

100-5

DECLARATION OF COVENANTS AND  
CONDITIONS AND BY-LAWS FOR  
REMINGTON OAKS RECREATIONAL ASSOCIATION

THIS DECLARATION, made this 29<sup>th</sup> day of October, 1987, by  
Sugar Creek Development Company, Inc., a Missouri corporation,  
hereinafter referred to as "Declarant"

WITNESSETH, THAT:

WHEREAS, Declarant is the developer of a certain tract of  
land situated in the County of St. Louis, State of Missouri,  
being more particularly described on Exhibit A attached hereto  
and made a part hereof by reference, which said tract is herein-  
after referred to as "Remington Oaks"; and

WHEREAS, Declarant has sold or contracted to sell portions  
of Remington Oaks to each of Cinco-Hanover Construction Co., a  
Missouri corporation ("Cinco"), Bruton Builders, Inc., a Missouri  
corporation ("Bruton"), Charles F. Vatterott Construction Co., a  
Missouri corporation ("Vatterott"), and J. E. Jones Construction  
Company, a Missouri corporation ("Jones"), who, by their signatures  
hereto, join in and adopt this Declaration and subordinate their  
respective interests in Remington Oaks hereto; and

WHEREAS, J. L. Mason of Missouri, Inc., a Missouri corpora-  
tion ("Mason"), is the owner and developer of a certain tract of  
land situated in the County of St. Louis, State of Missouri,  
being more particularly described on Exhibit B-1 attached hereto  
and made a part hereof by reference, which said tract is herein-  
after referred to as "Tract B-1"; and

WHEREAS, Newport Landing Corporation, a Missouri corporation  
("Newport"), is the owner and developer of a certain tract of  
land situated in the County of St. Louis, State of Missouri,  
being more particularly described on Exhibit B-2 attached hereto  
and made a part hereof by reference, which said tract is herein-  
after referred to as "Tract B-2" (Tract B-1 and Tract B-2 are  
hereinafter collectively referred to as "Newport Landing"); and

WHEREAS, it is the desire and intention of Declarant to develop certain recreational areas for the use, benefit and enjoyment of the owners and occupants of residences in Remington Oaks and Newport Landing; and

WHEREAS, it is the purpose and intention of Declarant by this Declaration to preserve the Common Area (as hereinafter defined) and to protect and maintain the same for and against certain uses, and to foster the health, welfare and safety of all who own any lots or living units or reside in the Properties (as hereinafter defined); and

WHEREAS, all reservations, limitations, conditions and covenants herein, any and all of which are hereinafter sometimes referred to as "restrictions", are jointly and severally for the benefit of all persons who may purchase or hold from time to time any of the several lots and living units in any plat of the Properties.

NOW, THEREFORE, Declarant hereby declares that the Common Area shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Common Area and the Properties, and be binding on all parties having any right, title or interest in the Common Area and the Properties or any part thereof, their heirs, successors and assigns, and shall enure to the benefit of all Owners thereof.

## ARTICLE I

### DEFINITIONS

1. "Association" shall mean and refer to the Remington Oaks Recreational Association, a Missouri not-for-profit corporation, its successors and assigns.

2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit within the Properties, including contract

sellers, but excluding those having such interests merely as security for the performance of an obligation.

3. "Properties" shall mean and refer to the real property described on Exhibits A, B-1 and B-2 hereto.

4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners, which shall include all recreational facilities, lakes, club houses, swimming pools, tennis courts, streets, roads, lanes, paths, parkways, common property and easements therefor, and also easements for public utilities, storm water and sanitary sewers and drainage facilities contained in said Common Area.

5. "Living Unit" shall mean and refer to any portion of a building on the Properties designed and intended for independent residential use.

6. "Lot" shall mean and refer to any plot of land, with the exception of Common Ground, shown on any recorded subdivision plat of the Properties.

7. "Declarant" shall mean and refer to Sugarcreek Development Company, Inc., a Missouri corporation, its successors and assigns.

## ARTICLE II

### PROPERTY RIGHTS

1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with title to every Lot and Living Unit, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot or Living Unit remains unpaid, and for a period not to exceed sixty (60) days from any infraction of the Association's published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

2. Delegation of Use. Any Owner may delegate, in accordance herewith, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside in the Properties.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

1. Every Owner of a Lot or Living Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Living Unit which is subject to assessment.

2. The Association shall have two (2) classes of voting members:

Class A. Class A members shall be all Owners, with the exception of the Declarant, Cinco, Bruton, Vatterott, Jones, Mason or Newport, or their respective successors or assigns provided such successors or assigns acquire such Lots or Living Units for development purposes and not for residential purposes and shall be entitled to one (1) vote for each Lot or Living Unit owned. When more than one (1) person holds an interest in any Lot or Living Unit, all such persons shall be members. The vote for such Lot or Living Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot or Living Unit.

Class B. The Class B member shall be the Declarant, who shall be entitled to three (3) votes for each Lot or Living Unit in the Properties owned by Declarant, Cinco, Bruton, Vatterott.

· sellers, but excluding those having such interests merely as security for the performance of an obligation.

3. "Properties" shall mean and refer to the real property described on Exhibits A, B-1 and B-2 hereto.

4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners, which shall include all recreational facilities, lakes, club houses, swimming pools, tennis courts, streets, roads, lanes, paths, parkways, common property and easements therefor, and also easements for public utilities, storm water and sanitary sewers and drainage facilities contained in said Common Area.

5. "Living Unit" shall mean and refer to any portion of a building on the Properties designed and intended for independent residential use.

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(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot or Living Unit remains unpaid, and for a period not to exceed sixty (60) days from any infraction of the Association's published

Jones, Mason or Newport, or their respective successors or assigns provided such successors or assigns acquire such Lots or Living Units for development purposes and not for residential purposes. The Class B membership shall cease upon the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 1992.

#### ARTICLE IV

##### MEETING OF MEMBERS

*once a year.*

*flexible*  
1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of termination of Class B membership, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors of the Association, or, after the termination of Class B membership, upon written request of the members who are entitled to vote ten percent (10%) of the Class A membership votes.

3. Notice of Meetings. Written notice of each meeting shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and

hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the votes of each class of membership shall, except as otherwise expressly provided herein or in the Articles of Incorporation of the Association, constitute a quorum for any action; provided, however, if such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at any meeting, until a quorum as aforesaid shall be present or represented.

5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot or Living Unit.

## ARTICLE V

### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

1. Number. The affairs of the Association shall be managed by a Board of three (3) Directors. The original Board shall consist of Homer Clark, Michael Hughes and Lawrence J. Maynes, whose successors shall be appointed by Declarant so long as Declarant continues to hold Class B membership in the Association. Upon termination of Declarant's Class B membership, the number of Directors of the Association shall increase to six (6), three (3) of whom shall be appointed by the Trustees of Remington Oaks and three (3) of whom shall be appointed by the Trustees of Newport Landing.

2. Term. All Directors appointed hereunder shall be appointed for one (1) year terms. Declarant's appointees, or successors thereto appointed by Declarant, shall serve until

termination or expiration of Declarant's Class B membership hereunder. From and after termination of such Class B membership, all successors to the Directors appointed by the Trustees of Remington Oaks shall be appointed by such Trustees, and all successors to the Directors appointed by the Trustees of Newport Landing shall be appointed by such Trustees.

3. Compensation. No Director shall receive compensation for services rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties hereunder.

4. Removal. Should any member of the Board other than Declarant's appointees cease to be an Owner of a Lot or Living Unit, his term of office shall automatically terminate. At any time, for cause or without cause, the appointing Trustees may remove their appointed Director or Directors from the Board and appoint a successor or successors thereto.

## ARTICLE VI

### MEETINGS OF DIRECTORS

1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

4. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting

which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE VII

### OFFICERS AND THEIR DUTIES

1. Enumeration of Offices. The officers of the Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary and a treasurer and such other officers as the Board may from time to time by resolution create.

2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

3. Term. The officers of this Association shall be elected annually by the Board and shall each hold office for one (1) year unless he shall sooner resign or be removed or otherwise become disqualified to serve.

4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the offices except in the case of special offices created pursuant to Section 4 of this Article.

8. President. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

9. Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

10. Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

11. Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

## ARTICLE VIII

### COVENANT FOR MAINTENANCE ASSESSMENTS

1. Assessments. The Declarant, for each Lot and Living Unit within the Properties, hereby covenants, and each owner of any Lot and Living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) Annual assessments or charges; and,

(2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; PROVIDED, HOWEVER, that no such assessment shall be levied until the facility and/or pool for which levied has been completed and no part of such assessment shall be expended in payment of the costs of original construction; and, PROVIDED, FURTHER, that no property exempt from assessment under Paragraph 10 of this Article VIII shall be subject to assessment hereunder. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot or Living Unit and shall be a continuing lien upon the Lot or Living Unit against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title, unless expressly assumed.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties, and for the improvement and maintenance of the Common Area.

3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot or Living Unit to an Owner, the maximum annual assessment shall be Four Hundred and 00/100 Dollars (\$400.00) per Lot or Living Unit.

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(a) From and after January 1 of the year immediately following the conveyance of the first Lot or Living Unit to an Owner, the maximum annual assessment shall be an amount equal to the greater of (1) the aforesaid assessment or (2) a sum equal to the aforesaid assessment multiplied by a fraction, the numerator of which shall be the Consumer Price Index (United States City Average, All Items, All Urban Consumers 1967 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics, for November of the year prior to the then current assessment year, and the denominator of which shall be the Consumer Price Index for November of the year prior to the year in which the first conveyance to an owner occurs. If the Bureau of Labor Statistics changes the form or basis of calculating the Consumer Price Index, the Board of Directors shall request the Bureau to make available a monthly Consumer Price Index in its present form and calculated on the same basis as the Index in use as of the date hereof; if the same shall not be available in any event, the Board of Directors shall derive a substitute, which will, as nearly as practicable, reflect the same information on the same basis as the existing Consumer Price Index.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting called for such purpose.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot or Living Unit to an Owner, the maximum annual assessment shall be an amount equal to the greater of (1) the aforesaid assessment or (2) a sum equal to the aforesaid assessment multiplied by a fraction, the numerator of which shall be the Consumer Price Index (United States City Average, All Items, All Urban Consumers 1967 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics, for November of the year prior to the then current assessment year, and the denominator of which shall be the Consumer Price Index for November of the year prior to the year in which the first conveyance to an owner occurs. If the Bureau of Labor Statistics changes the form or basis of calculating the Consumer Price Index, the Board of Directors shall request the Bureau to make available a monthly Consumer Price Index in its present form and calculated on the same basis as the Index in use as of the date hereof; if the same shall not be available in any event, the Board of Directors shall derive a substitute, which will, as nearly as practicable, reflect the same information on the same basis as the existing Consumer Price Index.

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5. Notice and Quorum for any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and Living Units in the Properties and may be collected on a monthly basis.

7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots and Living Units on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot and Living Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessments on a specified Lot or Living Unit have been paid.

8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at an annual rate of two percent (2%) in excess of the prime rate of interest from time to time announced by Mercantile Bank National Association, St. Louis, Missouri. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Living Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot or Living Unit.

9. Subordination of Lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust upon or against a Lot or Living Unit. Sale or transfer of any Lot or Living Unit shall not effect the assessment lien; provided, however, the sale or transfer of any Lot or Living Unit pursuant to a mortgage or deed of trust foreclosure shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Living Unit from liability for any assessments thereafter becoming due or from the lien thereof.

10. Wholly and Partially Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

(a) All properties dedicated to and accepted by a local public authority;

(b) The Common Area;

(c) All properties owned by a charitable or a non-profit organization exempt from taxation by the laws of the State of Missouri; and

(d) All Properties owned by a Class B Member, Cinco, Bruton, Vatterott, Jones, Mason or Newport, or their respective successors or assigns provided such successors or assigns acquire

such Lots or Living Units for development purposes and not for residential purposes prior to completion of construction and until such time as the Lot or Living Unit constructed thereon may be occupied or conveyed to an individual Owner. No land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE IX

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

1. Powers. The Board of Directors shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;

(c) Prescribe and enforce reasonable rules and regulations with respect to the streets, lanes, roads and easements within the Common Area (except those easements which are now or hereafter dedicated to public bodies and agencies) as are necessary to maintain, supervise and insure the proper use of such streets, lanes, roads and easements by the Owners and occupants of Lots and Living Units in the Properties and by necessary public utilities, including the right to themselves and to others to whom they may grant permission to construct, operate and maintain ownership over and under said easements and streets, sewers, pipes, wires and other facilities and public utilities;

(d) Construct, reconstruct, maintain and repair roadways, driveways, pavements, gutters and curbing, or any of them, in and upon the aforesaid streets, lanes and roads, or any of them. To

construct, reconstruct, maintain and repair appropriate gates or entrance ways at all or any of the points where said streets, lanes or roads terminate or intersect any public street or highway; to exercise full authority over entrances to the Common Area now or hereinafter existing from any adjoining public highways or other means of entry; and to plant, grow and preserve trees and shrubbery in any appropriate places in or upon said streets, roads, lanes, parkways and all other common property;

(e) Publicly dedicate the private streets and easements or any portion or portions thereof and any sanitary sewers and sanitary sewage treatment facilities whenever such dedications would be accepted by a proper public agency;

(f) Abandon an easement or portion thereof by executing and recording a proper and appropriate instrument in the Office of the Recorder of Deeds of St. Louis County, Missouri, when such abandonment is approved by any public agency to which the easement is dedicated;

(g) Prevent and defend, in the name of the Association, any infringement and compel the performance of any restrictions set out herein. This provision is intended to be cumulative and not to limit the right of any Lot or Living Unit Owner to proceed in his own behalf, and the power and authority herein granted to the Directors is intended to be discretionary and not mandatory. The costs and expenses incurred by the Directors in any such proceeding shall be paid out of any general fund then in hand or thereafter collected by general assessment against the Lots and Living Units;

(h) Receive, hold, convey, dispose of and administer in trust for any purpose mentioned in this Declaration, any gift, grant, conveyance or donation of money or real or personal property;

(i) Exercise for the Association all powers, duties and authority vested in or delegated to the Association;

reserved to the membership by other provisions hereof or the Articles of Incorporation;

(j) Declare the office of a member of the Board of Directors to be vacant in the event such a member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(k) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

2. Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided above, to fix, levy and collect annual and special assessments;

(d) Procure and maintain adequate liability and hazard insurance on property owned by the Association;

(e) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(f) Cause the Common Area to be maintained; and

(g) Notwithstanding any other condition herein, the Directors shall make suitable provisions for compliance with all subdivision and other ordinances, rules and regulations of St. Louis County and for such purpose shall not be limited to the maximum assessment provided herein. Specifically, and not by way of limitation, the Directors shall make provision for the maintenance and operation of all street lights, roadways and easements

## ARTICLE X

### GENERAL PROVISIONS

1. Enforcement. If an Owner or Owners, their heirs, executors, administrators, grantees or assigns, or any one of them hereinafter owning any of the Lots or Living Units within the Properties, shall infringe or attempt to infringe, or omit to perform any covenants as aforesaid, or comply with any restriction which is, by its provisions, to be kept and performed by it, or him or them, it shall be lawful for any other person or persons owning any Lots or Living Units in the Properties, or having a legally recognizable interest in the Properties by lien, mortgage, deed of trust, or contract or option for purchase, or for the Association in behalf of and for the benefit of either themselves or said Owner or Owners as aforesaid, or for any or either of them as trustees of an express trust, to prosecute any proceedings in law or in equity against the person or persons infringing or attempting to infringe or omitting to perform such covenant or restriction, either to prevent it, him or them from doing so, or to recover damages for such infringement or omission. The expense of the Association incurred in such proceedings shall be refunded out of any damage recovered or may be refunded out of any general fund then on hand or thereafter collected by general assessment against the Owners of Lots and Living Units in the Properties. It is further declared and provided that while the restrictions, limitations, conditions and covenants in this Declaration shall be valid and binding, and must be kept, observed and performed by every Owner and occupant of any Lot or Living Unit embraced, yet, they are not to be enforced personally against the Declarant unless it, while owning, occupying or controlling such Lot or Living Unit shall have violated or failed to perform the restrictions or covenants embracing the Lot or Living Unit controlled by it.

2. Duration, Amendment and Termination. This Declaration and the restrictions, limitations, conditions and covenants herein contained shall be and remain in force and effect until such time as all plats of Remington Oaks and Newport Landing may be vacated by the County of St. Louis or its successors. During the period of Class B membership hereunder, the restrictions, conditions, limitations or covenants of this Declaration may be altered, modified, amended, released, discontinued, terminated or extended by the Declarant, and thereafter by the Owners of a majority of the Lots and Living Units within the Properties, executing and acknowledging an appropriate agreement or agreements in writing for such purposes, and filing the same for record in the Office of the Recorder of Deeds of St. Louis County, Missouri, after approval of the same by a majority of the then Board of Directors of the Association and the St. Louis County Planning Director.

3. Severability. The restrictions, limitations, conditions and covenants contained in this Declaration are to be construed independently, and in the event that any of them shall be declared void, or for any reason unenforceable, the validity and binding effect of the other restrictions, limitations, conditions and covenants shall not be thereby impaired or affected. The waiver or failure to enforce a breach of any restriction, condition, covenant or easement, shall not be a waiver of any subsequent breach of the restriction, condition, covenant, easement or limitation herein set forth.

4. Condemnation. In the event it shall become necessary for any public agency to acquire all or any part of the Common Area for a public purpose, the Board of Directors is hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary to that purpose. Should acquisition by eminent domain become necessary, only the Association need be made parties, and any proceeds received shall

be held by the Association for the benefit of those entitled to the use of said Common Area.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 28<sup>th</sup> day of Oct.  
1987.

SUGAR CREEK DEVELOPMENT COMPANY, INC.

(SEAL)

BY: Homer Clark  
Homer Clark Its Vice Pres

The undersigned, Cinco-Hanover Construction Co., Bruton Builders, Inc., Charles F. Vatterott Construction Co. and J. E. Jones Construction Company, hereby join in the foregoing Declaration for the purpose of subjecting all property owned by the undersigned in Remington Oaks thereto.

CINCO-HANOVER CONSTRUCTION CO.

(SEAL)

BY: D. Miller  
G. J. Miller Its PRESIDENT

BRUTON BUILDERS, INC.

(SEAL)

BY: Christopher P. Cotton  
Christopher P. Cotton Its Pres

CHARLES F. VATTEROTT CONSTRUCTION CO.

(SEAL)

BY: William Fischer  
William Fischer Its President/Manager

J. E. JONES CONSTRUCTION COMPANY

(SEAL)

BY: Howard Clinton  
Howard Clinton Its Vice Pres

The undersigned, J. L. Mason of Missouri, Inc., the owner of the property described on Exhibit B-1 hereto, hereby joins in the foregoing Declaration for the purpose of subjecting the property so described on Exhibit B-1 thereto.

Dated: October 28, 1987.

J. L. MASON OF MISSOURI, INC.

(SEAL)

BY: John D. Murphy

The undersigned, Newport Landing Development Company, Inc., the owner of the property described on Exhibit B-2 hereto, hereby joins in the foregoing Declaration for the purpose of subjecting the property so described on Exhibit B-2 thereto.

Dated: October 28, 1987.

NEWPORT LANDING CORPORATION

(SEAL)

BY: G.W.D. —  
Its the President

Gerald W. Kerr

STATE OF MISSOURI )  
                          ) SS  
COUNTY OF ST. LOUIS )

On this 29<sup>th</sup> day of Oct., 1987, before me personally appeared Warren Clark, to me known, who, being by me duly sworn, did say that he is the President of Sugar Creek Development Company, Inc., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Warren Clark acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid; the day and year first above written.

Marilyn J. Collins —  
Notary Public

My Commission Expires:

MARILYN J. COLLINS  
NOTARY PUBLIC, STATE OF MISSOURI  
MY COMMISSION EXPIRES 9/6/89

ST. LOUIS COUNTY  
STATE OF MISSOURI )  
                          )  
                          ) SS  
COUNTY OF ST. LOUIS )

On this 29<sup>th</sup> day of Oct., 1987, before me personally appeared G.J. Miller, to me known, who, being by me duly sworn, did say that he is the Pres. of Cinco-Hanover Construction Co., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said G.J. Miller acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Marilyn J. Collins —  
Notary Public

STATE OF MISSOURI )  
COUNTY OF ST. LOUIS ) SS

On this 29<sup>th</sup> day of Oct., 1987, before me personally appeared William S. Vatterott, to me known, who, being by me duly sworn, did say that he is the President of Bruton Builders, Inc., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said William S. Vatterott acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Marilyn J. Collins  
Notary Public

My Commission Expires:

MARILYN J. COLLINS  
NOTARY PUBLIC, STATE OF MISSOURI

MY COMMISSION EXPIRES 9-1-88

ST. LOUIS COUNTY

STATE OF MISSOURI )  
COUNTY OF ST. LOUIS ) SS

On this 29<sup>th</sup> day of Oct., 1987, before me personally appeared William S. Vatterott, to me known, who, being by me duly sworn, did say that he is the President of Charles Vatterott Construction Co., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said William S. Vatterott acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Marilyn J. Collins  
Notary Public

My Commission Expires:

MARILYN J. COLLINS  
NOTARY PUBLIC, STATE OF MISSOURI

MY COMMISSION EXPIRES 9-1-88

ST. LOUIS COUNTY )  
STATE OF MISSOURI )  
COUNTY OF ST. LOUIS ) SS

On this 29<sup>th</sup> day of Oct., 1987, before me personally appeared James E. Jones, to me known, who, being by me duly sworn, did say that he is the President of J. E. Jones Construction Company, a corporation of the State of Missouri, and that

the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Howard W. Miller acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Marilyn J. Collins  
Notary Public

My Commission Expires:

MARYLYN J. COLLINS  
NOTARY PUBLIC STATE OF MISSOURI  
MY COMMISSION EXPIRES MAY 30, 1991  
STATE OF MISSOURI )  
 ) SS  
COUNTY OF ST. LOUIS )

On this 28th day of October, 1987, before me personally appeared Lawrence J. Maynes, to me known, who, being by me duly sworn, did say that he is the President of J. L. Mason of Missouri, Inc., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Lawrence J. Maynes acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

MARINA A. STRUTTHORN  
Notary Public

My Commission Expires:

MARINA A. STRUTTHORN  
NOTARY PUBLIC STATE OF MISSOURI  
ST. LOUIS COUNTY  
MY COMMISSION EXP. MAY 30, 1991

STATE OF MISSOURI )  
 ) SS  
COUNTY OF ST. LOUIS )

On this 28th day of October, 1987, before me personally appeared Gerald W. Kerr, to me known, who, being by me duly sworn, did say that he is the Vice Pres. of Newport Landing Corporation, a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Gerald W. Kerr acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
affixed my official seal in the County and State aforesaid, the  
day and year first above written.

Donna L. Knese  
Notary Public Donna L. Knese

My Commission Expires:

October 24, 1991

# VOLZ ENGINEERING & SURVEYING, INC.

10849 INDIAN HEAD INDUSTRIAL BLVD.  
ST. LOUIS, MISSOURI 63132

ROBERT N. VOLZ  
GLENN E. BORGARD  
CARL F. LUEXER

PHONE (314) 420-6212

December 30, 1985

TWO

RE: Hawkins Road  
85-1894

A tract of land being Lot One of, the Subdivision of the Estate of Felex G. Dunnavant, a subdivision according to the plat thereof recorded in Book 7, Page 8 of the St. Louis County Records and part of Share 4 of Dunnavant Estate recorded in Book 325, Page 117 of the St. Louis City (former County) Records, and part of Lot 5 of the Subdivision of Anderson Bowles Estate, a subdivision according to the plat thereof recorded in Book 3, Page 38 of the St. Louis County Records in Section 32 and in U.S. Survey 1330, Township 44 North - Range 5 East, St. Louis County, Missouri, and being more particularly described as:

Beginning at the Northeast corner of "San Luis Village Plat One", a subdivision according to the plat thereof recorded as Daily No. 210 on November 13, 1973 in the St. Louis County Records; thence along the boundary lines of said "San Luis Village Plat One" the following courses and distances: North 82 degrees 27 minutes 03 seconds West 1363.32 feet, North 7 degrees 37 minutes 11 seconds East 239.19 feet, and North 89 degrees 09 minutes 33 seconds West 1109.62 feet to the East line of Hawkins Road, 40 feet wide; thence Northwardly along said East line of Hawkins Road, 40 feet wide, North 1 degree 03 minutes 50 seconds East 579.70 feet to a point on the South line of property conveyed to Richard R. Mort and wife as described in the deed recorded in Book 2766, Page 534 of the St. Louis County Records; thence Eastwardly along said South line of Mort property and a South line of "San Luis Plat Three", a subdivision according to the plat thereof recorded as Daily No. 93 on December 29, 1969 in the St. Louis County Records South 85 degrees 50 minutes 20 seconds East 1170.09 feet to the Southeast corner of Lot 220 of said "San Luis Plat Three"; thence Northwardly along an East line of said "San Luis Plat Three" and an East line of "San Luis Plat Two", a subdivision according to the plat thereof recorded as Daily No. 154 on May 13, 1969 in the St. Louis County Records North 7 degrees 40 minutes 58 seconds East 695.57 feet to the Southwest corner of Lot 210 of said "San Luis Plat Three"; thence Eastwardly along a South line of said "San Luis Plat Three" and a South line of "San Luis Plat Four", a subdivision according to the plat thereof recorded as Daily No. 93 on July 15, 1970 in the St. Louis County Records South 82 degrees 19 minutes 23 seconds East 1088.71 feet to a point; thence Eastwardly along said South line of "San Luis Plat Four" and the South line of "San Paulo Estates", a subdivision according to the plat thereof recorded as Daily No. 198 on May 8, 1984 in the St. Louis County Records South 82 degrees 22 minutes 48 seconds East 850.55 feet to the Southwest corner of "Amended Green Mar Estates Plat No. 2", a subdivision according to the plat

EXHIBIT "A"

BOOK 8226 PAGE 384

December 30, 1986

-2-

RE: 85-1894

thereof recorded as Daily No. 336 on February 1, 1974 in the St. Louis County Records; thence Eastwardly along a South line of said "Amended Green Mar Estates Plat No. 2" South 82 degrees 29 minutes 48 seconds East 773.80 feet to the Northwest corner of "Summit Acres", a subdivision according to the plat thereof recorded as Daily No. 138 on April 29, 1947 in the St. Louis County Records; thence Southwardly along the West line of said "Summit Acres" South 7 degrees 38 minutes 00 seconds West 3447.91 feet to the North line of Hawkins Road, 40 feet wide; thence Westwardly along said North line of Hawkins Road, 40 feet wide, the following courses and distances: North 81 degrees 24 minutes 37 seconds West 185.09 feet, along a curve to the right whose radius point bears North 8 degrees 35 minutes 23 seconds East 480.00 feet from the last mentioned point, a distance of 160.38 feet, North 62 degrees 15 minutes 50 seconds West 205.51 feet, along a curve to the left whose radius point bears South 27 degrees 44 minutes 10 seconds West 620.00 feet from the last mentioned point, a distance of 326.25 feet, and South 87 degrees 35 minutes 10 seconds West 502.65 feet to a point on the East line of property conveyed to William O. Moss and wife as described in the deed recorded in Book 6434, Page 426 of the St. Louis County Records; thence Northwardly along said East line of Moss property and the East line of aforesaid "San Luis Village Plat One" North 7 degrees 39 minutes 59 seconds East 1955.04 feet to the point of beginning and containing 164.175 acres according to a survey by Volz Engineering & Surveying, Inc. during December, 1986.

EXHIBIT B-1

J. L. MASON OF MISSOURI, INC. is the owner and developer of certain lots situated in the County of St. Louis and being more particularly described as Lots 18 through 67, 126 through 143, and Lots 149 through 160 of Newport Landing recorded on June 18, 1987, as Daily No. 533 in Plat Book 263, Pages 14 - 15 in the St. Louis County Records.