, or expansion, contraction, shrinkage or warping of materials that may occur in walls, floors, ceilings, doors or any of the components of the Unit, as long as such defect will not prevent the normal intended use of all or part of the Unit. Due to the nature of cement/concrete construction, non-structural cracks and fissures, including surface cracking, are to be anticipated and should not be considered to be defects or non-conformities.
- (b) Defects or smudges in painted surfaces, chipping and/or cracking of marble, formica, fiberglass, or tiles, defective or broken glass, spots on carpeting, or similar defects readily visible to the human eye (e.g., a broken window), which are not noted for correction at the time of inspection by the Unit Owner before closing.
- (c) Normal maintenance items or conditions resulting from wear and tear and/or misuse or negligence.

Nothing contained in the warranty provided by the Declarant shall limit the protection afforded by the statutory warranty.

**Q. PRESENT CONDITION OF CONVERSION CONDOMINIUM.**

The Building and other improvements comprising the Condominium were constructed in 2001.

A summary of the present condition of the various classes of physical assets is set forth below:

<u>Class of Physical Assets</u>	<u>Condition</u>
<b>Exterior Building Components</b>	
Roof system	
Asphalt shingles	Good
Roof gutters	Good
Flexible tubing	Good
Attic fence	Good
Louvered gable in-vents	Good
<b>Exterior Cladding and Components</b>	
Vinyl siding and trim	Good
Brick veneer accent panels	Good
Mortar joints	Good
Steel lintels	Good
Aluminum clad wood trim	Good (some deteriorated wood to be replaced)
Sealant	Fair to poor (to be replaced)
Doors	Good
Windows	Good
Front Balconies/Railings/Stair Structures	Good (to be stained)
Dwelling Unit Balconies	Good (to be stained)
<b>Exterior Light Fixtures</b>	
Soffit mounted light fixtures	Good
Stair tower mounted light fixtures	Good
Wall mounted flood light fixtures	Good
Pole mounted flood light fixtures	Good
Landscape flood lamps	Good
Canvas awnings	Good
<b>Building Structure</b>	
Concrete floor slab/foundation walls	Good (ground erosion and slab undercutting to be corrected)
<b>Electrical and Mechanical</b>	
Electrical wiring/panels	Good
Plumbing System	Good
Heating, Ventilation and Air Conditioning Units	Good
<b>Site Improvements</b>	

<u>Class of Physical Assets</u>	<u>Condition</u>
Sidewalks	Good
Pavement	Good
Curbs	Good
Parking lot: Striping	Good
Concrete wheel stops	Good
Mailbox centers	Good
Bicycle rack	Good
Signage	Good
Chain link fencing: 6 feet high chain link fence and swing gates	Good
4 foot high chain link fence	Fair to Good
Drainage Components (concrete valley gutters, storm water pond, concrete bulkhead, concrete pipe and catch basins)	Good
Brick Fence Column	Good

The Present Condition Report prepared by HBA Architecture Engineering Interior Design (David L. May, Jr., Architect), dated October 27, 2005, is attached as Appendix 7. All of the repairs or replacements of various physical assets that are in the report have been made or will be made by the Declarant prior to the conveyance of the first Unit. The Present Condition Report was based on multiple inspections performed during the month of October, 2005.

**R. REPLACEMENT REQUIREMENTS.**

The expected usual lives and the replacement cost of the physical assets (or class of physical assets), of the Condominium improvements are as follows:

<u>Class of Physical Assets</u>	<u>Expected Useful Life in Years</u>	<u>Replacement Cost in Current Dollars</u>
Exterior Cladding (Brick Repointing)	26	\$2,228
Exterior Cladding (Moisture Study)	6	\$7,200
Canvas Awnings	5	\$2,600
Exterior Light Fixtures	10	\$7,200
Concrete Sidewalks	10	\$3,630
Concrete Curb	26	\$1,721
Concrete Pavement	10	\$3,325
Asphalt Shingle Roofing	16	\$26,250
Gutters & Downspouts	16	\$4,225
Sealants	5	\$4,350
Wood Stair Structures	10	\$3,250
Wood Entrance Decking	10	\$2,645

<u>Class of Physical Assets</u>	<u>Expected Useful Life in Years</u>	<u>Replacement Cost in Current Dollars</u>
Site Fencing	26	\$26,600
Site Signage	10	\$1,050
Site Furnishings	15	\$2,700

The inspection to determine the useful lives of the various physical assets was conducted in October, 2005. The expected useful lives of the physical assets run from October 1, 2005. The expected useful lives of the various physical assets are based upon the assumption that they will receive the normal and customary level of maintenance. The determination as to expected useful lives and replacement costs of the physical assets are based upon the Replacement Reserve Study, dated October 21, 2005, prepared by HBA Architecture Engineering Interior Design. A copy of the Replacement Reserve Study is attached as Appendix 8.

All of the physical assets listed above are Common Elements, the cost of replacement of which will be funded by common expense assessments. See the "Financial Matters" section above for a discussion of the amount of such replacement costs.

**The Landings at Five Points, a Condominium**

**Public Offering Statement**

**Appendix 1**

**DECLARATION**

DECLARATION  
OF  
THE LANDINGS AT FIVE POINTS, A CONDOMINIUM

ARTICLE 1

SUBMISSION; DEFINED TERMS

Section 1.1. Submission of Property. The Landings at Five Points, Inc., a Virginia corporation ("Declarant"), owner in fee simple of the land described in EXHIBIT A-1 annexed hereto as the "Submitted Land," located within the City of Norfolk, Virginia ("Land"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging ("Property") to the provisions of Chapter 4.2 of Title 55 of the Code of Virginia, as amended, known as the Virginia Condominium Act ("Condominium Act") and hereby creates with respect to the Property a condominium to be known as "The Landings at Five Points, a Condominium" ("Condominium").

Section 1.2. Defined Terms. As provided in Section 55-79.50(a) of the Condominium Act, terms not otherwise defined herein or in the Bylaws attached hereto as EXHIBIT C, as the same may be amended from time to time ("Bylaws"), or the Plats and Plans, shall have the meanings specified in section 55-79.41 of the Condominium Act.

ARTICLE 2

BUILDINGS ON THE LAND; UNIT BOUNDARIES

Section 2.1. Location and Dimensions of Buildings. The location and dimensions of the Land and of each building on the Land are depicted on the "Plat" to be recorded contemporaneously with this instrument, a reduced copy of which is attached as EXHIBIT A-2 hereto.

Section 2.2. Units. There are twenty six (26) Units in the Condominium. The location of Units within the building and their dimensions are shown on the "Plans" to be recorded contemporaneously with this instrument, a reduced copy of which is attached as EXHIBIT A-3 hereto. Each Unit Owner shall own his or her Unit in fee simple absolute and, in addition, shall own an equal undivided interest, as a tenant in common with the other Unit Owners, in the Common Elements.

Tax Identification No. 31104050  
Prepared by: Kaufman & Canoles  
P.O. Box 3037  
Norfolk, VA 23514-3037

Section 2.3. Unit Boundaries. The boundaries of each Unit are as depicted on the plans and are more particularly described as follows:

(a) Upper and Lower (Horizontal) Boundaries: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The horizontal plane of the upper surface of the drywall or other material forming the ceiling.

(2) Lower Boundary: The horizontal plane of the top surface of the concrete slab forming the floor of the first floor Units and the wood sub-floor forming the second and third floor Units.

(b) Vertical (Perimetric) Boundaries: The vertical boundaries of the Unit shall be the vertical plane which includes the back surface of the drywall of all walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries.

(c) The Unit shall include all interior doors therein, and all wallboard, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof.

(d) The Unit boundaries as above described and as delineated on "Exhibit A-3" shall be governed by the provisions of Section 55-79.50(c) and (d) of the Condominium Act.

(e) The Unit shall include the heating and air conditioning apparatus and hot water heater which serve only the Unit (even if located outside of the boundaries of the Unit). Any portion of a utility system serving only one Unit shall be part of the Unit and any portion of a utility system serving more than one Unit which is partially within and partially without the Unit shall be part of the Common Elements.

Section 2.4. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the Unit Owner and the Association.

Section 2.5. Relocation of Unit Boundaries and Subdivision of Units. Relocation of boundaries between Units is permitted subject to compliance with the provisions therefor in Sections 5.7 and 8.5 of the Bylaws and in Section 55-79.69 of the Condominium Act.

## ARTICLE 3

### COMMON ELEMENTS

Section 3.1. Limited Common Elements. In addition to Limited Common Elements which are Limited Common Elements by virtue of Section 55-79.50(e) of the Condominium Act, there are Limited Common Elements delineated on the Plat and/or the Plans, including but not limited to the deck or decks shown adjacent to a Unit on the Plans and such are Limited Common Elements appurtenant to that Unit. Limited Common Elements shall also include Unit entry doors, hardware, frame and appurtenances; Unit stormdoors, hardware, frame, and appurtenances; Unit deck doors, hardware, frame, and appurtenances; and Unit windows, hardware, frames, and appurtenances which, in each case shall be appurtenant to the Units to which it is adjacent.

Section 3.2. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve defective, obsolete or non-functional portions of the Common Elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

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

(a) The Declarant hereby reserves the right to assign as Limited Common Elements all parking spaces shown on the Plat or Plans which are not assigned as Limited Common Elements and may receive valuable consideration therefor. The Declarant's right to assign parking spaces as Limited Common Elements shall survive the expiration of the Declarant Control Period (defined in the Bylaws).

(b) The Declarant may, at any time, by the preparation, execution and recordation of an amendment to this Declaration, relinquish to the Association its right to assign the parking spaces as Limited Common Elements. If the Declarant relinquishes such rights, the Association may assign any unassigned parking spaces as Limited Common Elements in the same manner as provided above for the Declarant.

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

Section 3.4. Allocation of Interests in Common Elements. Each Unit is hereby allocated an undivided interest in the Common Elements based on relative size as shown on the Common Element Interest Table attached hereto as EXHIBIT B. The "size" of each Unit is the total number of square feet of floor area contained therein determined by reference to the dimensions shown on the Plans, or the Plat, as the case may be.



## ARTICLE 4

### EASEMENTS

In addition to the easements created by sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted:

Section 4.1. Easement for Ingress and Egress. Each Unit Owner is hereby granted a perpetual easement in common with each other Unit Owner for ingress and egress through all Common Elements intended for the purposes of ingress and egress. Such easement shall run with title to the Unit.

Section 4.2. Easement to Facilitate Sales. All Units shall be subject to an easement in favor of the Declarant pursuant to section 55-79.66 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices (for this and other projects) or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Condominium; upon relocation, the furnishings thereof may be removed. Any furnishings or other personal property placed in any of the Units by the Declarant in connection with the use of such Units as models, management offices, sales offices or customer service offices shall remain the property of the Declarant. The Declarant further reserves the right to maintain on the Condominium such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Condominium and may be relocated or removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain Common Element parking spaces as designated from time to time by Declarant for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain Common Elements for models, sales, management, construction, customer service and similar purposes for this or any other project. This easement shall continue until the Declarant has conveyed all Units in the Condominium (including all Units located on the Additional Land) to Unit Owners other than the Declarant.

Section 4.3. Easement for Access and Support.

(a) Access. The Declarant reserves in favor of the Declarant and the managing agent and/or any other person authorized by the Board of Directors the right of access to any Unit as provided in section 55-79.79 of the Condominium Act and Section 5.9 of the Bylaws. In case of emergency, such entry shall be immediate whether or not the Unit Owner is present at the time. Further, until the expiration of the warranty period, such entry shall be permitted to perform warranty-related work (for the benefit of the Unit being entered, other Units or the Common Elements) whether or not the Unit Owner consents or is present at the time.

(b) Support. Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element which provides lateral or subjacent support thereto.

Section 4.4. Declarant's Right to Grant Easements. The Declarant shall have the right, prior to termination of the Declarant Control Period, to grant and reserve temporary and perpetual easements and rights-of-way through, under, over and across the Common Elements for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone, cable television and other utilities.

## ARTICLE 5

### AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

No amendment of the Declaration may be made without the prior written consent of the required percentage of Mortgagees where such approval is provided for in Section 8.5 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by the Condominium Act. No amendment shall be made to any condominium instrument during the Declarant Control Period without the prior written consent of the Declarant. Except as provided in the Bylaws, no amendment to the condominium instruments shall diminish or impair the rights of Mortgagees under the condominium instruments without the prior written consent of all Mortgagees, nor diminish or impair the rights of the Declarant under the condominium instruments including, but not limited to, the rights reserved to the Declarant in Article 4 hereof, without the prior written consent of the Declarant. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the condominium instruments, no provision of the condominium instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of Mortgagees.

## ARTICLE 6

### DECLARANT'S RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium Unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant shall enjoy the same rights and assumes the same duties with respect to the Units and by it as enjoyed and assumed by all other owners of Units, except to the extent provided to the contrary in the Declaration or Bylaws. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant.

## ARTICLE 7

### RESTRICTIONS

Section 7.1. Each Unit and the Common Elements shall be occupied and used as follows:

(a) Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Condominium without the prior written consent of the

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

(b) No immoral, improper, offensive or unlawful use shall be made of the Condominium or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. No nuisance shall be allowed in any Unit or Common Elements, and the Board of Directors shall have authority to prohibit any practice which is a source of annoyance to other Unit Owners or which interferes with the peaceful enjoyment and use of any Unit or Common Elements. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction and relating to any portion of the Condominium shall be complied with, by and at the sole expense of the Unit Owner or the Unit Owners Association, whichever shall have the obligation to maintain or repair such portion of the Condominium, and, if the Unit Owners Association, then the cost of such compliance shall be a Common Expense.

(c) No Unit Owner shall obstruct any of the Common Elements, nor shall any Unit Owner store anything upon any of the Common Elements (except in those areas, if any, designated for storage by the Board of Directors) without the approval of the Board of Directors. Vehicular parking in parking spaces designated as a Common Element and not assignable as a Limited Common Element, may be regulated or assigned by the Board of Directors. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Board of Directors.

(d) No Unit shall be used for other than residential purposes except that a Unit may be used for home office purposes as permitted by the City of Norfolk Zoning laws, provided that any office use shall in all cases be ancillary to primary use of a Unit primarily as a residence. No Unit may be occupied by more than one (1) family or more than two (2) persons per bedroom for unrelated persons.

(e) The Common Elements shall be used only for the furnishing of the services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Units.

(f) Without the prior written consent of the Board of Directors, except on replacements of any initial construction, no Unit Owner shall install any electrical or telephone wire, television, satellite, or other communication antenna, air conditioning unit, awning or other machine, device or improvement upon any Unit or Common Elements in such a fashion that it protrudes from or through any roof, balcony, wall or window.

(g) Except for such signs as may be posted by the Declarant for construction, promotional or marketing purposes and traffic control and such "for sale" or "for lease" signs as may be posted by a Mortgagee on Units owned by the Mortgagee or under foreclosure, no signs, posters, lettering, notice or advertisements of any character shall be erected, posted or displayed

upon, in, from or about any Unit or Common Element, except as authorized by the Board of Directors or by the Rules and Regulations.

(h) The Association may prohibit or prescribe the location of heavy objects (such as, for example, safes and waterbeds).

(i) The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind shall be prohibited within any Unit or the Common Elements except pets shall be allowed in the Condominium to the extent (if at all) and under the conditions prescribed by the Rules and Regulations.

(j) No trailers, campers, recreational vehicles, boats or other large vehicles may be parked in the Common Elements including parking spaces. The Board of Directors shall have the power to tow or "boot" any vehicle immediately in violation of this section.

(k) No Unit shall be subject to or used for any timesharing, cooperative, leasing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple Unit Owner, cooperation, licensees, or timesharing participants.

Section 7.2. Each Unit, the Limited Common Elements and the Common Elements shall be occupied and used in compliance with such Rules and Regulations as may be promulgated and amended from time to time by the Board of Directors. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner. Amendments to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

## ARTICLE 8

### SPECIAL DECLARANT RIGHTS; TRANSFER

Section 8.1. Special Declarant Rights. Special declarant rights are those rights reserved for the benefit of the Declarant as provided for in the Condominium Act and the condominium instruments, and shall include without limitation the following rights: (a) to complete improvements indicated on the Plat and Plans recorded with the Declaration; (b) to maintain sales offices, management offices, customer service offices, signs advertising the Condominium and models; (c) to use easements through the Common Elements for the purpose of making improvements within the Condominium; and (d) to appoint or remove any officer or director of the Association during the Declarant Control Period.

### Section 8.2. Transfer of Special Declarant Rights.

(a) The transfer of special declarant rights shall be governed by Section 55-79.74:3 of the Condominium Act.

ARTICLE 9

DECLARANT'S OBLIGATION TO COMPLETE IMPROVEMENTS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, renovate or provide any improvements except to the extent required by the Condominium Act.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officer, this \_\_\_\_ day of \_\_\_\_\_, 2006.

THE LANDINGS AT FIVE POINTS, INC.,  
a Virginia corporation

By: \_\_\_\_\_  
Ulysses Turner, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in \_\_\_\_\_, Virginia, by Ulysses Turner, who is either:  personally known to me or  who produced \_\_\_\_\_ as identification, as President of The Landings at Five Points, Inc., a Virginia corporation, on its behalf.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT A-1**  
to Declaration of The Landings at Five Points, a Condominium

SUBMITTED LAND:

Parcel One

All that certain lot, piece or parcel of land, with the buildings and improvements thereon, lying and situate in the City of Norfolk (formerly Norfolk County), Virginia, known, numbered and designated as Lot No. 3, (erroneously referred to as Lot 1 in previous deed) in Block No. 1, on the "Plat of a Portion of the Property belonging to Alexander Realty Corporation," said plat having been duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake (formerly Norfolk County) on the 3<sup>rd</sup> day of July, 1935, together with a deed from Alan J. Hoffmeier, Trustee, et al., to Conrad Brothers, Incorporated, the said property being more particularly bounded and described as follows:

Beginning at a point in the Northern line of Bell's Road as shown on said plat, between Lots Nos. 2 and 3 in said Block No. 1, and running thence in a Northerly direction along the Eastern boundary line of Lot No. 2 four hundred (400) feet to the Southern line of Lot No. 5 in said block; thence Easterly along the Southern line of Lot No. 5 one hundred (100) feet to the Western line of Lot No. 4, in said Block; thence in a Southern direction along the Western line of Lot No. 4, four hundred (400) feet to the Northern line of Bell's Road as shown on said plat; (the following was erroneously omitted from previous deed) thence in a Westerly direction along the Northern line of Bell's Road as shown on said plat one hundred (100) feet to the point of beginning.

Parcel Two

All that certain parcel of land, with the buildings and improvements thereon, lying in the City of Norfolk (formerly Norfolk County), Virginia, known, numbered and designated on the plat of the Alexander Realty Corporation, which plat is duly recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake (formerly Norfolk County), in Map Book 21 at Page 56; as the Eastern twenty-five (25) feet of Lot Two (2) in Block 1; fronting 25 feet on the Northern side of Bell's Road and running back between parallel lines four hundred (400) feet.

LESS AND EXCEPT that portion of property conveyed to City of Norfolk in Deed Book 1032, page 85, by deed dated September 7, 1965 and duly recorded September 24, 1965, in Map Book 22, page 45.

Parcel Three

An irregular-shaped lot, piece or parcel of land situate, lying and being in the Norview section of the City of Norfolk, Virginia, said parcel being bounded on the south by Norview Avenue and on the east by Alexander Street, said parcel being further described as follows:

BEGINNING at a point that is the intersection of the northern line of Norview Avenue and the point of curvature on the western line of Alexander Street, said point of beginning being shown on a plat entitled "Plat Showing Proposed Widening of Norview Ave.," said plat being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia in Map Book 22, at page 45; thence, from the point of beginning thus described, northeastwardly 23.24 feet, more or less, along the arc of a curve to the left, the radius of which is 15.00 feet, to a point of tangency on the western line of Alexander Street; thence N 9 degrees 35' 55" W, 65.04 feet, more or less, along said western line to a point; thence, S 80 degrees 24' 05" W, 100.00 feet, more or less to a point; thence, S 9 degrees 35' 55" E, 81.87 feet, more or less, to a point on the northern line of Norview Avenue; thence N 79 degrees 10' 08" E, 85.34 feet, more or less, along said northern line to the point of beginning.

LESS AND EXCEPT that certain portion of land conveyed to the City of Norfolk, Virginia by deed dated January 28, 1966 and recorded in the Clerk's Office of the Circuit Court for the City of Norfolk, Virginia (the "Clerk's Office") in Deed Book 1045, page 355, for widening of Norview Avenue.

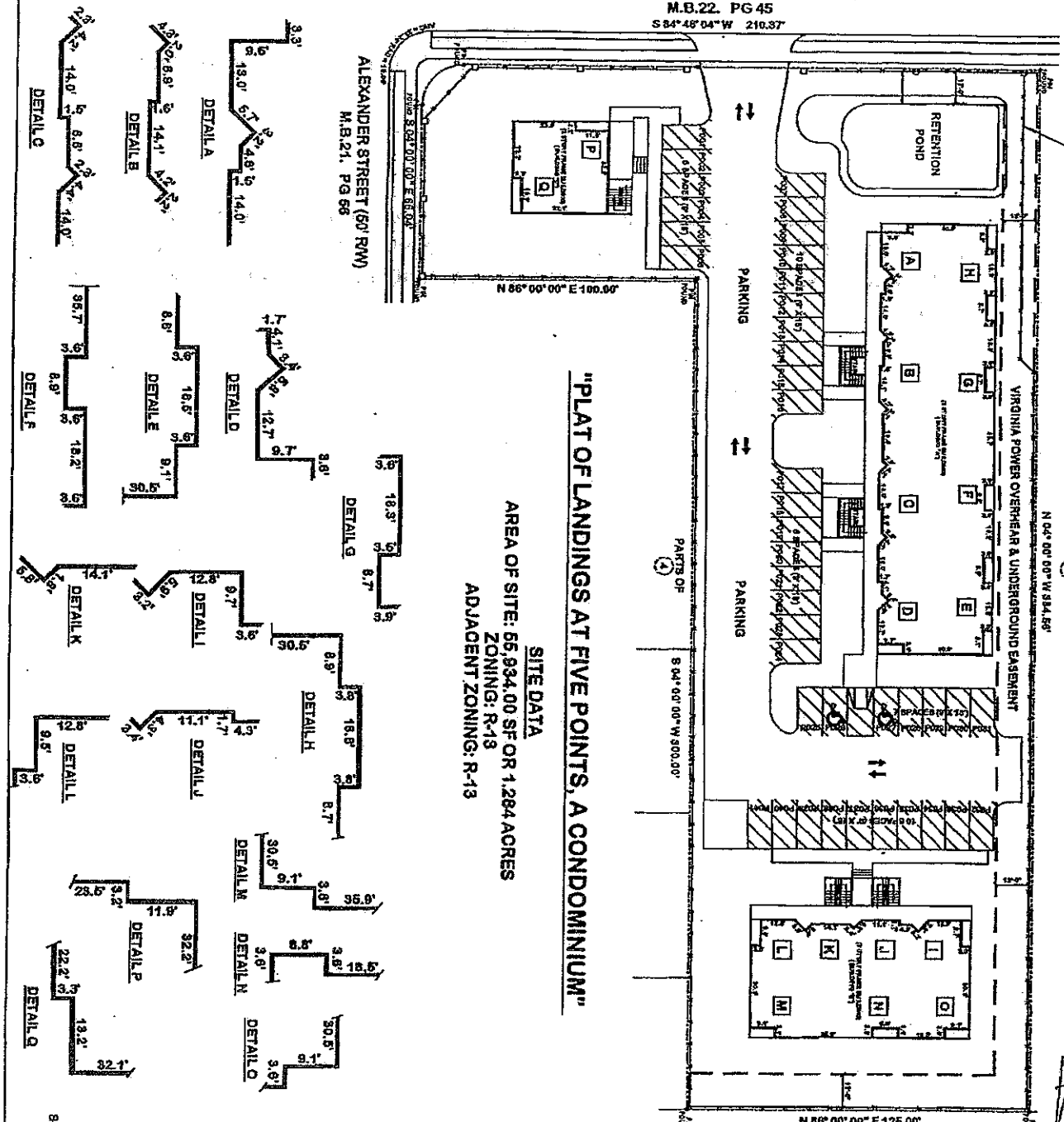
It being the same property as that conveyed to Declarant by deed from 1232 Norview Avenue LLC, a Virginia limited liability company, dated \_\_\_\_\_ and recorded in the Clerk's Office as Instrument No. \_\_\_\_\_.

**EXHIBIT A-2**  
to Declaration of The Landings at Five Points, a Condominium

Plat

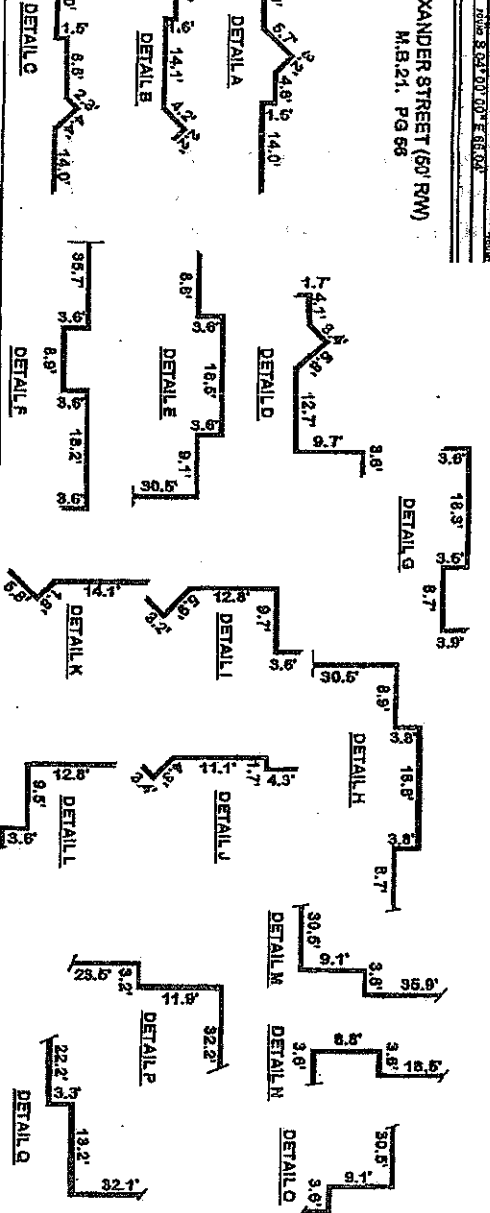
The plat for The Landings at Five Points, a Condominium is to be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia contemporaneously with this Declaration. A photo-reduced copy of the plat, containing one (1) page(s), follows this cover sheet.





**"PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM"**

AREA OF SITE: 66,934.00 SF OR 1.284 ACRES  
ZONING: R-13  
ADJACENT ZONING: R-13



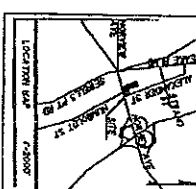
**SITE DATA**  
AREA OF SITE: 66,934.00 SF OR 1.284 ACRES  
ZONING: R-13  
ADJACENT ZONING: R-13

**LEGEND**

PROPERTY LINE BOUNDARY  
SECURITY FENCE  
EXISTING ELEVATION: 15.3  
(NOTE: ELEVATIONS ARE NORFOLK DATUM - 100)

**COMMON ELEMENTS**

NOTE: PARKING SPACES WHICH DEPARTMENT RESERVES THE RIGHT TO ASSIGN AS LIMITED COMMON ELEMENTS.



WILMER H. AYGARIN  
LAND SURVEYOR  
NO. 00001  
1-13-06

THE PROPERTY SHOWN ON THIS PLAT APPEARS TO BE WITHIN ZONE "C" ON THE FEMA FLOOD HAZARD MAP FOR THE CITY OF NORFOLK VIRGINIA, MAP #651010400096 D REVISED APRIL 17, 1984

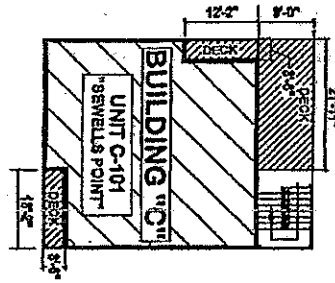
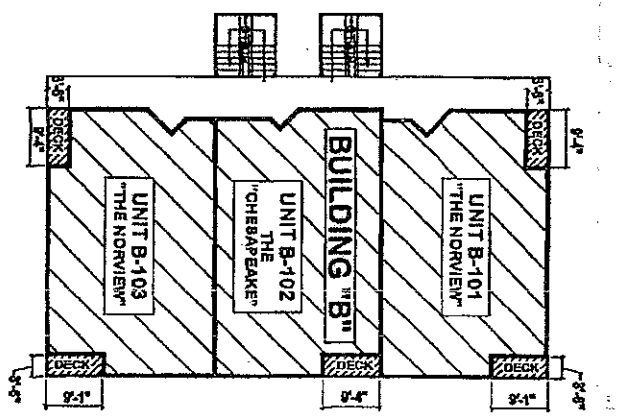
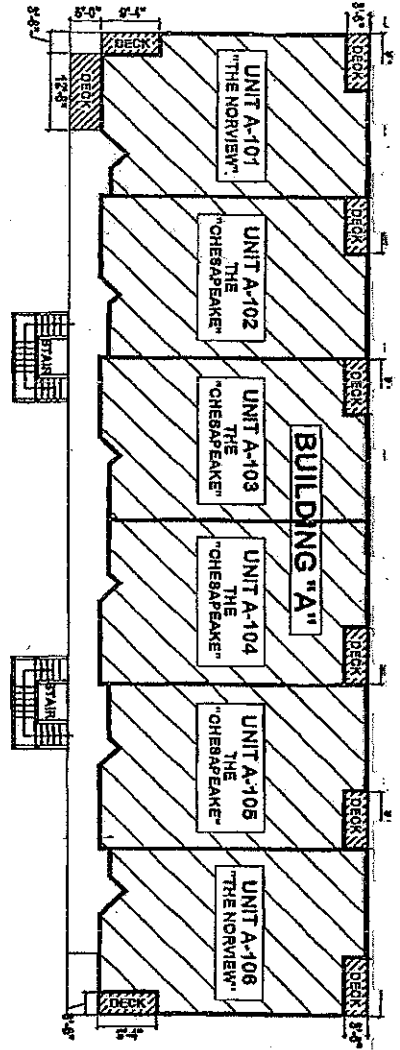
AG-BUILT SURVEY  
OF  
#1232 NORVIEW AVENUE, NORFOLK, VIRGINIA  
PART OF LOT 4, THE REMAINDER OF LOT 3,  
AND THE REMAINDER OF THE EASTERN 25% OF LOT 2  
ALEXANDER REALTY CORP.  
MAP BOOK 24, PAGE 68 (NORFOLK 00)  
FOR ULVBEES TURNER  
DATE: SEPTEMBER 29, 2006  
SCALE: 1" = 80'-0"  
WILMER H. AYGARIN, LAND SURVEYOR  
NORFOLK, VIRGINIA

PROJECT	PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM 1232 NORVIEW AVENUE, NORFOLK, VA 23513	DATE	SEPTEMBER 29, 2006
CLIENT	WILMER H. AYGARIN LAND SURVEYOR NORFOLK, VIRGINIA (757) 366-1101	SCALE	1" = 80'-0"
NO. OF SHEETS	1	DATE	SEPTEMBER 29, 2006
SHEET NO.	10	PROJECT	PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM 1232 NORVIEW AVENUE, NORFOLK, VA 23513

**EXHIBIT A-3**  
to Declaration of The Landings at Five Points, a Condominium

Plans

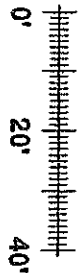
The plans for The Landings at Five Points, a Condominium are to be recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia contemporaneously with this Declaration. A photo-reduced copy of the plans, containing ten (10) page(s), follows this cover sheet.



PLANS FOR THE LANDINGS AT FIVE POINTS,  
A CONDOMINIUM

(3 STORY FRAME BUILDING)

FIRST FLOOR



NOTE:

1. ALL AREAS TAKEN TO THE NEAREST SQ. FT.
2. FINISHED FLOOR ELEVATIONS SHOWN ARE BASED UPON SPOT ELEVATIONS TAKEN BY AN INDEPENDENT LICENSED LAND SURVEYOR.
3. DECLARANT RESERVES THE RIGHT TO ASSIGN ALL PARKING SPACES AS LIMITED COMMON ELEMENTS.
4. SEE SHEETS 0-8 FOR UNIT TYPE DIMENSIONS.

MODEL "A" (THE BEVELLS POINT) AREA: 1,090.11 SF	MODEL "B" (THE NORVIEW) AREA: 1,094.97 SF	MODEL "C" (THE CHEESAPEAKE) AREA: 1,076.74 SF
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LEGEND

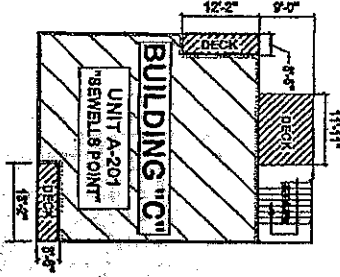
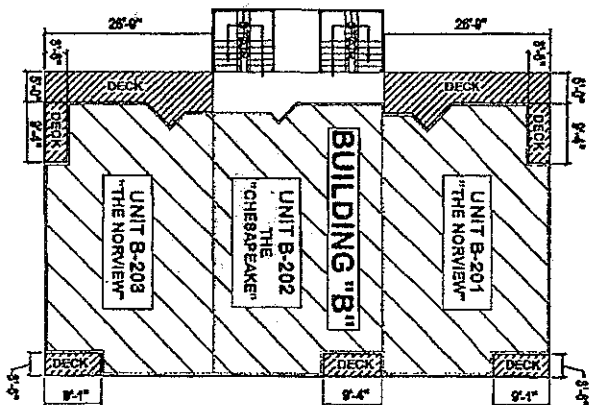
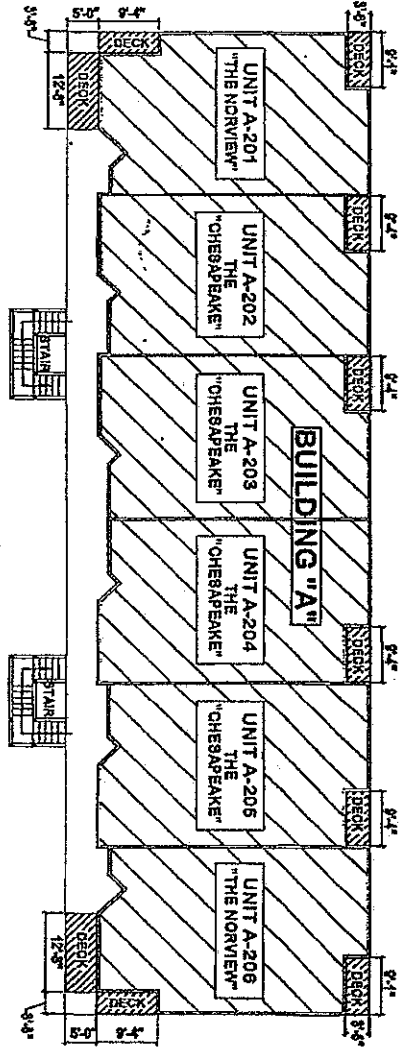
- UNIT AREA
- LIMITED COMMON ELEMENTS
- COMMON ELEMENTS



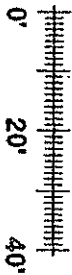
I HEREBY CERTIFY THAT THE CONSTRUCTION OF THE UNITS DEPICTED HEREON IS IN ACCORDANCE WITH THE SUBDIVISION ACT AND THAT THIS PLAN IS ACCURATE, CORRECT AND IN COMPLIANCE WITH THE PROVISIONS OF SUBSECTION 56-79.58B, VA CODE

*Elemuel A. Watts, R.A.*  
ELEMUEL WATTS, REGISTERED ARCHITECT

ADVANCED DRAFTING & DESIGN 2823 HEMPLE STREET CHEESAPEAKE, VA 23020 ALFONSO GRIFFIN, OWNER OFFICE: 227-4388 CELL: 616-2402	PLANS FOR THE LANDINGS AT FIVE POINTS, A CONDOMINIUM 1282 NORVIEW AVENUE, NORFOLK, VA 23513	ELEMUEL A. WATTS, R.A. 2739 COLCHESTER CRESCENT NORFOLK, VIRGINIA 23504 1-767-822-5369	DRAWN BY: [ ] DATE: [ ] APPROVED: [ ] SCALE: [ ]	SHEET NO. 1 OF 1
--	---	---	---	------------------



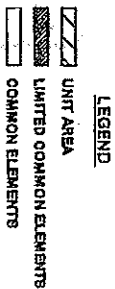
PLANS FOR THE LANDINGS AT FIVE POINTS,  
 A CONDOMINIUM  
 (3 STORY FRAME BUILDING)  
**SECOND FLOOR**

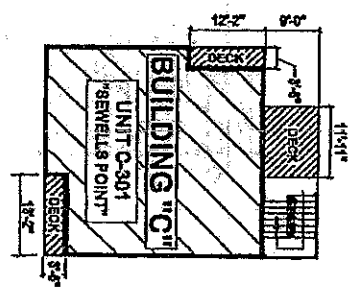
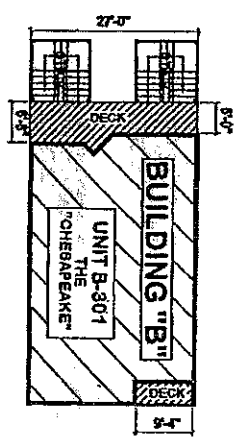
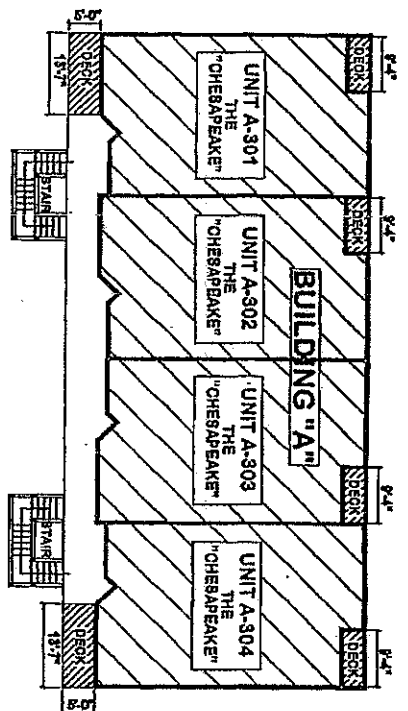


MODEL "A"  
 (THE BEVELLS POINT)  
 AREA: 1,090.41 SF

MODEL "B"  
 (THE NORVIEW)  
 AREA: 1,054.97 SF

MODEL "C"  
 (THE CHESSAPEAKE)  
 AREA: 1,076.74 SF

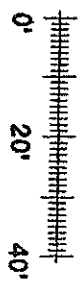




PLANS FOR THE LANDINGS AT FIVE POINTS,  
A CONDOMINIUM

(3 STORY FRAME BUILDING)

THIRD FLOOR



MODEL "A"  
(THE CHEESAPEAKE)  
AREA: 1,078.74 SF

MODEL "B"  
(THE CHEESAPEAKE)  
AREA: 1,090.11 SF

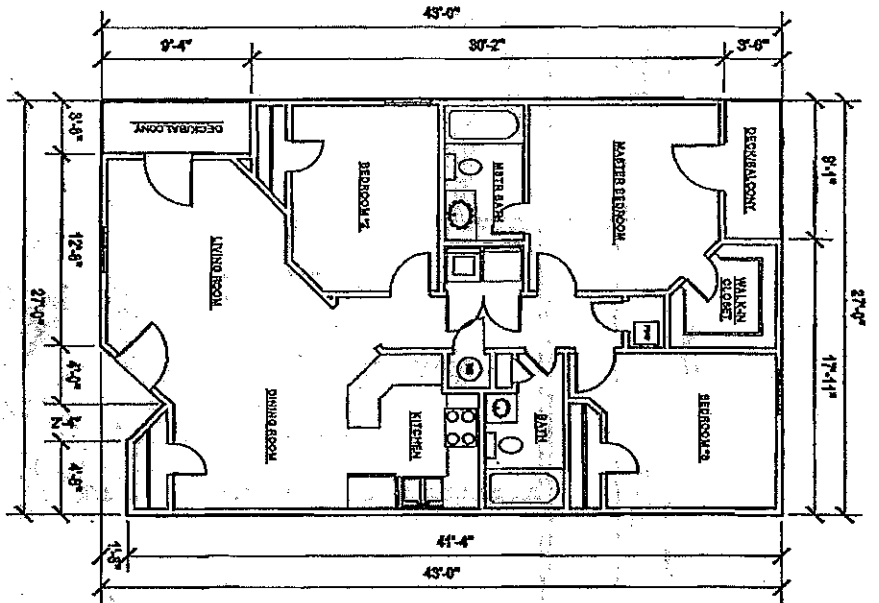
MODEL "C"  
(THE CHEESAPEAKE)  
AREA: 1,078.74 SF

LEGEND

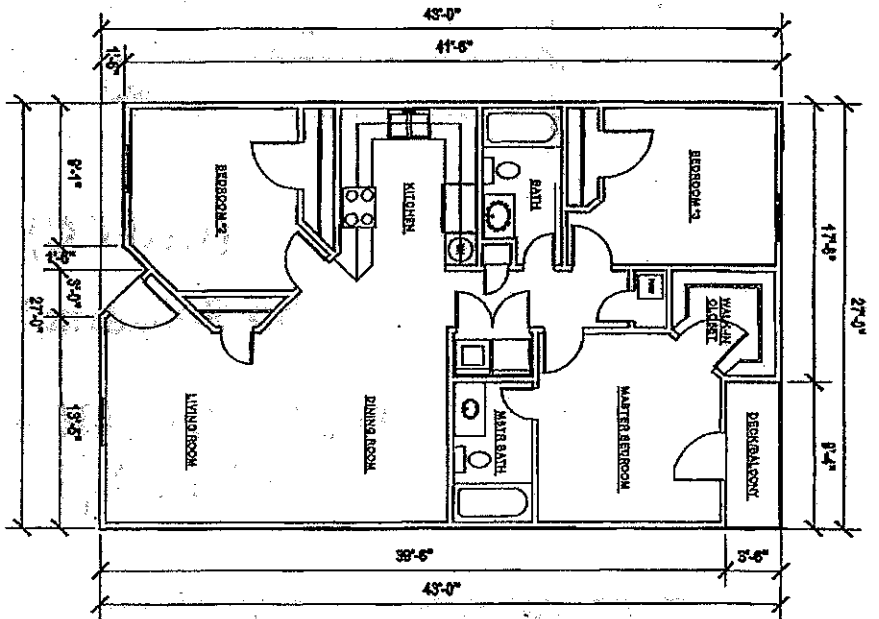
UNIT AREA

LIMITED COMMON ELEMENTS

COMMON ELEMENTS



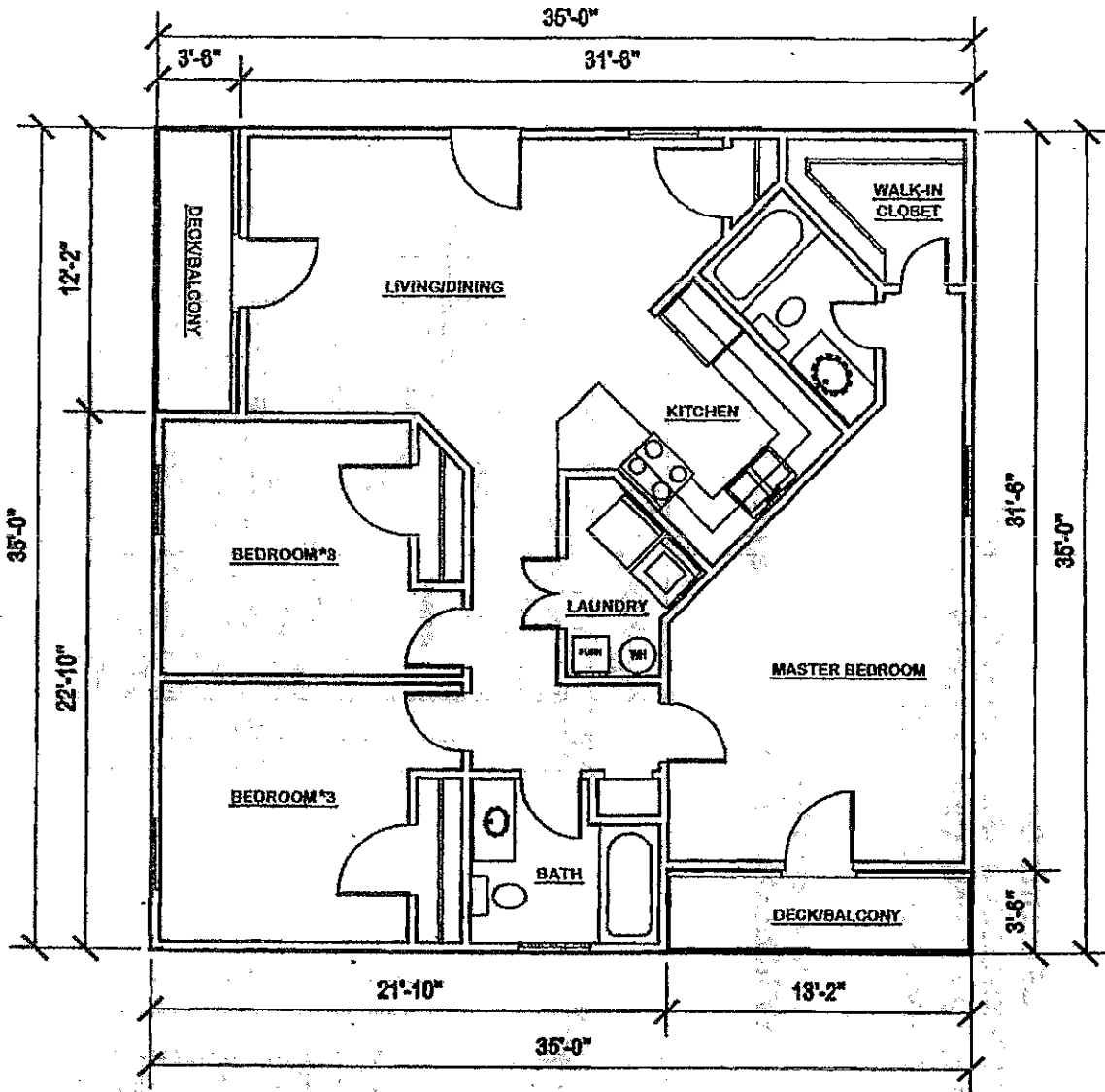
"The Norview"



"The Chesapeake"

TYPICAL FLOOR PLAN  
BUILDINGS "A & B"

THE INTERIOR PARTITIONS ARE SHOWN FOR  
INFORMATION ONLY AND THERE MAY BE MINOR  
VARIATIONS OF THOSE PARTITIONS FROM ONE UNIT  
TO ANOTHER



(UNIT C)

"The Sewells Point"

TYPICAL FLOOR PLAN  
BUILDING "C"

THE INTERIOR PARTITIONS ARE SHOWN FOR INFORMATION ONLY AND THERE MAY BE MINOR VARIATIONS OF THOSE PARTITIONS FROM ONE UNIT TO ANOTHER

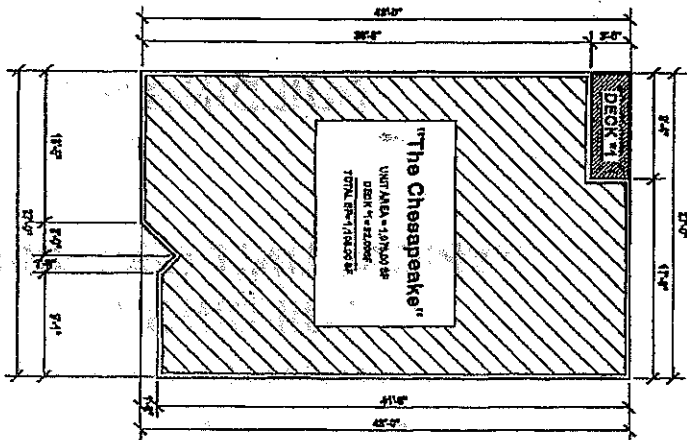
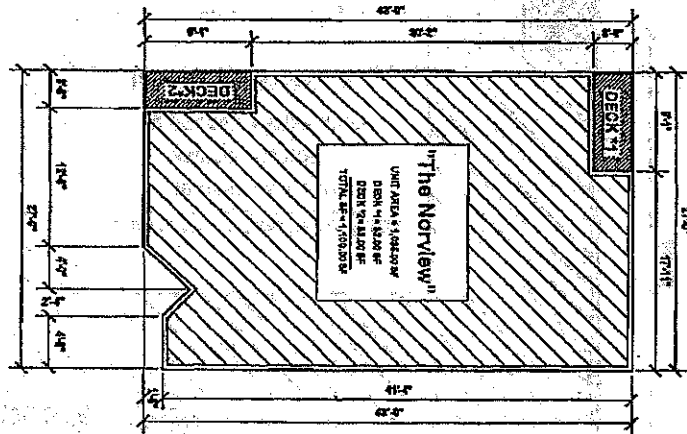
ADVANCED DRAFTING & DESIGN  
2828 HEMPLE STREET  
CHEESAPEAKE, VA 23320  
ALPHONSO GRIFFIN, DESIGNER  
OFFICE: 227-8280/CELL: 615-2400

PROJECT  
PLANS FOR THE  
LANDINGS AT FIVE POINTS, A CONDOMINIUM  
1282 NORVIEW AVENUE, NORFOLK, VA 23513

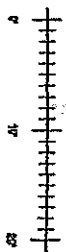
ARCHITECT  
ELEMUEL A. WATTS, R.A.  
2738 COLCHESTER CRESCENT  
NORFOLK, VIRGINIA 23504  
1-757-622-5369

DRAWN BY: A. GRIFFIN  
DATE: 11/29/05  
JOB NO.: LANDINGS AT FIVE POINTS - 110800  
SCALE: AS NOTED

REVISIONS  
SHEET NO.  
5  
5 OF 10

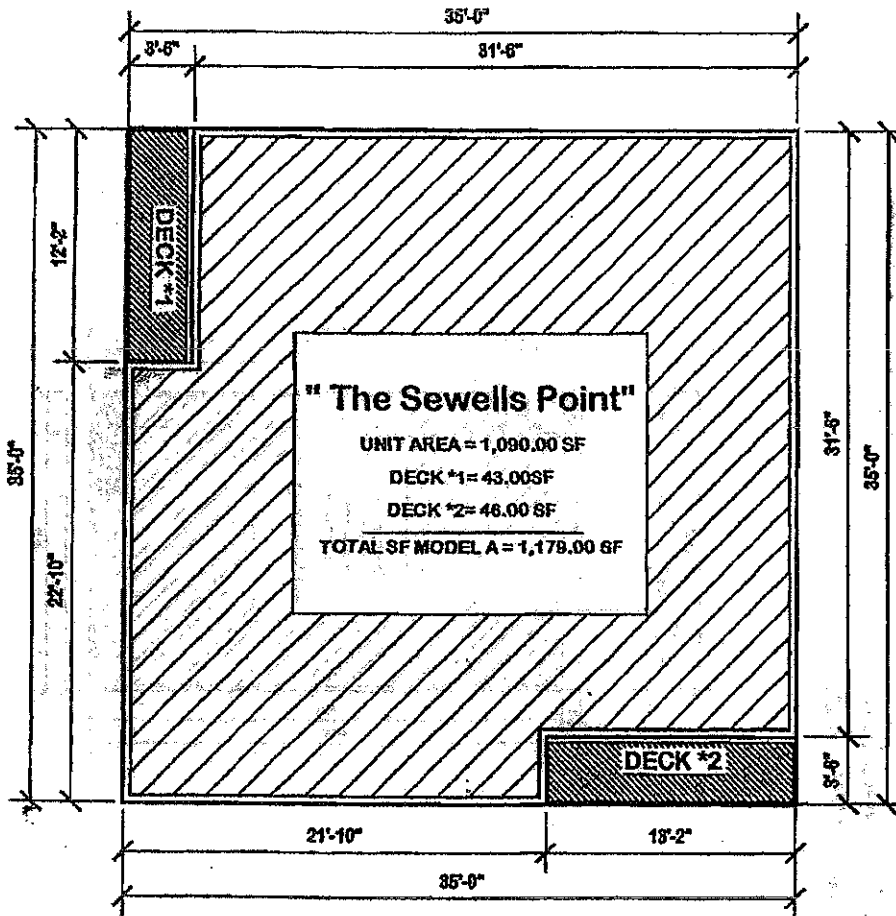


TYPICAL UNIT DIMENSIONS  
BUILDINGS "A & B"



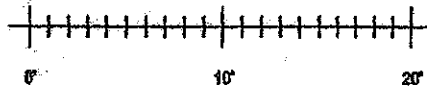
 UNIT AREA  
 LIMITED COMMON ELEMENTS  
**LEGEND**





**BUILDING "C"**

**TYPICAL UNIT DIMENSIONS  
BUILDING "C"**



**LEGEND**

- UNIT AREA
- LIMITED COMMON ELEMENTS

ADVANCED DRAFTING & DESIGN  
2023 HEMPLE STREET  
CHESAPEAKE, VA 23320  
ALPHONSO GRIFFIN, DESIGNER  
OFFICE: 227-6200/CELL: 616-2400

PROJECT  
**PLANS FOR THE  
LANDINGS AT FIVE POINTS, A CONDOMINIUM  
1232 NORVIEW AVENUE, NORFOLK, VA 23513**

ARCHITECT

**ELEMUEL A. WATTS, R.A.  
2739 COLCHESTER CRESCENT  
NORFOLK, VIRGINIA 23504  
1-757-622-6369**

DRAWN BY	A. GRIFFIN	REVISIONS
DATE	11/09/06	
JOB NO.	LANGAT06C	
SCALE	AS NOTED	

SHEET NO.  
**7**  
7 OF 10

# LANDINGS AT FIVE POINTS

## 1232 NORVIEW AVE. NORFOLK, VA 23513

UNIT	THE CHELSEA BLVD	THE CHELSEA BLVD	THE CHELSEA BLVD	THE CHELSEA BLVD	THE NORVIEW	THE NORVIEW
UNIT A-201	UNIT A-201	UNIT A-202	UNIT A-203	UNIT A-204	UNIT A-205	UNIT A-206
TOTAL LIVING AREA = 1,036.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,036.00 SF
UNIT A-101	UNIT A-102	UNIT A-103	UNIT A-104	UNIT A-105	UNIT A-106	UNIT A-108
TOTAL LIVING AREA = 1,036.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,078.00 SF	TOTAL LIVING AREA = 1,036.00 SF

# BUILDING "A"

### NOTES

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF LJOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF LJOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.

**LANDINGS AT FIVE POINTS  
1232 NORVIEW AVE. NORFOLK, VA 23513**

UNIT B-301 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-202 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-103 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	90 * 143.35 65 * 81.65 85 * 113.65 90 * 143.35 65 * 81.65 85 * 113.65
UNIT B-201 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-203 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	UNIT B-102 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	90 * 143.35 65 * 81.65 85 * 113.65 90 * 143.35 65 * 81.65 85 * 113.65
UNIT B-101 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	UNIT B-104 "THE NORVIEW" TOTAL LIVING AREA * 1,070.00 SF	UNIT B-105 "THE NORVIEW" TOTAL LIVING AREA * 1,084.00 SF	90 * 143.35 65 * 81.65 85 * 113.65 90 * 143.35 65 * 81.65 85 * 113.65

**BUILDING "B"**

**NOTES**

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF I-JOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF I-JOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.

# LANDINGS AT FIVE POINTS

## 1232 NORVIEW AVE., UNIT A, NORFOLK, VA 23513

<b>UNIT C-301</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 4142.83 FF = 134.93
<b>UNIT C-201</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 139.81 FF = 126.81
<b>UNIT C-101</b> "THE SEWELLS POINT" TOTAL LIVING AREA = 1,090.00 SF	FC = 124.70 FF = 116.70

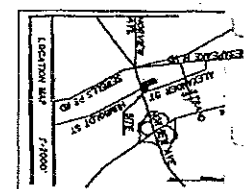
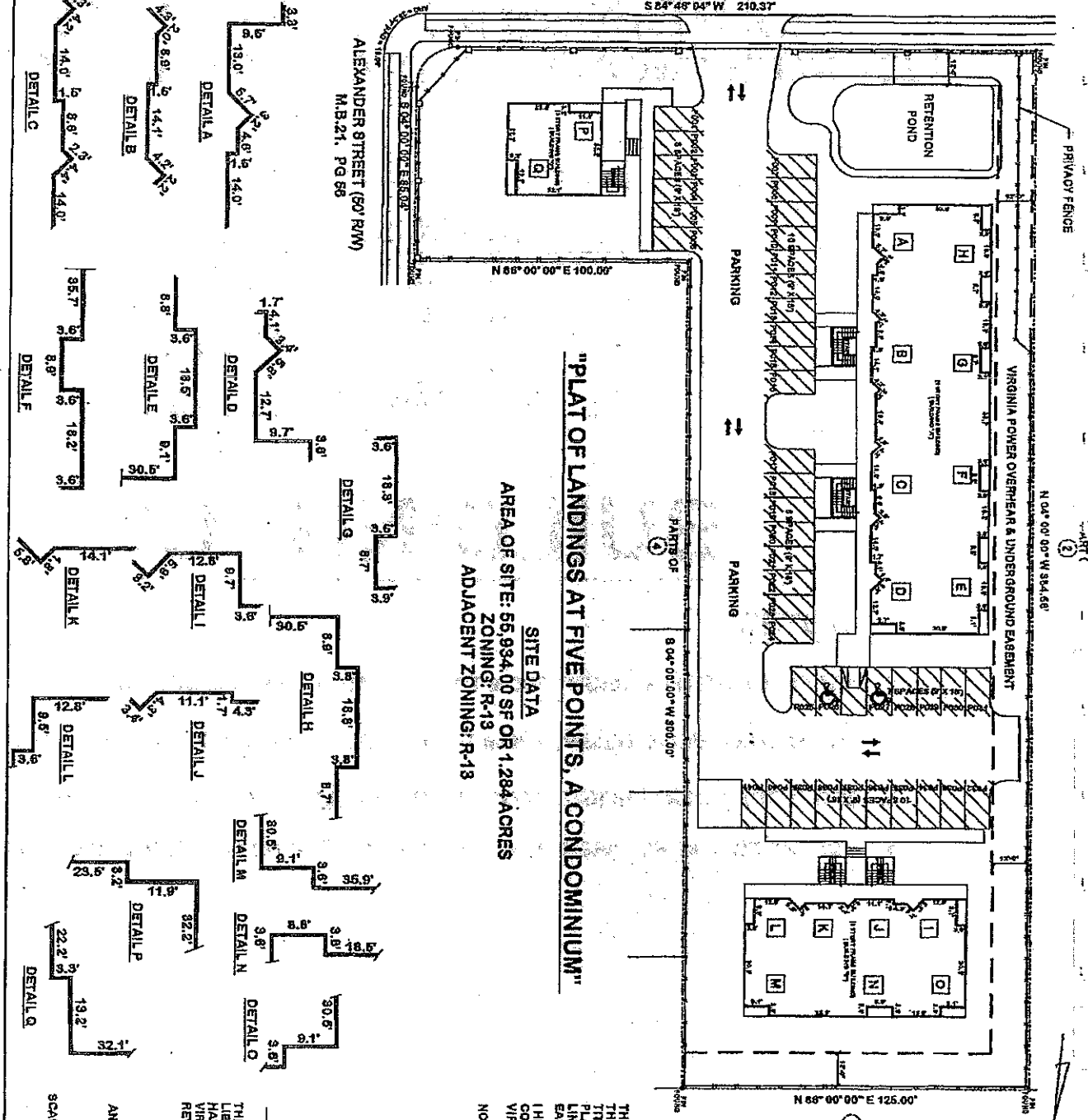
3RD FL. NOTE 3  
 2ND FL. NOTE 2  
 1ST FL. NOTE 1

# BUILDING "C"

### NOTES

1. 1ST FLOOR CEILING HEIGHT FROM TOP OF SLAB TO BOTTOM OF I-JOIST.
2. 2ND FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF I-JOIST.
3. 3RD FLOOR CEILING HEIGHT FROM TOP OF SUBFLOOR TO BOTTOM OF TRUSS.
4. SQUARE FOOTAGES TAKEN FROM INSIDE FACE OF STUD TO INSIDE FACE OF STUD.

NORVIEW AVENUE (90' RW VARIABLE)  
 M.B.22, PG 45  
 S24°48'04"W 210.37'



**LEGEND**  
 COMMON ELEMENTS  
 NOTE: PARKING SPACES WHICH DECLARANT RESERVES THE RIGHT TO ASSIGN AS LIMITED COMMON ELEMENTS.

**LEGEND**  
 PROPERTY LINE BOUNDARY  
 SECURITY FENCE  
 EXISTING ELEVATION: 16.3  
 (NOTE: ELEVATIONS ARE NORFOLK DATUM + 100)

THIS IS TO CERTIFY THAT ON SEPT. 29, 2005, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE LINES AND PHYSICAL UNITS ARE SHOWN ON THIS PLAT. THE UNITS STAND STRICTLY WITHIN THE TITLE LINES AND THERE ARE NO ENCROACHMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN.

I HEREBY CERTIFY THAT THIS PLAT IS ACCURATE AND IS IN COMPLIANCE WITH SECTION 65-7-3.5(A) OF THE CODE OF VIRGINIA.

NOTE: A CURRENT TITLE REPORT WAS NOT FURNISHED



WILMER H. ATGARN  
 LAND SURVEYOR  
 NO. 1-18-06  
 STATE OF VIRGINIA

AG-BUILD SURVEY  
 OF  
 #1232 NORVIEW AVENUE, NORFOLK, VIRGINIA  
 PART OF LOT 4, THE REMAINDER OF LOT 5,  
 AND THE REMAINDER OF THE EASTERN 25' OF LOT 2  
 ALEXANDER REALTY CORP.  
 MAP BOOK 21, PAGE 68 (NORFOLK CO)  
 FOR ULVBBS TURNER  
 DATE: SEPTEMBER 29, 2005  
 SCALE: 1" = 50'-0"

WILMER H. ATGARN, LAND SURVEYOR  
 NORFOLK, VIRGINIA

PROJECT	PLAT OF LANDINGS AT FIVE POINTS, A CONDOMINIUM 1232 NORVIEW AVENUE, NORFOLK, VA 23513	DATE	SEPTEMBER 29, 2005
CLIENT	ULVBBS TURNER	SCALE	1" = 50'-0"
SURVEYOR	WILMER H. ATGARN LAND SURVEYOR NORFOLK, VIRGINIA (767) 366-1101	NO. OF SHEETS	1 OF 1

**EXHIBIT B**  
to Declaration of The Landings at Five Points, a Condominium  
Common Element Interest Table

<b>UNIT TYPE</b>	<b>UNIT NUMBER(S)</b>	<b>FLOOR AREA PER UNIT IN SQUARE FEET</b>	<b>FRACTIONAL INTEREST IN COMMON ELEMENTS PER UNIT</b>	<b>FRACTIONAL INTEREST IN COMMON ELEMENTS PER UNIT TYPE</b>
The Sewells Point	C-101, C-102, C-103	1,090	1,090/27,690	3,270/27,690
The Norview	A-101, A-106, A-201, A-206, B-101, B-103, B-201, B-203	1,035	1,035/27,690	8,280/27,690
The Chesapeake	A-102, A-103, A-104, A-105, A-202, A-203, A-204, A-205, A-301, A-302, A-303, A-304, B-102, B-202, B-301	1,076	1,076/27,690	16,140/27,690
<b>Total:</b>				<b>1</b>

\*As provided in § 55-79.41 in the definition of "Size," the number of square feet of floor area has in each case been rounded off to the nearest whole number. The measurements of floor area for the purpose of determining the Common Element Interests are taken from the exterior face of brick or exterior walls, the corridor or exterior face of corridor or the Common Element walls, all from the center line of walls between Units.

**EXHIBIT C**

**TO THE DECLARATION**

**BYLAWS**

**OF**

**THE LANDINGS AT FIVE POINTS, A CONDOMINIUM**

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## BYLAWS

### ARTICLE I

#### General Provisions

Section 1.1. Applicability. These Bylaws provide for the governance of the Condominium pursuant to the requirements of Article 3 of the Condominium Act. The property, located in the City of Norfolk, Virginia and more particularly described in the Declaration, has been submitted to the provisions of the Condominium Act by recordation simultaneously herewith of the Declaration among the land records of the City of Norfolk, Virginia.

Section 1.2. Office. The office of the Condominium, the Unit Owners' Association, and the Board of Directors shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors.

Section 1.3. Definitions. Capitalized or other terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws are attached as EXHIBIT B, or if not defined therein, the meanings specified for such terms in Section 55-79.41 of the Condominium Act. The following terms have the following meanings in the Condominium Instruments:

(a) "Board of Directors" or "Board" means the executive organ established pursuant to Article III of these Bylaws.

(b) "Common Element Interest" means each Unit's undivided interest in the Common Elements and shall be equal to one divided by the total number of Units.

(c) "Declarant Control Period" means the period expiring on the earlier of (i) the date on which Units to which seventy-five percent or more of the aggregate Common Element Interests appertain have been conveyed to Unit Owners other than the Declarant or (ii) two (2) years after the date on which the first Condominium Unit has been conveyed to a Unit Owner other than the Declarant (the maximum time period permitted by Section 55-79.74(a) of the Condominium Act). For purposes of the preceding sentence, the calculation of Common Element Interests shall be based, at any given time, on the Common Element Interests to be assigned to all Units then registered with the Virginia Real Estate Board.

(d) "Limited Common Expenses" means expenses separately assessed against more than one but less than all of the Condominium Units generally in accordance with the use of the services, as permitted by Section 55-79.83(B) of the Condominium Act.

(e) "Maintain" means acts on the physical components of the Condominium which do not involve their removal, required to compensate for wear and tear or to prevent a decline, lapse or cessation from existing state or condition on a periodic basis of three years or less.

(f) "Majority Vote" means a vote by those Unit Owners owning Condominium Units to which is appurtenant more than fifty percent of the aggregate votes actually voted in person or by proxy at a duly convened meeting at which a quorum is present. The vote or approval of any specified percentage of the Unit Owners shall mean a vote or approval by the Unit Owners owning Condominium Units to which is appurtenant such percentage of the total votes in the Unit Owners' Association. The vote or approval of any specified percentage of the Mortgagees shall mean a vote or approval by the Mortgagees of Condominium Units which are subject to a Mortgage held by a Mortgagee to which such percentage of the total number of votes appertain.

(g) "Mortgagee" means an institutional lender holding a first mortgage or first deed of trust ("Mortgage") encumbering a Condominium Unit in the Condominium which has notified the Unit Owners' Association in writing of its status and has requested all rights under the Condominium Instruments. For purposes of Article VIII of these Bylaws only, when any right is to be given to a Mortgagee, the Board of Directors shall also give such right to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, and any other public or private secondary mortgage market entity participating in purchasing or guarantying Mortgages if the Board has notice of such participation.

(h) "Officer" means any person holding office pursuant to Article IV of these Bylaws, but contrary to the definition contained in Section 55-79.41(t) of the Condominium Act, shall not mean members of the Board of Directors unless directors are also Officers pursuant to Article IV.

(i) "Repair" means to mend, remedy, restore, or renovate one or more of the physical components of the Condominium to a sound or good state after decay, injury, dilapidation, or partial destruction and thereby restore it to the condition in which it originally existed, as near as may be.

(j) "Replace" means to remove, demolish and dispose of one or more of the physical components of the Condominium and place again, with new materials, in a condition substantially similar as existed before.

(k) "Reserved Common Element" means a Common Element, which is not a Limited Common Element, in which the Board of Directors or Declarant has granted a revocable license for exclusive use by less than all of the Unit Owners.

(l) "Unit Owners' Association" or "Association" means the Landings at Five Points Condominium Association, Inc., an incorporated, non-profit association of all the Unit Owners owning Condominium Units in the Condominium.

(m) "Upgrade" means to remove, demolish and dispose of the Common Elements of the Association and place again with new materials in a condition substantially improved in performance, size, quantity or durability than existed before.

## ARTICLE II

### Unit Owners' Association

Section 2.1. Composition. The Association shall consist of all of the Unit Owners, and for all purposes, shall act merely as agent for the Unit Owners as a group. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium, and performing all of the other acts that may be required or permitted by the Condominium Act and the Declaration. Except as to those matters which the Condominium Act specifically requires to be performed by vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article III of these Bylaws.

Section 2.2. Annual Meeting. The annual meetings of the Association shall be held in the month of \_\_\_\_\_ each year on a date other than a Saturday or Sunday or legal holiday or at such other time as shall be established by the Board of Directors. At such annual meetings the Board of Directors shall be elected by ballot of the Unit Owners in accordance with Article III, Section 3.4 of these Bylaws. During the Declarant Control Period, the Declarant shall be entitled to designate members of the Board of Directors pursuant to Article II, Section 2.4(b) of these Bylaws. The first annual meeting shall be held within one year after the conveyance of the first Unit by the Declarant.

Section 2.3. Place of Meetings. Meetings of the Association shall be held at such suitable place convenient to the Unit Owners as designated by the Board of Directors.

#### Section 2.4. Special Meetings.

(a) The President shall call a Special Meeting of the Association if so directed by resolution of the Board of Directors or, after the termination of the Declarant Control Period, upon a petition signed and presented to the Secretary by Unit Owners of not less than twenty-five percent of the Units. The notice of any Special Meeting shall state the time, place and purpose thereof. No business shall be transacted at a Special Meeting except as stated in the notice.

(b) Not later than the termination of the Declarant Control Period, a Special Meeting of the Association shall be held at which the Unit Owners, including the Declarant if the Declarant owns one or more units, shall elect a majority of the directors. A director elected at such election shall not take office until the earlier of the termination of the Declarant Control Period or resignation of a director appointed by the Declarant without appointment of a replacement within ten days. The elected directors shall assume office in the order of the highest number of votes received. Any remaining directors designated by the Declarant shall continue to serve until their terms expire, provided, however, that no more than two such directors may serve until the first annual meeting thereafter and no more than one such director may serve until the second annual meeting thereafter.

Section 2.5. Notice of Meetings. The Secretary shall mail to each Unit Owner a notice of each annual or regularly scheduled meeting of the Association at least twenty-one but not more than thirty days, and of each Special Meeting of the Association at least seven but not more than thirty days, prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this section and Article XI, Section 11.1 of the Bylaws shall be considered service of notice, provided that if a notice is delivered personally, the Secretary shall certify in writing that the notice was delivered to the person of the Unit Owner.

Section 2.6. Quorum and Adjournment of Meetings. The presence in person or by proxy of twenty-five percent or more of the Unit Owners shall constitute a quorum at all meetings of the Unit Owners' Association. If at any meeting of the Unit Owners' Association a quorum is not present, Unit Owners owning Units to which appertain a majority of the votes which are represented at such meeting in person or by proxy may adjourn such meeting to a time not less than forty-eight hours after the time the original meeting was called.

Section 2.7. Order of Business. The order of business at all annual meetings of the Unit Owners' Association shall be as follows: (a) roll call (proof of quorum); (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Board of Directors; (f) reports of committees; (g) election or appointment of inspectors of election (when so required); (h) election of members of the Board of Directors (when so required); (i) unfinished business; and (j) new business.

Section 2.8. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Condominium Act or the Condominium Instruments. All votes shall be tallied by tellers appointed by the President or other Officer presiding over the meeting.

Section 2.9. Voting.

(a) Voting at all meetings of the Unit Owners' Association shall be on an equal basis such that each Unit Owner shall be entitled to one vote for each Unit owned. Where the ownership of a Unit is in more than one person (an entity can be a "person"), the person who shall be entitled to cast the vote of such Unit shall be the person named in a certificate executed by all of the owners of such Unit and filed with the Secretary or, in the absence of such named person from the meeting, the person who shall be entitled to cast the vote of such Unit shall be the person owning such Unit who is present. If more than one person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement, pursuant to Section 55-79.77C. of the Condominium Act. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of Section 55-79.72:1 of the Condominium Act, wherever the approval or disapproval of a Unit Owner is required by the Condominium Act or the Condominium Instruments, such approval or

disapproval shall be made only by the person who would be entitled to cast the vote of such Unit at any meeting of the Association.

(b) Except where a greater number is required by the Condominium Act or the Condominium Instruments, a Majority Vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Unit Owners' Association to cast the votes to which such Unit or Units are entitled.

(c) No Unit Owner may vote at any meeting of the Unit Owners' Association or be elected to or serve on the Board of Directors if payment of any installment of the assessment for Common Expenses on the Unit is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meeting or election. There shall be no cumulative voting.

Section 2.10. Proxies. A vote may be cast in person or by proxy. Such proxy may be instructed or non-instructed and may be granted by any Unit Owner only in favor of another Unit Owner, his Mortgagee, or an Officer of the Association, or in the case of a non-resident Unit Owner, the lessee of such Unit Owner's Unit; provided, however, that an Officer of the Association shall hold only instructed proxies. Proxies shall be duly executed in writing signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of the Unit Owner (if more than one Unit Owner, the proxy must be signed by a person or by persons having the authority to sign deeds on behalf of all such persons), shall be dated, shall be witnessed by a person who shall sign his full name and address, shall be valid only for the particular meeting designated therein (or any recess or adjournment of such meeting) and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Unit. Except with respect to proxies in favor of a Mortgagee, no proxy shall in any event be valid for a period in excess of one hundred and eighty days after the execution thereof. A proxy, once given, shall be revocable only by notice given by the Unit Owner or Owners, or by persons authorized to sign deeds on behalf of the Unit Owner or Owners, to the person presiding over the meeting. All proxies shall contain a brief explanation of the effect of leaving the proxy uninstructed.

### ARTICLE III

#### Board of Directors

Section 3.1. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Condominium Act or the Condominium Instruments required to be exercised and done by the Association. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Condominium; provided, however, that such Rules and Regulations shall not conflict with the Condominium Act or the Condominium Instruments. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of

the Board on such matters relating to the duties of the Managing Agent (as defined in Article III, Section 3.2 hereof), if any, which may arise between meetings of the Board as the Board deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board shall on behalf of the Association:

- (a) Prepare an annual budget, in which there shall be expressed the assessments of each Unit Owner for the Common Expenses.
- (b) Adopt an annual budget as prepared in Section 3.1(a) above.
- (c) Make assessments against Unit Owners to defray the costs and expenses of the Condominium, establish the means and methods of collecting such assessments from the Unit Owners, and establish the period of the installment payment of the annual assessment for Common Expenses.
- (d) Provide for the operation, care, upkeep and maintenance of all of the Property and services of the Condominium.
- (e) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Elements and provide services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.
- (f) Collect the assessments against the Unit Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.
- (g) Make and amend the Rules and Regulations.
- (h) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (i) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Condominium property, and repairs to and restoration of the Condominium property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (j) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations, act on behalf of the Unit Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Unit Owners of any litigation against the Association involving a claim in excess of ten percent of the amount of the annual budget.



(k) Obtain and carry insurance against casualties and liabilities, as provided in Article VI of these Bylaws, pay the premiums therefor and adjust and settle any claims thereunder.

(l) Pay the cost of all authorized services rendered to the Association and not billed to Unit Owners of individual Units or otherwise provided for in Article V, Sections 5.1 and 5.2 of these Bylaws.

(m) Keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Property, and the administration of the Condominium, specifying the expenses of maintenance and repair of the Common Elements and any other expenses incurred. Such books and vouchers shall be available for examination by the Unit Owners, their attorneys, accountants, Mortgagees and authorized agents during normal business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Unit Owners. All books and records shall be kept in accordance with generally accepted accounting principles, and for each year during which the Condominium consists of fifty (50) or more Units, the same shall be audited at least once each year by an independent auditor retained by the Board of Directors who shall not be a resident of the Condominium nor a Unit Owner. The cost of such audit shall be a Common Expense. The audit shall be available within 120 days after the end of the Association's fiscal year. A copy of the audit shall be provided to any Mortgagee upon written request. The Board shall also keep available for inspection during normal business hours by Unit Owners, their attorneys, accountants, Mortgagees and authorized agents current copies of the Declaration, Bylaws and Rules and Regulations.

(n) Notify a Mortgagee of any default hereunder by the Unit Owner of the Unit subject to such Mortgage, if such default continues for a period exceeding sixty days.

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

(p) Notwithstanding the borrowing limitations set forth in Article III, Section 3.1(o) of these Bylaws, acquire, hold and dispose of Condominium Units and mortgage the same without limitations as to amount if such expenditures and hypothecations are included in the budget adopted by the Board of Directors.

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

(r) Furnish the statement required by Section 55-79.97 of the Condominium Act, within ten days after the receipt of a written request therefor from any Unit Owner substantially in the form set forth on EXHIBIT A to these Bylaws and designated "Certificate for Resale."

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

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

Section 3.2. Managing Agent. The Board of Directors shall employ for the Condominium a "Managing Agent" at a compensation to be established by the Board.

(a) Requirements. The Managing Agent shall be a bona fide business enterprise which manages common interest residential communities. Such firm shall have experience in community association management and shall employ persons possessing competence in the technical skills necessary to proper management of the Condominium. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Condominium and shall employ personnel knowledgeable in the areas of condominium insurance, accounting, contract negotiation, labor relations and condominium regulation.

(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall direct. Such duties and services may include, without limitation, the duties listed in Article III, Section 3.1(a), (d), (e), (f), (i), (j), (k), (l), (m), (n), (r) and (t) of these Bylaws. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in Article III, Section 3.1(b), (c), (g), (h), (o), (p), (q) and (s) of these Bylaws. The Managing Agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the agreement between the Managing Agent and

the Association provides otherwise or the Managing Agent is instructed otherwise by the Board of Directors:

- (1) the method of accounting employed shall be consistent with the standards published by the American Institute of Certified Public Accountants; expenses required by these Bylaws to be charged to more than one but less than all Unit Owners shall be accounted for separately;
- (2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;
- (3) cash accounts of the Association shall not be commingled with any other accounts;
- (4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Unit Owners' Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit the Association;
- (5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (6) a detailed quarterly financial report shall be prepared for the Association containing such information as the Board of Directors may deem relevant; and
- (7) the managing Agent shall maintain fidelity coverage providing the same coverage as is required for the Association pursuant to Section 6.4(a) of the Bylaws.

(d) Limitations. The Unit Owners' Association and the Board of Directors shall not undertake "self-management" or fail to employ a Managing Agent without the consent of at least sixty-seven percent of the Unit Owners and at least fifty-one percent of the Mortgagees. Any contract with the Managing Agent entered into prior to the expiration of the Declarant Control Period must provide that it may be terminated, without payment of a termination fee, without cause at any time following the expiration of the Declarant Control Period. No contract with a Managing Agent shall exceed a term of two years. Any contract with a Managing Agent must be terminable without cause and without payment of a termination fee upon not more than ninety (90) days advance written notice.

### Section 3.3. Number and Term of Office.

(a) Designated Members. The initial Board of Directors shall consist three persons, all of whom shall be designated by the Declarant. The term of office of at least two directors shall expire at the first annual meeting and the term of office of any remaining director shall expire at the second annual meeting. The term of each designee shall be fixed by the Declarant. On or before the Special Meeting required by Article II, Section 2.4(b) of these

Bylaws, a number of the directors designated by the Declarant shall resign if necessary so that a majority of the directors shall have been elected in accordance with Article II, Section 2.4(b) of these Bylaws. The persons elected shall serve for the remainder of the terms of office of the resigning directors who such persons replace, or if no resignation was required, for the terms of office necessary so that the term of office of one director shall expire at each of the first three annual meetings after their election. The directors receiving the greatest vote shall be elected for the longest available terms. At the expiration of the term of office of all directors designated by the Declarant or elected at the Special Meeting held pursuant to Article II, Section 2.4(b) of these Bylaws, all successor directors shall be elected to serve for a term of three years. For a period of one year following the termination of service by the directors designated by the Declarant, the Declarant may appoint and replace from time to time a representative who shall be entitled to notice of all meetings of the Board of Directors and to attend and speak (but not vote) at all Board meetings, in all respects as if such delegate were a member of the Board.

(b) Elected Members. No later than the Special Meeting held pursuant to Article II, Section 2.4(b) of the Bylaws meeting of the Unit Owners' Association, the Board of Directors shall consist of three (3) persons, all of whom shall be Unit Owners, Mortgagees (or designees of Mortgagees) or designees of the Declarant. Except for resignation or removal, the directors shall hold office until their respective successors shall have been elected by the Unit Owners' Association. The number of directors may be changed by amendment of these Bylaws.

Section 3.4. Election of Directors.

(a) Elections Committee. At least thirty days prior to the Special Meeting required by Article II, Section 2.4(b) of these Bylaws and each annual meeting of the Unit Owners' Association, the Board of Directors shall appoint an Elections Committee consisting of one member of the Board whose term is not then expiring and at least two other Unit Owners other than the Declarant. The Elections Committee shall develop election procedures and administer such procedures as are approved by the Board.

(b) Nominations. Persons qualified to be directors may be nominated for election by a nominating petition submitted to the chairman of the Elections Committee at least ten days before the meeting at which the election is to be held signed by Unit Owners representing at least three Units and either signed by the nominee or accompanied by a document signed by the nominee indicating his willingness to serve as a director. Additional nominations may be made from the floor at the meeting at which the election is held. The nominee must either be present and consent to the nomination or have indicated in writing his willingness to serve. This subsection (b) does not apply to persons appointed to the Board by the Declarant.

(c) Qualifications. Except for Directors appointed by the Declarant during the Declarant Control Period, no person shall be eligible for election as a member of the Board of Directors unless such person is (alone or together with one or more other persons) a Unit Owner. No person shall be elected as a director or continue to serve as a director if such person is, at such time, more than thirty days delinquent in meeting his financial obligations to the Unit Owners' Association.

Section 3.5. Removal or Resignation of Directors. Except with respect to directors designated by the Declarant, at any regular or Special Meeting duly called at which a quorum is present, any one or more of the directors may be removed with or without cause by a vote of two-thirds (2/3) of those present at such meeting in person or by proxy and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given at least seven days notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A director may resign at any time. Except for a director designated by the Declarant, a director shall be deemed to have resigned upon disposition of his Unit as provided for officers in Section 55-79.78A. of the Condominium Act, or if not in attendance at three consecutive regular meetings of the Board, unless the minutes reflect consent to such absence.

Section 3.6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by a vote of the majority of the remaining directors at a Special Meeting of the Board held for such purpose promptly after the occurrence of any such vacancy, even though the directors present at such meeting may constitute less than a quorum. Each person so elected shall be a director until a successor shall be elected at the next annual meeting of the Association. During the Declarant Control Period, the Declarant shall designate the successor to any director previously designated by the Declarant who resigns or is removed.

Section 3.7. Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Association shall be held within thirty days thereafter at such time and place as shall be fixed by the Association at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly-elected directors in order legally to constitute such meeting; provided, that, a majority of the entire Board of Directors is present at the meeting.

Section 3.8. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but such meetings shall be held at least once every four months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telegraph or telephone, at least three business days prior to the day named for such meeting.

Section 3.9. Special Meetings. Special meetings of the Board of Directors may be called by the President on three business days notice to each director, given personally or by mail, telegraph, telephone, teletype, or electronic mail message, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

Section 3.10. Waiver of Notice. Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director, in person or by telephone communication, at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time,

place and purpose of such meeting. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Quorum of Board of Directors. At all meetings of the Board of Directors, 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 of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. A director who participates in a meeting by means of telephone communication shall be deemed present at the meeting for all purposes.

Section 3.12. Compensation. No director shall receive any compensation from the Association for acting as such.

Section 3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of all resolutions adopted by the Board and of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Condominium Act or the Condominium Instruments.

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

Section 3.15. Board of Directors as Attorney-in-Fact. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for the Unit Owners of all of the Units and for each of them, to manage, control and deal with the interests of such Unit Owners in the Common Elements of the Condominium to permit the Board of Directors to fulfill all of its powers, rights, functions and duties. The Board of Directors is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner, each Mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to: (i) adjust and settle all claims arising under insurance policies purchased by the Board of Directors; (ii) execute and deliver releases upon the payment of claims and (iii) act on their behalf in any condemnation proceeding or action of eminent domain pursuant to Section 55-79.44 of the Condominium Act; provided, however, that the consent of a Mortgagee shall be required if such Mortgagee notifies the Board of Directors pursuant to Article XI, Section 11.1 of the Bylaws within thirty days after receipt of notice of the damage pursuant to Article VI, Section 6.2(c) of the Bylaws or notice of the taking in condemnation or by eminent domain pursuant to Article VII, Section 7.2 of the Bylaws. The powers hereby granted shall be in addition to any rights granted by Section 55-79.80B. of the Condominium Act. The Board of Directors may grant and accept easements and licenses pursuant to Section 55-79.80B. of the Condominium Act.

Section 3.16. Liability of the Board of Directors, Officers, Unit Owners and Unit Owners' Association.

(a) The officers, directors and members of the Covenants Committee shall not be liable to the Association or to any Unit Owner for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the Officers and directors from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments, except to the extent that such liability is satisfied by directors and officers liability insurance. Officers and directors shall have no personal liability with respect to any contract made by them on behalf of the Association. The liability of any Unit Owner arising out of any contract made by any Officer or the Board of Directors, or out of the indemnification of the Officers or directors, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his ownership of a Common Element Interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by his Common Element Interest. Every agreement made by the Officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, the directors or the Managing Agent, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Element Interest. The Association shall indemnify and hold harmless each of the members of the Covenants Committee from and against all liability to others arising out of the due exercise of their responsibilities unless their action shall have been taken in bad faith or contrary to the provisions of the Condominium Act or the Condominium Instruments. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding by reason of the fact that he is or was an Officer or director of the Association or a member of the Covenants Committee against expenses (including attorney's fees), judgments, fines and amounts paid in settlement incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Condominium.

(b) Except to the extent prohibited by §55-79.80:1 of the Condominium Act, the Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Unit Owner of any Condominium Unit, or any other person. The Association shall not be liable to any Unit Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Elements. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Elements or from any action taken by the Association to comply with any law, ordinance or with the order of directive of any governmental authority.

Section 3.17. Common or Interested Directors. Each director shall exercise his powers and duties in good faith and with a view to the interests of the Condominium. Contracts and

other transactions between the Association and any of its directors, or between the Association and any corporation, firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are otherwise interested, are not void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his or her vote is counted for such purpose, if any of the conditions specified in any of the following subsections exist:

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

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

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

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote at the meeting to authorize any contract or transaction with like force and effect as if such director of the Association were not an officer or director of such other corporation, firm or association or not so interested.

#### Section 3.18. Covenants Committee.

(a) Purpose. The Board of Directors shall establish a Covenants Committee, consisting of three members appointed by the Board, each to serve for a term of one year, to assure that the Condominium shall always be maintained in a manner: (1) providing for visual harmony and soundness of repair; (2) avoiding activities deleterious to the esthetic or property values of the Condominium; (3) furthering the comfort of the Unit Owners, their guests and tenants; and (4) promoting the general welfare and safety of the Condominium community.

(b) Powers. The Covenants Committee shall regulate the external design, appearance, use and maintenance of the Common Elements. The Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses, or consultations required in connection with improvements or changes proposed by a Unit Owner. Upon petition of any Unit Owner or upon its own motion, the Covenants Committee shall have the power to impose reasonable fines (pursuant to Section 55-79.80:2.B) of the Condominium Act and Article IX, Section 9.1(g) of these Bylaws upon, and issue a cease and desist request to, a Unit Owner, his guests, invitees, or lessees whose actions are inconsistent with the provisions of the Condominium Instruments, the Rules and Regulations or resolutions of the Board of Directors. The Covenants Committee shall from time to time, as required, provide interpretations of the Condominium Instruments, Rules and Regulations and resolutions pursuant



to the intents, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board of Directors. Any action, ruling or decision of the Covenants Committee may be appealed to the Board of Directors by any party deemed by the Board to have standing as an aggrieved party. The Board may affirm, modify or reverse any such action, ruling or decision.

(c) Authority. The Covenants Committee shall have such additional duties, power and authority as the Board of Directors may from time to time provide of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board of Directors.

## ARTICLE IV

### Officers

Section 4.1. Designation. The principal Officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as may be necessary. The President and Vice President shall be residents of the Condominium (except for those appointed by the Declarant) and members of the Board of Directors. Any other Officers may, but need not, be Unit Owners or members of the Board of Directors.

Section 4.2. Election of Officers. The Officers of the Unit Owners' Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Except for the Presidency, a person may hold more than one office at a time.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board or at any Special Meeting of the Board called for such purpose.

Section 4.4. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Board of Directors, have general and active management of the business of the Association subject to the control of the Board, see that all orders and resolutions of the Board are carried into effect, and appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

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

Section 4.6. Secretary. The Secretary shall keep the minutes of all meetings of the Unit Owners' Association and of the Board of Directors, have charge of such books and papers as the Board may direct, give or cause to be given all notices required to be given by the Association, maintain a register setting forth the place to which all notices to Unit Owners and Mortgagees hereunder shall be delivered, and, in general, perform all the duties incident to the office of secretary.

Section 4.7. Treasurer. The Treasurer shall (together with the Managing Agent) be responsible for Unit Owners' Association funds and securities, keep full and accurate financial records and books of account showing all receipts and disbursements, prepare all required financial data, deposit all monies and other valuable effects in the name of the Board of Directors, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Board, and, in general, perform all the duties incident to the office of treasurer.

Section 4.8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of two thousand dollars, and all checks drawn upon reserve accounts, shall be executed by two persons designated by the Board of Directors, except to the extent such duties have been lawfully delegated to the Managing Agent. All such instruments for expenditures or obligations of two thousand dollars or less, except from reserve accounts, may be executed by any one person designated by the Board of Directors, except to the extent such duties have been lawfully delegated to the Managing Agent.

Section 4.9. Compensation of Officers. No Officer who is also a director shall receive compensation from the Association for acting as such Officer.

## ARTICLE V

### Operation of the Property

Section 5.1. Determination of Common Expenses and Assessments Against Unit Owners.

(a) Fiscal Year. The fiscal year of the Unit Owners' Association shall be January 1 through December 31 unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) At least seventy-five days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units which the Association has the responsibility to maintain, repair and replace, and the cost of the wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses

by the Condominium Act, the Condominium Instruments or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The budget shall reflect the separate assessment of Limited Common Expenses.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and the repair, restoration and replacement of capital components. The budget shall include provisions with respect to reserves for the repair, restoration and replacement of capital components as required by the Condominium Act. At least sixty days before the beginning of each fiscal year, the Board of Directors shall send to each Unit Owner a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and any special assessment payable by each Unit Owner. Such budget shall constitute the basis for determining each Unit Owner's assessment for the Common Expenses of the Condominium. Any budget which provides for increases in assessments by more than twenty-five percent (25%) over the assessments for the prior year shall require the approval of fifty-one percent (51%) of the Mortgagees as provided in Section 8.5(b) below.

(c) Assessment and Payment of Common Expenses. Except to the extent that the provisions of these Bylaws require the Board of Directors to assess particular expenses against less than all of the Units or the Board of Directors does so pursuant to authority granted by these Bylaws (including but, not limited to, the provisions of this Section and Sections 5.5(a) and 9.1(a)), the total amount of estimated funds required from assessments for operation of the Condominium property set forth in the budget adopted by the Board of Directors shall be assessed against each Unit Owner in an amount proportionate to his Common Element Interest, and shall be a lien against each Unit Owner's Unit as provided in Article IX, Section 9.2 of these Bylaws. The Board of Directors shall have the authority to charge as Limited Common Expenses and assess against the benefited Unit or Units (a) any costs or expenses incurred by the Association, which are caused by the conduct of less than all those entitled to occupy the Units or their licensees or invitees (b) any costs or expenses incurred in making available the same off-site amenities or paid subscription television service to some or all of the units, if any, (including cable television and data transmission services and security monitoring services) and (c) any cost or expenses incurred in providing metered utility service, if any, to some or all of the units (to be assessed based upon actual consumption of services). On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Unit Owner shall be obligated to pay to the Board of Directors or the Managing Agent (as determined by the Board), one-twelfth of such assessment (together with one-twelfth of any other amount assessed against his Unit on an annual basis). Within ninety days after the end of each fiscal year, the Board of Directors shall supply to all Unit Owners, and to each Mortgagee requesting the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Unit Owners, or be credited according to each Unit Owner's Common Element Interest to the

next monthly installments due from Unit Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Unit Owners in accordance with their Common Element Interests and shall be payable either: (1) in full with payment of the next monthly installment due; or (2) in not more than six equal monthly installments, as the Board of Directors may determine. Assessments shall commence as to all Units when the Declarant conveys the first Unit. Assessments for any Units created on the Additional Land shall commence on the date of recordation of the amendment to the Declaration creating such Units.

(d) Reserves and Special Assessments. The Board of Directors shall conduct and review reserve studies for the repair, restoration and replacement of capital components as required by the Condominium Act and shall build up and maintain reasonable reserves for working capital, operations, contingencies and for the repair, restoration and replacement of capital components. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Unit Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Units according to their respective Common Element Interests, and which may be payable in a lump sum or in installments as the Board may determine. The Board of Directors shall serve notice of any such further assessment on the Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment, if payable in monthly installments, shall, unless otherwise specified in the notice or unless rescinded by a vote of the Unit Owners as provided in Section 55-79.83.E. of the Condominium Act, become effective with the next monthly payment which is due more than ten days after the delivery or mailing of such notice. If the special assessment is payable in a lump sum, the payment shall be due and payable not less than ninety (90) days after the delivery or mailing of such notice. All Unit Owners shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in subsection (c).

(e) Initial Capital Payment.

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

(ii) The Declarant, as the agent of the Board of Directors, will collect from each initial purchaser at the time of settlement an "initial capital payment" equal to three (3) times the estimated monthly installment of the Common Expense assessment for such purchaser's Unit. The Declarant will deliver the funds so collected to the Board of Directors. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Board of Directors may determine. Such initial capital payment shall be in addition to, and not in lieu of the regular monthly installments of the Common Expense Assessment.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall only be obligated to continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notified of the monthly payment which is due more than ten days after such new annual or adjusted budget is adopted.

(g) Accounts. All sums collected by the Board of Directors with respect to assessments against the Unit Owners or from any other source may be commingled into a single fund or held for each Unit Owner in accordance with his Common Element Interest.

Section 5.2. Payment of Common Expenses. Each Unit Owner shall be personally liable for, and pay, the Common Expenses, including Limited Common Expenses, assessed by the Board of Directors pursuant to the provisions of Article V, Section 5.1 of these Bylaws. No Unit Owner may be exempt from liability for the assessment for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against the Unit subsequent to the date of recordation of a conveyance by such Unit Owner in fee of such Unit. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Unit shall be subject to the lien in favor of the Association (but shall not be personally liable) for all unpaid assessments against the selling Unit Owner for the proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor; provided, however, that any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten days following a written request therefor to the Board of Directors or Managing Agent and the Unit conveyed shall not be subject to a lien for, any unpaid assessments in excess of the amount therein set forth; and provided, further, that each Mortgagee who comes into possession of a Condominium Unit by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Condominium Unit free of any claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof, except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Condominium Units including the mortgaged Condominium Unit and except for claims included in any memorandum of lien recorded prior to such mortgage. Assessments shall be annual, but payable in monthly installments.

Section 5.3. Collection of Assessments. The Board of Directors, or the Managing Agent at the request of the Board, shall take prompt action to collect any assessment for Common Expenses due from any Unit Owner which remains unpaid for more than thirty days from the due date for payment thereof. Any assessment, or installment thereof, not paid within ten days after due shall accrue a late charge in the amount of twenty-five dollars, or such other amount as may be established from time to time by the Board of Directors, and shall accrue interest from the date due until paid at a rate specified in Section 9.1(d).

Section 5.4. Statement of Common Expenses. The Board of Directors or the Managing Agent shall promptly provide any Unit Owner, contract purchaser or Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation, not to exceed the amount permitted by the Act.

Section 5.5. Maintenance, Repair, Replacement and Other Common Expenses.

(a) By the Association. The Association shall be responsible for the maintenance, repair and replacement (unless in the opinion of not less than two-thirds of the Board of Directors, such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (including the Limited Common Elements) as defined herein or in the Declaration, whether located inside or outside of the Units, the cost of which shall be charged to all Unit Owners as a Common Expense, except to the extent such expenses are required by the provisions of these Bylaws to be assessed against less than all of the Units or the Board of Directors directs such expenses to be assessed against less than all of the units pursuant to authority granted by these Bylaws. Notwithstanding the foregoing however, each Unit Owner shall perform maintenance and repair, but not replacement, on the Limited Common Elements appurtenant to his Unit (excluding Limited Common Element parking spaces but including Limited common Element doors and windows) and any portion of the remaining Common Elements which the Board of Directors pursuant to the Rules and Regulations has given him permission to utilize.

(b) By the Unit Owner.

(1) Each Unit Owner shall keep the Unit and its equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from (A) such Unit Owner's failure or negligence to make any of the repairs required by this Section or (B) regardless of fault, the failure or rupture of any water heater, plumbing fixtures, refrigerator ice maker lines, or any other appliance, fixture or pipe which is either located within or is part of, his Unit (excluding any appliance, fixture, or pipe which is a part of the Common Elements) including, but not limited to, overflows from any such appliance or fixture or a blockage in any air conditioning condensation drain line. Each Unit Owner shall perform his maintenance responsibilities in such manner as not to disturb unreasonably or interfere with other Unit Owners. Each Unit Owner shall promptly report to the Board of Directors or the Managing Agent any defect or need for repairs for which the Association is responsible.

(2) Any Unit Owner permitted by the Board of Directors to use a specific portion of the Common Elements for storage is responsible for the maintenance and care of such portion and shall use such portion in a safe and sanitary manner.

(c) Manner of Repair and Replacement. All repairs and replacements shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be done with contemporary building materials and equipment. The method of approving payment vouchers for all repairs and replacements shall be determined by the Board of Directors.

Section 5.6. Additions, Alterations or Improvements by the Board of Directors. Except during the Declarant Control Period, whenever in the judgment of the Board of Directors the Common Elements shall require additions, alterations or improvements during any fiscal year costing in excess of ten percent (10%) of that fiscal year's annual budget, the making of such additions, alterations or improvements shall require a Majority Vote of the Unit Owners as contained in Article I § 1.3(e) of these Bylaws, and the Board of Directors shall assess all Unit Owners benefited for the cost thereof as a Common Expense (or Limited Common Expense). Any additions, alterations or improvements during any fiscal year costing ten percent (10%) or less of that fiscal year's annual budget may be made by the Board of Directors without approval of the Unit Owners and the cost thereof shall constitute a Common Expense or Limited Common Expense, depending on the nature of the additions, alterations or improvements. Notwithstanding the foregoing, if, in the opinion of not less than eighty percent of the members of the Board of Directors, such additions, alterations or improvements are exclusively or substantially exclusively for the benefit of the Unit Owners requesting the same, such requesting Unit Owners shall be assessed therefor in such proportion as they jointly approve or, if they are unable to agree thereon, in such proportion as may be determined by the Board of Directors.

Section 5.7. Additions, Alterations or Improvements by the Unit Owners; Relocation of Unit Boundaries. No Unit Owner shall make any structural addition, alteration or improvement in or to the Unit without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. No Unit Owner shall paint or alter the exterior of the Unit, including the doors and windows, nor shall any Unit Owner paint or alter the exterior of any building without the prior written consent of the Board of Directors or the Covenants Committee as appropriate. The Board of Directors shall be obligated to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit within sixty days after such request, and failure to do so within such time shall constitute consent by the Board of Directors or the Covenants Committee to the proposed structural addition, alteration or improvement. Provided consent has been given by the Board of Directors, if any application to any governmental authority for a permit to make such structural addition, alteration or improvement in or to any Unit requires execution by the Association, then the application shall be executed on behalf of the Association by an authorized Officer only; without however, incurring any liability on the part of the Board of Directors, the Association or any of them to any contractor, subcontractor or materialman on account of such addition, alteration or improvement, or to any person having claim for injury to person or damage to property arising therefrom. Subject to the approval of any Mortgagee of such affected Units, the Board of Directors and any Unit Owner affected thereby, owners of adjoining Units may relocate the boundaries between them. The Secretary shall record any necessary amendment to the Declaration to effectuate such action pursuant to Section 55-79.69 of the Condominium Act. The provisions of this Section shall not apply to Units owned by the Declarant until deeds of conveyance of such Units shall have been recorded; provided, however, that the Declarant's

construction or alterations shall be architecturally compatible with existing Units. The Declarant shall have the right to make such alterations or subdivisions without the consent of the Board of Directors, and an authorized Officer shall execute any such application required.

**Section 5.8. Rules and Regulations.**

(a) **Initial Rules and Regulations.** Each Unit and the Common Elements shall be occupied and used in accordance with the Rules and Regulations which may be adopted and amended by the Board of Directors. Initial Rules and Regulations are attached to these Bylaws as Exhibit B.

(b) **Changes to Rules and Regulations.** Changes to the Rules and Regulations shall be conspicuously posted prior to the time when the same shall become effective and copies thereof shall be furnished to each Unit Owner upon request.

**Section 5.9. Right of Access.** By acceptance of the deed of conveyance, each Unit Owner thereby grants a right of access to the Unit, pursuant to Section 55-79.79(a) of the Condominium Act and Article IV, Section 4.2(a) of the Declaration, to the Board of Directors or the Managing Agent, or any other person authorized by the Board of Directors or the Managing Agent, or any group of the foregoing, for the purpose of enabling the exercise and discharge of their respective powers and responsibilities including without limitation making inspections, correcting any condition originating in the Unit or in a Common Element to which access is obtained through the Unit and threatening another Unit or the Common Elements, performing installations, alterations or repairs to the mechanical or utility systems or the Common Elements in the Unit or elsewhere in the Property, or to correct any condition which violates any Mortgage; provided, however, that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner. In case of an emergency, such right to entry shall be immediate, whether or not the Unit Owner is present.

**Section 5.10. Utility Charge.** The cost of utilities serving the Condominium and not individually metered to a Unit shall be a Common Expense or Limited Common Expenses, as the case may be.

**Section 5.11. Parking Spaces.** During the time that Units are being sold by the Declarant, all of the parking spaces in the Common Elements other than Limited Common Elements, if any, may be restricted to the Declarant's use for sales purposes.

**ARTICLE VI**

**Insurance**

**Section 6.1. Authority to Purchase; Notice.**

(a) Except as otherwise provided in Article VI, Section 6.5 of these Bylaws, all insurance policies relating to the Property shall be purchased by the Board of Directors. The Board of Directors, the Managing Agent and the Declarant shall not be liable for failure to obtain



any coverages required by this Article VI or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are available but only at demonstrably unreasonable cost. The Board of Directors shall promptly furnish to each Unit Owner written notice of the procurement of, subsequent changes in, or termination of, insurance coverages obtained on behalf of the Unit Owners' Association, in compliance with Section 55-79.81(b) of the Condominium Act.

(b) Each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the Managing Agent or the Unit Owner, and their respective agents, employees, guests and, in the case of the Unit Owners, the members of their households;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner (including his invitees, agents, employees and members of his household) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board or the Managing Agent cure the defect and neither shall have so cured such defect within sixty days after such demand;

(3) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least sixty days prior written notice to the Board of Directors, the Managing Agent and all Mortgagees;

(c) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner. The coverage provided to the Declarant under the insurance policies obtained in compliance with this Article VI shall not be deemed to protect or be for the benefit of any general contractor engaged by the Declarant nor shall such coverage be deemed to protect the Declarant against liability for (or waive any rights with respect to) warranty claims;

(d) All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia. Physical damage policies shall be in form and substance and with carriers acceptable to Mortgagees holding a majority of the Mortgages (based upon one vote for each Mortgage owned); and

(e) The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a Common Expense; provided, however, that the Association may, pursuant to Article V, Section 5.5(a) of these Bylaws, assess any deductible amount necessitated by the negligence, misuse or neglect of a Unit Owner against such Unit Owner. Any Unit Owner filing a claim against the insurance policy purchased by the Board of Directors shall be liable for the deductible.

**Section 6.2. Physical Damage Insurance.**

(a) The Board of Directors shall obtain and maintain a blanket, "all-risk" or "special risks" form policy of fire insurance with extended coverage, vandalism, malicious mischief, sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire Property (including all of the Units and the bathroom and kitchen fixtures initially installed therein by the Declarant and the replacements thereto installed by the Declarant but not including furniture, wall coverings, furnishings or other personal property supplied or installed by Unit Owners or improvements constructed by a Unit Owner), together with all air-conditioning and heating equipment and other service machinery contained therein and covering the interests of the Association, the Board of Directors and all Unit Owners and their Mortgagees, as their interests may appear, (subject, however, to the loss payment and adjustment provisions in favor of the insurance trustee contained in Article VI, Section 6.6 and Article VII of these Bylaws), in an amount equal to one hundred percent of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined annually by the Board with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain such coverage on all real and personal property owned by the Association.

(b) Such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to these Bylaws not to do so;

(2) The following endorsements (or equivalent): (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents when such act or neglect is not within the control of the insured, or the Unit Owners collectively; nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control); (ii) "cost of demolition"; (iii) "contingent liability from operation of building laws or codes"; (iv) "increased cost of construction"; (v) "condominium replacement cost"; and (vi) "agreed amount" or elimination of co-insurance clause; and

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

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of premium payments shall be delivered by the insurer to any Mortgagee

requesting the same, at least thirty days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board of Directors shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the then current replacement cost of the Property (exclusive of the Land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Section. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to the Common Elements in excess of one percent of the then current replacement cost of the Property. The Mortgagee of a Unit shall be notified promptly of any event giving rise to a claim under such policy arising from damage to such Unit.

Section 6.3. Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability (including without limitation libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board may from time to time determine, insuring each director, each Officer, the Managing Agent and each Unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership or use of the Common Elements. Such insurance shall be issued on a "comprehensive liability basis" and shall contain: (i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to a Unit Owner because of negligent acts of the Association or of another Unit Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars covering all claims for bodily injury or property damage and personal injury arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than three million dollars (\$3,000,000.00).

Section 6.4. Other Insurance. The Board of Directors shall obtain and maintain:

(a) adequate fidelity coverage to protect against dishonest acts on the part of the Officers, directors, trustees and employees of the Unit Owners' Association and all others who handle, or are responsible for handling, funds of the Association, excluding the Managing Agent. Such fidelity coverage shall (i) be written in an amount not less than one-half the total annual condominium assessments for the year or the amount required by the Mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (ii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) if required by any governmental or quasi-governmental agency, including without limitation the Federal National Mortgage Association, Federal Home Loan Mortgage

Corporation, Veterans Administration, or Federal Housing Administration, flood insurance in accordance with the then applicable regulations of such agency;

(c) workmen's compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

(d) broad form machinery and pressure vessel explosion insurance (if applicable) in an amount not less than five hundred thousand dollars per accident per location;

(e) directors and officers liability insurance in an amount not less than one million dollars; and

(f) such other insurance as the Board of Directors may determine or as may be requested from time to time by a Majority Vote.

**Section 6.5. Separate Insurance.** Each Unit Owner may obtain insurance for such Unit Owner's benefit, at such Unit Owner's expense, covering such Unit Owner's personal property and personal liability, as well as any improvements made to the Unit by such Unit Owner (under coverage normally called "improvements and betterments coverage"); provided, however, that no Unit Owner shall be entitled to exercise this right to acquire or maintain such insurance coverage so as to decrease the amount which the Board of Directors, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board or to cause any insurance coverage maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner. No Unit Owner shall obtain separate insurance policies on the Condominium except as provided in this Section.

**Section 6.6. Insurance Trustee.**

(a) All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Unit Owners' Association, the Unit Owners, their Mortgagees and the Declarant, as their interests may appear, and shall provide that all proceeds of such policies shall be paid in trust to the Board as "insurance trustee" to be applied pursuant to the terms of Article VII of these Bylaws.

(b) The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in these Bylaws, for the benefit of the insureds and their beneficiaries thereunder.

**ARTICLE VII**

**Repair and Reconstruction After Fire or Other Casualty**

**Section 7.1. When Repair and Reconstruction are Required.** Except as otherwise provided in Article VII, Section 7.4 of these Bylaws, in the event of damage to or destruction of all or any part of any building, or other improvement as a result of fire or other casualty, the

Board of Directors shall arrange for and supervise the prompt repair and restoration thereof (including any damaged Units, and the floor coverings, kitchen or bathroom fixtures and appliances initially installed by the Declarant, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the Units). Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his Unit.

Section 7.2. Procedure for Reconstruction and Repair.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to any portion of any building, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion (including any damaged Units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by the Declarant, and the replacements thereof installed by the Declarant, but not including any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the Unit) to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee determines to be necessary.

(b) Assessments. If the proceeds of insurance are insufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair, the funds for the payment of the costs thereon are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve or replacement fund and/or shall be deemed a Common Expense and a special assessment shall be levied therefor.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved by at least fifty-one percent of the Mortgagees.

Section 7.3. Disbursements of Construction Funds.

(a) Construction Fund and Disbursement. The proceeds of insurance collected on account of casualty, and the sums received by the insurance trustee from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than ten percent of the then current replacement cost of the Property, then construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of twenty percent of the Mortgagees (based upon one vote for each Mortgage owned), such fund shall be disbursed pursuant to Paragraph (2).

(2) If the estimated cost of reconstruction and repair is ten percent of the then current replacement cost of the Property or more, then the construction fund shall,

unless waived by sixty-seven percent of the Mortgagees, be disbursed in payment of such costs upon approval of an architect qualified to practice in Virginia and employed by the insurance trustee to supervise such work, with payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work stating that: (i) the sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners in proportion to their Common Element Interests and shall be distributed in accordance with the priority of interests at law or in equity in each Unit.

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

(d) Certificate. The insurance trustee shall be entitled to rely upon a certificate executed by the President or Vice President, and the Secretary, certifying: (i) whether the damaged Property is required to be reconstructed and repaired; (ii) the name of the payee and the amount to be paid with respect to disbursement from any construction fund whether or not surplus funds to be distributed are less than the assessments paid by the Unit Owners; and (iii) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee promptly after request.

Section 7.4. When Reconstruction Is Not Required. If the Board of Directors elects not to repair insubstantial damage to the Common Elements, the Board of Directors shall remove all remains of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Condominium and the balance of any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Common Element Interests. If the Condominium shall be terminated pursuant to Section 55-79.72:1 of the Condominium Act, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the insurance trustee among all Unit Owners in proportion to their respective Common Element Interest after first paying out of the share of each Unit Owner, to the extent sufficient therefor, the amount of any unpaid liens on his Unit in the order of priority of such liens.

## ARTICLE VIII

### Mortgages

Section 8.1. Notice to Board of Directors. A Unit Owner who mortgages his Unit shall notify the Board of Directors of the name and address of the Mortgagee and shall file a conformed copy of the note and deed of trust with the Board.

Section 8.2. Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Unit Owner of any default in the performance by the Unit Owner of any obligation under the Condominium Instruments, including any default in paying assessments for Common Expenses which default remains uncured for sixty days, shall simultaneously send a copy of such notice to the Mortgagee of such Unit. Each Mortgagee shall also be notified promptly of any casualty when required by Article VI, Section 6.2(c) of these Bylaws, all actions taken under Article VII of these Bylaws, and any taking in condemnation or by eminent domain pursuant to Section 55-79.44 of the Condominium Act that affects either a material portion of the Condominium or the Unit securing its Mortgage and actions of the Unit Owners' Association with respect thereto.

Section 8.3. Notice of Proposed Action Requiring Mortgagee Approval. The Board of Directors shall give notice to all Mortgagees seven days prior to the date on which the Unit Owners' Association proposes to take any action requiring Mortgagee approval pursuant to these Bylaws.

Section 8.4. Notice of Change in Managing Agent. The Board of Directors shall give notice to all Mortgagees requesting such notice thirty days prior to changing the Managing Agent.

#### Section 8.5. Mortgagees' Approvals.

(a) Two-Thirds Vote. Unless at least sixty-seven percent of the Mortgagees have given their prior written approval, the Association shall not (except following substantial destruction or condemnation) by act or omission withdraw the submission of the Property to the Condominium Act.

(b) Majority Vote. Unless at least fifty-one percent of the Mortgagees and at least sixty-seven percent of the Unit Owners have given their prior written approval, the Association shall not (i) amend the provisions of the Declaration, these Bylaws or any of the other Condominium Instruments governing the following: (1) voting rights; (2) assessment liens, or the priority of assessment liens; (3) reductions in reserves for maintenance, repair, and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the general or limited Common Elements, or rights to their use; (6) redefinition of any Unit boundaries; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project; (9) hazard of fidelity insurance requirements; (10) imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; or (11) any provision

that expressly benefits Mortgage holders, insurers or guarantors; or (ii) take any of the following actions: (1) a decision by the Association to establish self-management if the Condominium consists of fifty (50) or more Units; (2) restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents; (3) any termination of the legal status of the Condominium after a substantial destruction or condemnation occurs; or (4) increasing assessments that raise the amount assessed for the prior year by more than 25%,

(c) Presumptive Approval. A Mortgagee who is notified of additions or amendments and who does not submit to the requesting party a negative response within sixty (60) days after receipt of such notice (provided the notice was delivered by certified or registered mail, return receipt requested) shall be deemed to have approved such request.

Section 8.6. Other Rights of Mortgagees. All Mortgagees or their representatives shall have the right to attend and to speak at meetings of the Unit Owners' Association, but shall not have the right to vote at such meetings unless so provided by the Condominium instruments or the Condominium Act. All such Mortgagees shall have the right to examine the Condominium Instruments, the Rules and Regulations and books and records of the Condominium during regular business hours and after reasonable advance written notice, to receive the annual report filed by Declarant pursuant to Section 55-79.93 of the Condominium Act, and to require the submission of annual financial reports and other budgetary information. If the Condominium contains less than fifty (50) Units and the Association has not prepared an audited financial statement, a Mortgagee shall have the right to have one prepared at its own expense.

## ARTICLE IX

### Compliance and Default

Section 9.1. Relief. Each Unit Owner shall be governed by, and shall comply with, the Condominium Instruments and the Condominium Act as the same may be amended. In addition to the remedies provided in Section 55-79.53 of the Condominium Act, a default by a Unit Owner shall entitle the Unit Owners' Association, acting through its Board of Directors or through the Managing Agent, to the following relief:

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

(b) Costs and Attorney's Fees. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and reasonable attorney's fees.



(c) No Waiver of Rights. The failure of the Association, the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Instruments or the Condominium Act shall not constitute a waiver of the right of the Association, the Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Unit Owner pursuant to any term, provision, covenant or condition of the Condominium Instruments or the Condominium Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Condominium Instruments or the Condominium Act, or at law or in equity.

(d) Interest. If any Unit Owner shall default in paying any sum assessed against the Condominium Unit which continues for a period in excess of ten days, interest at a rate equal to the "Prime Rate" plus five percent (5%) may be imposed in the discretion of the Board of Directors on the principal amount unpaid from the date due until paid. "Prime Rate" shall mean the prime rate (or base rate) reported in the "Money Rates" column or section of The Wall Street Journal as being the base rate on corporate loans at larger U.S. Money Center banks on the first date on which The Wall Street Journal is published in each month. In the event The Wall Street Journal ceases publication of the Prime Rate, then the "Prime Rate" shall mean the "prime rate" or "base rate" announced by the bank with which the Association has its principal banking relationship (whether or not such rate has actually been charged by that bank). In the event that bank discontinues the practice of announcing that rate, Prime Rate shall mean the highest rate charged by that bank on short-term, unsecured loans to its most credit-worthy large corporate borrowers. If any Unit Owner that is more than thirty (30) days delinquent in their assessments, the assessments for that entire fiscal year shall become due and payable in full.

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

(f) Legal Proceedings. Failure to comply with any of the Condominium Instruments and the Rules and Regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all assessments, any other relief provided for in these Bylaws or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent, or, if appropriate, by any aggrieved Unit Owner (including actions against the Association) and shall not constitute an election of remedies.

(g) Charges. The Board of Directors and the Covenants Committee may levy reasonable charges against Unit Owners for violations of the Rules and Regulations, the Condominium Instruments or the Condominium Act. No charge may be levied for more than the maximum amount permitted by the Act.

(h) Suspension of Services. The Board of Directors may suspend a Unit Owner's right to use facilities or nonessential services offered by the Association for nonpayment of assessments to the extent that access to the unit through the Common Elements is not precluded.

(i) Hearings. Prior to the assessment of any fine or charge or the suspension of the right to use any facilities or services, the Unit Owner shall be given the opportunity to be heard and to be represented by counsel before the Board of Directors or the Covenants Committee, as the case may be. If a Unit Owner requests in writing a hearing before the fine or charge is imposed or the right to use the facilities or services is suspended, the imposition of the fine shall be suspended until the hearing is held. Fines are special assessments and shall be collectible as such.

#### Section 9.2. Lien for Assessments.

(a) Lien. The total annual assessment of each Unit Owner for Common Expenses or any special assessment, or any other sum duly levied (including without limitation fines, interest, late charges, etc.), made pursuant to these Bylaws, is hereby declared to be a lien levied against the Condominium Unit of such Unit Owner pursuant to Section 55-79.84 of the Condominium Act, which lien shall with respect to annual assessments, be effective on the first day of each fiscal year of the Condominium and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than ten days after notice to the Unit Owner of such special assessment or levy. The Board of Directors or the Managing Agent may file or record such other for further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien.

(b) Acceleration. If an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board of Directors, and the entire balance of such assessment may be declared due and payable in full by notice to the defaulting Unit Owner and his Mortgagee by the Board of Directors or the Managing Agent.

(c) Enforcement. The lien for assessments may be enforced and foreclosed in any manner permitted by the laws of the Commonwealth of Virginia by power of sale pursuant to Article IX, Section 9.3 of these Bylaws or by an action in the name of the Board of Directors, or the Managing Agent, acting on behalf of the Association. During the pendency of such suit the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to the sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the Commonwealth of Virginia.

Section 9.3. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity for the enforcement of the lien established by the Condominium Instruments or the Condominium Act, all of the Unit Owners may be required by the Declarant or the Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such obligations by recording a declaration of trust in the land records where the Condominium Instruments are recorded granting unto one or more trustees appropriate powers such that upon default in the performance of such bond, such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds have been executed and such declaration of trust is recorded, then any subsequent purchaser of a Unit shall take title subject thereto and shall assume the obligations provided for therein.

Section 9.4. Subordination and Mortgage Protection. Notwithstanding anything to the contrary herein, the lien of any assessment levied pursuant to these Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage recorded prior to the perfection of the lien for assessments; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

## ARTICLE X

### Amendments to Bylaws

Section 10.1. Amendments. These Bylaws may not be modified or amended except in compliance with Section 55-79.71 of the Condominium Act; provided, however, that until the expiration of the Declarant Control Period, Article II, Sections 2.2 and 2.9, Article III, Section 3.3 and Article X, Section 10.1 of these Bylaws may not be amended without the prior written consent of the Declarant. All amendments to the Bylaws shall be prepared and recorded by the Secretary.

Section 10.2. Approval of Mortgagees. These Bylaws contain provisions concerning various rights, priorities, remedies, and interest of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagees, subject to the provisions of Section 8.5(c) above.

ARTICLE XI

Miscellaneous

Section 11.1. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid (pursuant to Section 55-79.75 of the Condominium Act), or if notification is of a default or lien, sent by certified United States mail, return receipt requested, postage prepaid: (i) if to a Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Secretary, if any, and at the address of the Unit of such Unit Owner; or (ii) if to the Association, the Board of Directors or to the Managing Agent, at the principal office of the Managing Agent, at the office of the Association's registered agent, or at the principal address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. If a Unit is owned by more than one person, each such person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

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

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

Section 11.4. Construction. The Condominium Instruments are intended to comply with all of the applicable provisions of the Condominium Act and shall be so interpreted and applied. In these Bylaws, whenever general words or terms are followed by the word "including" (or other forms of the word "include") and words of particular and specific meaning, shall be deemed to include the words "including without limitation," and the general words shall be construed in their widest extent, and shall not be limited to persons or things of the same general kind or class as those specifically mentioned in the words of particular and specific meaning.

IN WITNESS WHEREOF, the Declarant has caused this Bylaws to be executed by its duly authorized agent, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

The Landings at Five Points, Inc.,  
a Virginia corporation

By: \_\_\_\_\_  
Ulysses Turner, President

COMMONWEALTH OF VIRGINIA  
AT LARGE, to-wit:

The foregoing instrument was acknowledged before me in \_\_\_\_\_, Virginia,  
by Ulysses Turner, who is either:  personally known to me or  who produced  
\_\_\_\_\_ as identification, as President of The Landings at Five Points,  
Inc., a Virginia corporation, on its behalf.

GIVEN under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

EXHIBIT A  
to the Bylaws

**THE LANDINGS AT FIVE POINTS, A CONDOMINIUM  
CERTIFICATE FOR RESALE**

TO: \_\_\_\_\_

FROM: Landings at Five Points Condominium Association, Inc. (the "Unit Owners Association")

RE: Condominium Unit No. \_\_\_\_\_, The Landings at Five Points, a Condominium, Norfolk, Virginia

Pursuant to Section 55-79.97 of the Condominium Act, as amended, we hereby certify that as of the date hereof, except as herein stated:

A. The status of assessments with respect to the condominium unit is as follows:

Current Assessment Due _____	\$ _____
Assessment in arrears _____	\$ _____
<b>TOTAL DUE</b>	<b>\$ _____</b>

B. The Condominium Instruments do not create any rights of first refusal or other restraints on free alienability of any of the condominium units.

C. The following, if any, is a list of all expenditures approved by the Unit Owners' Association or its Board of Directors which will require an assessment in addition to the regular assessment during the current or immediately succeeding fiscal year:

[Fill in if Applicable]

D. The current annual assessment for common expenses levied against the captioned unit is \$ \_\_\_\_\_ and is payable in monthly installments of \$ \_\_\_\_\_. There are no assessments, fees or charges currently imposed by the Unit Owners' Association associated with the purchase, disposition or maintenance of the condominium unit or the use of the Common Elements except as follows:

[Fill in if Applicable]

E. Upon acquisition of a Unit, you may become liable for the payment of fees or other charges to the following:

[Fill in if Applicable]

F. As of the date of this certificate, there is a balance in the reserve for replacement fund (reserve account) of approximately \$ \_\_\_\_\_. Of that balance, the following amounts, if any, have been designated by the Board of Directors for the following specific projects:

[Fill in if Applicable]

G. Attached to this certificate are both a copy of the Unit Owners' Association's current budget (or a summary of the budget) and a copy of the statement of financial condition (balance sheet) of the Unit Owners' Association of the year ended \_\_\_\_\_, \_\_\_\_\_, the most recent fiscal year for which such statement is available.

H. There are no unsatisfied judgments against the Unit Owners' Association nor any pending suits to which the Unit Owners' Association is a party which either could or would have a material impact on the Unit Owners' Association or the Unit Owners or which relates to the Unit being purchased except as follows:

[Fill in if Applicable]

I. The Unit Owners' Association holds hazard, property damage and liability insurance policies covering the Common Elements and the units as required by the Bylaws. The Unit Owners' Association also maintains fidelity coverage. It is suggested that each Unit Owner obtain insurance covering property damage to betterments and improvements installed in the unit and personal property contained therein (which are not covered by the Unit Owners' Association policy) as well as insurance covering personal liability. You are urged to consult with your insurance agent.

J. Improvements or alterations, if any, made to the condominium unit or the limited Common Elements assigned thereto are not in violation of the Condominium Instruments except as follows:

[Fill in if Applicable]

K. Attached hereto is a copy of the Bylaws of the Unit Owners' Association, with all amendments thereto and a copy of the Rules and Regulations of the Unit Owners' Association, with all amendments thereto.

L. The Condominium is not located within a development subject to the Virginia Property Owners' Association Act (Code of Virginia, § 55-508 et seq.).

M. The Unit Owners' Association has filed with the Real Estate Board the annual report required by § 55-516.1 of the Code of Virginia. The filing number assigned to such report by the Virginia Real Estate Board is \_\_\_\_\_. The expiration date of such filing is \_\_\_\_\_.

N. The limitation on the number of persons who may occupy a Unit as a dwelling is \_\_\_\_\_.

The information contained in this Certificate for Resale, issued pursuant to Section 55-79.97 of the Condominium Act, as amended, based on the best knowledge and belief of the Unit Owners' Association, is current as of the date hereof.

The Unit Owners' Association may charge a fee for the preparation of this Certificate for Resale as allowed by law.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

LANDINGS AT FIVE POINTS  
CONDOMINIUM ASSOCIATION, INC.

By: \_\_\_\_\_  
Officer

I hereby acknowledge that I received this Certificate for Resale on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Unit Owner

I hereby acknowledge that I have received and read the information contained in this Certificate for Resale on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser