

(g) **"Common Surplus"** shall mean the excess of all Common Receipts over all Common Expenses.

(h) **"Community"** shall mean the development known as Fair Oaks Chase which includes the Property.

(i) **"Common Area"** shall include the open space areas, including but not limited to Common Area, perimeter buffer storm water retention, detention and drainage areas, a private street and any other facilities which the Association may hereafter own, acquire or construct.

(j) **"Lot"** shall mean the separate and subdivided parcel of land which is shown on the filed and recorded subdivision Plat for the Property, and all other structures which are or will be erected thereon.

(k) **"Members"** shall mean Class A and Class B Members of the Association, as these terms are defined in the Declaration and By-Laws.

(l) **"Owners"** shall mean the record owner of any Lot, excluding those persons having an interest merely as security for the performance of an obligation and excluding the Declarant. Multiple Owners of a single Lot shall together be deemed one Owner for the purposes of this Declaration.

(m) **"Participating Builder"** shall mean and refer to a person or entity owning a Lot(s) and designated as such by the Declarant.

(n) **"Property"** shall mean the land described in Exhibit A hereto as well as any additional land which may be annexed to this Association pursuant to Section 28.

Section 3. Applicability; Membership in the Association.

(a) This Declaration shall be applicable to the Property. All Owners of Lots and their tenants, guests, or invitees, and any other persons who shall be permitted to use the Common Area, shall be subject to this Declaration, the By-Laws and any rules and regulations promulgated by the Board of Directors.

(b) All Owners upon acceptance of the deed to their Lots shall become Members of the Association and shall be obligated to pay all Assessments levied by the Association. Membership in the Association shall be limited to the Owners of Lots subjected

to this Declaration and the Declarant. Except as set forth herein, the affairs of the Association shall be governed by the By-Laws.

(c) There shall be two classes of Members in the Association: Class A Members and the Class B Member.

(i) Class A Members shall be all Owners. Class A Members shall be entitled to one (1) vote for each Lot they own in the Community.

(ii) The Class B Member shall be the Declarant which shall have three (3) votes for each Lot it owns. Class B Membership shall terminate and become converted to Class A membership upon the happening of the earlier of the following:

(a) When the total number of votes outstanding among Class A Members equals the total number of votes outstanding in the Class B Membership; or

(b) The expiration of five (5) years from the initial recordation of this Declaration.

(c) At an earlier date than stated in (a) or (b) at the discretion of the Declarant.

(iii) Notwithstanding the foregoing, in the event of annexation of any additional properties, Class B membership shall be revived with respect to all Lots owned by the Declarant on the annexed property so that the Declarant has three (3) votes per Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) when the total votes outstanding in the Class A memberships in the annexed property equal the total votes outstanding in the Class B membership in such annexed property, or

(b) Four (4) years from the date of recordation of the final deed of dedication or any supplemental declaration for the last portion of such annexed property.

(d) Notwithstanding any other provision of this Declaration or the By-Laws, no action shall be taken or adopted by the Association which would in any way affect any of the rights, privileges, powers or options of the Declarant (including, but not limited to,

development of the Property or the marketing program of the Declarant) without the prior written approval of the Declarant.

(e) Only those Class A Members in good standing and entitled to vote shall be considered in determining whether, as to Class A Members, a quorum is present at a meeting of the Association or for determining the percentage of Class A Members voting on a matter. A Class A Member shall be deemed to be "in good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall have fully paid all Assessments made or levied against him or against his Lot by the Board of Directors as hereinafter provided, together with all interest, costs of collection, attorneys' fees, penalties and other expenses, if any, properly chargeable to him or against his Lot, at least ten (10) days prior to the date fixed for the annual or special meeting and has not violated any of the covenants and conditions contained in this Declaration, the By-Laws or rules and regulations.

(f) In the event a Member shall lease or permit another to occupy his dwelling in accordance with the provisions of this Declaration, the tenant or occupant shall be permitted to enjoy the Common Area but shall not vote in the affairs of the Association, except when the Member shall permit the tenant or occupant to exercise the proxy vote of the Member.

(g) Every lawful transfer of title to a Lot shall include membership in the Association and, upon making this transfer, the previous Owner's membership shall automatically terminate. Except as otherwise expressly provided, membership in the Association may not be assigned or transferred without the transfer of legal title to a Lot and any attempt at assignment or transfer thereof shall be void and of no effect.

Section 4. Construction, Management, Operation, Maintenance and Dedication of the Common Area.

(a) The Declarant shall transfer to the Association and the Association shall accept ownership of the Common Area. After transfer by the Declarant, the management, operation and maintenance of the Common Area shall be the responsibility of the Association, which responsibilities the Association may delegate to a professional manager or agent. Notwithstanding anything to the contrary contained herein, the Association shall convey any portion of the Common Area (without payment) if required by Declarant for boundary line adjustment.

(b) The Declarant reserves the right to modify or alter the size, number and location of the Lots and the Common Area, as well as the improvement(s) thereon, as it deems necessary or desirable in conjunction with the development of the Community. Without limiting the generality of the foregoing, the Declarant reserves the right to resubdivide all or a portion of the Community, to modify the site plans, to construct improvements on the Common Area, and to take whatever other action it deems necessary with respect to the Common Area and the Lots.

Section 5. Owners' Easement of Enjoyment. Every Owner shall have the right of ingress, egress and regress over and the right of enjoyment in and to the Common Area, which right shall be appurtenant to each Lot and shall pass with title to every Lot, subject to (a) the right of the Association to establish rules and regulations governing their use, and (b) the easements described elsewhere in this Declaration, and the following:

(a) The right of the Declarant (and its sales agents and representatives) to the non-exclusive use of the Common Area for display and exhibit purposes, which right Declarant hereby reserves until the sale of all the residential Lots within the Properties; provided, further, that no such use by Declarant or its sales agents or representatives shall otherwise restrict the members in their use and enjoyment of the Common Area or any facilities thereon;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility which may be situated on the Common Area.

(c) The right of the Association to regulate parking on the Common Area through the granting of easements or promulgation of rules and regulations.

(d) The right of the Association, acting by and through its Board of Directors, to enter into agreements whereby the Association acquires leaseholds, membership or other possessory or use interests in real or personal property for the purpose of promoting the enjoyment, recreation or welfare of the members of the Association and to declare expenses incurred in connection therewith to be common expenses of the Association.

Section 6. Easements.

(a) All the Property shall be subject to an easement for the present and future installation and maintenance of electric service, master and cable television service, telephone service, water service, storm water and sanitary sewage service, gas service and other utility services, and the facilities and appurtenances necessary to the same. This

easement shall run at all times in favor of the Declarant, the Association and the entity or entities owning or operating the utilities, and the Declarant and the Board of Directors shall have the reserved right to grant and transfer such easements as described herein to appropriate third parties (such as, by way of example and not limitation, governmental authorities and utility companies), and any additional utility easements in connection with the supply of utilities to the Community.

(b) The Declarant and/or the Association and their agents and employees shall have the irrevocable right and easement of access to each Lot as necessary for: (i) the inspection, maintenance, repair or replacement of the Common Area accessible therefrom; or (ii) the abatement of any violation of any laws or orders of any governmental authorities having jurisdiction over the Property; or (iii) grading, re-grading or any other reasonable activity as may be required in connection with construction on any Lot or Common Area. Any damage caused to any Lot as a result of such easement shall be repaired by the Declarant and/or Association at no cost to the Owner of the Lot. The cost of any repairs made to any Lot at the request of the Owner shall be chargeable to the Owner of the Lot.

(c) All of the easements described in this Declaration shall run with the land and inure to the benefit of and be binding upon the Declarant, the Association, each Owner and each tenant, occupant or other person having any interest in any Lot or in the Common Area.

(d) An easement and right to entry through and upon the Property is hereby granted to law enforcement officers, rescue squad personnel, fire fighting and other emergency personnel of the jurisdiction in which the Property is located, and to vehicles operated by said personnel while in the pursuit of their duties. Said emergency personnel shall also have the right of enforcement of cleared emergency vehicle access on roadways and driveways on the Property.

(e) The Declarant and Association reserve the right and easement to the use of all Common Area, and any Lot or any portion thereof, as may be needed for repair, maintenance or construction on such Lot or any Lot or on any Common Area. The Declarant reserves the right to create, grant, convey and transfer such easements over the Property (including any Lot conveyed by Declarant) as may be required by Declarant as part of the development of the Property (including, by way of example and not limitation, trail easements, encroachment easements and utility easements). The Association may, in its discretion, grant easements over the Common Area as requested by any third party, and shall grant easements over the Common Area as requested by Declarant.

Section 7. Owners' Assessment Obligation. Each Owner other than a Participating Builder, by acceptance of the deed, whether or not it shall be so expressed in his deed or other conveyance, shall be deemed to covenant and agree to pay to the Association (in addition to any other charges or costs levied by the Association pursuant to this Declaration) all Assessments, including, but not limited to the following: (a) regular Assessments due and payable on a monthly basis or as determined by the Board of Directors, based upon the budget of the Association (the "Base Assessment"); (b) special Assessments fixed, established and collected from time to time as provided in this Declaration (the "Special Assessment"); and (c) any interest charges, attorneys' fees, penalties or fines levied by the Board of Directors for non-payment of Assessments or for non-compliance with the terms and provisions of the Declaration, the By-Laws or any rules or regulation created by the Board of Directors. The Association shall have the right to assess charges (herein referred to as "Limited Charges") against any one or more Lots for the repair and maintenance of the Lot after the Owner has failed to maintain or repair his Lot. No Owner may exempt himself from contributing toward these expenses by waiver or by abandonment of the lot owned by him or by set off or counterclaim.

Section 8. Participating Builder. The Association shall levy against any Participating Builder, at the time the Declarant conveys a Lot or Lots to said Participating Builder, an assessment equal to 100 percent of the Assessments for each Lot thereby conveyed by the Declarant to said Participating Builder. The Participating Builder shall be responsible for all Assessments during its period of ownership.

Section 9. Special Assessment. In addition to the annual assessments authorized above, the Board of Directors may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto or for any area of Association responsibility provided for in this Declaration or in the Bylaws. Any special assessment may be rescinded by a majority vote in person or by proxy, at a meeting of the Members convened within sixty (60) days of notice of the special assessment.

Section 10. Time of Payment. Except as otherwise provided in this Declaration, payment of Assessments by the Owner shall be made at the discretion of the Board of Directors; provided that all regular and special Assessments shall be declared by the Board of Directors and made due and payable on a regular basis. The failure of the Board of Directors to formally declare any regular Assessment shall result in the regular Assessment for the immediately preceding year being the regular Assessment applicable to and due and payable for the next year.

Section 11. Maximum Assessments.

(a) Until January 1 of the year following the conveyance of the first Lot to an Owner who is not a Participating Builder, the Maximum Base Assessment imposed in any fiscal year of the Association (the "Maximum Base Assessment") as to each Lot shall not exceed Six Hundred Dollars (\$600.00).

(b) As to each of the following fiscal years of the Association, the Board of Directors may increase the Maximum Base Assessment provided for above by the greater of (i) a factor of not more than ten percent (10%) of the Maximum Base Assessment for the current fiscal year of the Association or (ii) the percentage increase, if any, in the Consumer Price Index, or equivalent, published by the United States Department of Labor for the Metropolitan Washington Area over the twelve (12) month period ending five (5) months prior to the end of the current fiscal year of the Association.

(c) From and after January 1 of the year immediately following the commencement of Assessments the Maximum Base Assessment may be increased above the amounts which could be set by the Board of Directors with the assent of (i) 66 2/3% of the votes cast by the Class A Members who are voting in person or by proxy at a meeting duly called for such purpose at which a quorum is present, and (ii) the Class B Member voting in person or by proxy in such a meeting.

(d) Written notice of any meeting called for the purpose of taking any action authorized under this Section 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, subsequent meetings may be called subject to the same notice requirement and the required quorum at the subsequent meetings shall be one-half (1/2) of the required quorum at the preceding meetings. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 12. Creation of the Lien and Personal Obligation of Assessments. All Assessments and Limited Charges chargeable to any Lot, including all fines, fees, charges, late charges, interest and costs of collection thereof (including attorneys' fees), and penalties levied for non-compliance with this Declaration, the By-Laws and any rules and regulations of the Association shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or Limited Charge is made, and shall also be the personal obligation of the Owner who was the Owner of the Lot at the time when the

Assessment or Limited Charge became due. This lien shall be effective from and after the time the Assessment or Limited Charge became due and shall be evidenced by the recording in the public records of the county in which the Community is situate of a claim of lien pursuant to Section 55-516 of the Property Owners Association Act. Upon full payment of all sums secured by the lien and payment of a preparation fee, the party making payment shall be entitled to a recordable satisfaction of lien to be recorded at his sole expense.

Section 13. Effect of Non-Payment of Assessments. Any Assessment or installment, or Limited Charge, not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or such amount as the Board of Directors may determine from time to time. The Board of Directors may assess fines, late charges of such amount as the Board of Directors may determine from time to time, and costs of collection (including attorneys' fees) in addition to the interest charged thereunder.

Section 14. Method of Enforcing Collection of Assessments. Any Assessment or Limited Charge charged against a Lot may be enforced by a lawsuit brought by the Board of Directors on behalf of the Association in an action at law or equity against the Owner personally obligated to pay the same, or by executing the lien described in Section 12 or by any means available at law or in equity. In addition, for non-payment of Assessments or Limited Charges, the Association shall have the right to revoke the rights of an Owner in the Association, including the right to vote and the right to use the Common Area; provided the Association shall provide written notice of this revocation and an opportunity for the defaulting Owner to be heard before the Board of Directors. The decision of the Board of Directors shall be final.

Section 15. Transfer of a Lot. Upon the transfer of a Lot, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments and Limited Charges which are charges against the Lot as of the date of transfer. This joint and several liability shall be without prejudice to the right of the grantee to recover from the grantor in the amount of any unpaid Assessments; provided, however, that any person who shall have entered into a written agreement to purchase a Lot shall be entitled to obtain a written statement from an officer or agent of the Association setting forth the amount of unpaid Assessments charged against the Lot, and if the statement does not reveal the full amount of the unpaid Assessments as of that date it is rendered, neither the purchaser nor the Lot after the transfer thereof shall be liable for the payment of the amount in excess of the unpaid Assessments shown on the statement.

Section 16. Mortgage Foreclosure. If a Lot is acquired as a result of foreclosure or deed in lieu of foreclosure of a first lien mortgage, the acquirer of title, its successors and assigns, shall not be liable for the share of Common Expenses or other charges by the Association pertaining to the Lot or chargeable to the former Owner which accrued prior to acquisition of title. The unpaid share of the charges shall be a Common Expense collectible from all Owners including the acquirer of the Lot by foreclosure.

Section 17. Declarant's Assessment Obligations. The Declarant shall not be liable for any charges or Assessments levied by the Association against Lots owned by the Declarant. However, the Declarant agrees to satisfy any budget deficit or shortage that the Association may incur until the date the Class B membership terminates. The Declarant may provide an "in-kind" contribution of services or materials to maintain the Common Area in lieu of payment of budget deficits. Notwithstanding the foregoing, the Declarant shall have the obligation to pay Assessments in accordance with the provisions of Section 7 above on any Lot owned by the Declarant upon which there is located a completed Dwelling Unit which is occupied as a residence.

Section 18. Owners' Negligence. Each Owner shall be obligated to reimburse the Association for any expenses incurred by the Association in repairing or replacing any part or parts of the Common Area damaged by such Owner's act, omission or negligence or by the act, omission or negligence of its tenants, agents or guests, promptly upon the receipt of the Association's statement therefore.

Section 19. Surplus Funds. Any Common Surplus of the Association remaining after payment of or provision for Common Expenses and any payment of reserves may be used by the Association as determined by the Board of Directors, used for future expenses, or, to the extent not used, may be credited to the Owners to reduce their future Assessments.

Section 20. Transfer of Lots. Any Owner may transfer all of his ownership in the Lot (which must include his membership in the Association) at any time to any other person, and it shall not be necessary to secure the prior consent of the Association, Board of Directors or any other Owner.

Section 21. Initial Working Fund. The Board of Directors shall levy an "initial" assessment at settlement against the Owner of a Lot (other than a Participating Builder) who is a Class "A" member at the time of conveyance. Such initial assessment shall be in the amount of two (2) months of the current Base Assessment, and shall be used for commencing the business of the Association or any other purpose established by the Board of Directors.

Exhibit E

Section 22. Mandatory Disclosure to Lot Purchaser. An Owner who sells his Lot shall provide his purchaser all documents required by Section 55-512 of the Property Owners Association Act of the Code of Virginia.

Section 23. Architectural Control.

(a) **Building Restrictions.** No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the nature, kind, shape, height, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural review committee appointed by the Board of Directors. Under no circumstances shall an Owner install a fence past the rear plane of the dwelling unit (i.e., front and side yard fencing is prohibited).

(b) **Duties of Review.** The Board of Directors shall regulate the external design, appearance and locations of the Property and improvements thereon in such a manner as to preserve and enhance values and to maintain harmonious relationship among structures and the natural vegetation and topography. In furtherance thereof, the Board of Directors shall:

(i) Review and approve, modify or disapprove, within forty-five (45) days, all written applications of Owners for improvements or additions to Lots or for modifications and changes to the improvements to the Lots. All applications not acted upon within forty-five (45) days shall be deemed approved; however no such automatic approval shall allow modifications to be made which would be contradictory to any guidelines established by the Board of Directors;

(ii) Periodically inspect the Property for compliance with architectural standards and approved plans for alteration;

(iii) Adopt procedures for the exercise of its duties;

(iv) Maintain complete and accurate records of all actions taken.

(v) Established guidelines for Owners.

(c) **Declarant Exempt.** Notwithstanding any provision of the Declaration to the contrary, the provisions of this Section 23 shall not be applicable to the Declarant, any

Participating Builder, or any part of the Property owned by the Declarant or any Participating Builder.

Section 24. Use Restrictions. The following restrictions shall apply to each Lot in the Community, which restrictions may not be amended or revoked without Declarant's consent until such time as Declarant conveys the last Lot in the Community owned by Declarant.

(a) Residential Purposes. The Lots shall be used primarily for residential purposes and any other use allowed by local zoning ordinances; provided, however, that Declarant, and any successor or assign holding title to a Lot for the purposes of home building, shall have the right to maintain construction or sales offices, signs, specialty fencing, specialty lighting and other displays, and to otherwise use any Lot in the Community, for so long as Declarant or its successor or assign holds title to the Lot.

(b) No Nuisances. No noxious or offensive activity shall be carried on a Lot(s), nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No trash, garbage, metal, scrap or other waste may be placed or stored upon a Lot, except in approved sanitary containers which may be placed outside only on scheduled collection days.

(c) Vehicles. No trailer, boat, camper, commercial vehicle, unlicensed vehicle or disabled vehicle may be parked on the Property (including any public streets within the Property) without written consent of the Board of Directors.

(d) No Livestock and Poultry; Restrictions on Domestic Animals. No livestock, including, without limitation, horses, poultry or reptiles of any kind shall be kept or bred in any Lot. Fairfax County requires that pets must be leashed while on the Property and all pet waste collected and disposed by the Owner.

(e) No Signs. No signs of any kind shall be displayed to the public view on any Lot or inside the dwelling except for one (1) real estate "For Sale" or "For Rent" sign not to exceed six (6) square feet in size and one (1) security system sign for each Lot, not to exceed two (2) square feet in size.

(f) Trees. Existing trees on Lots may not be removed by Lot Owners without permission of the Board of Directors unless they are dead, diseased or dying.

(g) Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved in Section 6. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may obstruct, redirect or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(h) No Television and Radio Towers or Antenna. No outside television antenna, radio antenna, satellite dish, direct broadcast satellite (DDS) dish, or similar structure shall be maintained on the Property unless approval for such antenna or dish and the proposed location of thereof has been first obtained from the Board of Directors. In order to comply with the applicable rules of the Federal Communications Commission (FCC) relating to the installation of an antenna or dish, the Board of Directors shall act promptly on any request for erection thereof and any restrictions which the Board of Directors places on the installation of such antenna or dish shall not (1) unreasonably delay or prevent its installation, maintenance or use, (2) unreasonably increase the cost of its installation, maintenance or use, or (3) preclude reception of an acceptable quality signal.

(i) Leases. No Owner shall lease to another his Lot or part thereof unless such lease shall be in writing for a term of not less than six (6) months and shall expressly provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, Bylaws, Articles of Incorporation and Rules and Regulations of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under such lease. No Lot may be subleased without the prior written consent of the Board of Directors. All leases will be provided to the Association, upon its request.

(j) Temporary Structures, Garages. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence either temporarily or permanently. Garages may not be converted to living space or for any other use other than for parking and storage of vehicles.

(k) Towing. The Board of Directors shall have the right to tow any junk vehicle or any other vehicle on which current registration plates are not displayed, which is within any Lot or on any part of the Common Area upon forty-eight (48) hours notice. The repair or extraordinary maintenance of automobiles or other vehicles shall not be carried out on the Common Areas or outside of a garage.

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(l) Trash, Clotheslines. All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, wood piles, storage areas and machinery and equipment shall be prohibited upon any Lot, unless obscured from view of adjoining Lots and streets on the rear of the Lot by a fence or appropriate screen approved by the Board of Directors. In no event shall a fence or screen to shield such storage be placed on a front or side yard of a Lot. Any equipment or units required for utilities which service a dwelling may be located in the side yard of a Lot, in which event any screen or fence shielding such equipment may be located on such side yard. Nothing herein shall be deemed to apply to the storage on the Property by Declarant or Participating Builder of building materials during, and for use in, the construction of the improvements on the Property.

Section 25. Compliance and Default.

(a) The Board of Directors shall have the power to adopt, amend and enforce compliance with any reasonable rules and regulations relative to the operation, use and occupancy of the Lots and the Common Area consistent with the provisions of this Declaration. Any rules and regulations adopted or amended by a resolution duly approved by the Board of Directors in accordance with the By-Laws shall be binding upon all Owners and occupants of Lots.

(b) Failure of an Owner to comply with any provision of this Declaration or the By-Laws or any rules and regulations adopted pursuant thereto shall entitle the Association or any aggrieved Owner to the remedies provided in this Declaration and in Section 55-513 of the Property Owners Association Act and also to the following relief, none of which shall be exclusive of any other remedies:

(i) Suits. Failure to comply with the terms of this Declaration, the By-Laws and any rules and regulations adopted pursuant thereto, as they may be amended from time to time, shall entitle the Association or any aggrieved Owner to sue for the recovery of damages or for injunctive relief, or both. The relief shall not be exclusive of other remedies provided by law.

(ii) Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of an Owner to comply with the terms of this Declaration, the By-Laws and any rules and regulations adopted pursuant thereto, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees; provided, however, that no costs or attorneys' fees may be recovered against the Board of Directors in any action unless the court shall first expressly find that the Board of Directors acted in bad faith.

(iii) No Waiver of Rights. The failure of the Declarant, or the Board of Directors, or any Owner to enforce any covenant, restriction or other provision of this Declaration, the By-Laws or any rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

Section 26. Complaint and Hearing Procedure; Actions by Owners. No Owner or occupant shall have the right to object, challenge or commence any suit at law or in equity or take any other actions under any act, power or authority now in force or hereafter to be enacted except after following procedures established by the Board of Directors by rule or regulation consistent with the provisions of the By-Laws.

Section 27. Amendments.

(a) Subject to the other provisions of this Declaration relative to amendment, this Declaration may be amended in the following manner:

(i) Before Any Conveyances: Prior to the transfer of any Lot by the Declarant to an ultimate Owner, the Declarant may amend this Declaration in any legal fashion which the Declarant may deem appropriate. After the first transfer of title, the terms of the following Subsection shall apply.

(ii) By Resolution: An amendment may be proposed by either the Board of Directors or by at least twenty percent (20%) of either class of Members. No proposed amendment shall be effective unless it has been adopted by the affirmative vote or written agreement of at least fifty-one percent (51%) of the Members. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered, and shall be served upon all Owners in the manner hereinafter provided for service of notices.

(b) Notwithstanding the foregoing, no amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers or options of the Declarant unless the Declarant shall join in the execution of the amendment. Notwithstanding anything to the contrary contained herein, as long as the Declarant owns any portion of the Property, the Declarant may amend this Declaration or the By-Laws in any manner which the Declarant believes either is necessary or desirable for the development, marketing, administration or operation of the Property and will not materially or adversely affect these Owners.

(c) A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by any of the officers of the Association with the formalities of a deed. The amendment of the Declaration shall be effective when the certificate and copy of the amendment was recorded.

(d) If any amendment of this Declaration or the By-Laws is necessary in the judgement of the Board of Directors to change, correct or supplement anything appearing or failing to appear therein which is incorrect, defective or inconsistent with anything in this Declaration or the By-Laws, or if any amendment is necessary to conform to the requirements of FNMA, FHLMC, HUD, or VA or other institutional purchaser, guarantors or insurers of first mortgage liens with respect to the Community or to the requirements of the municipality in which the Property is located, the Board of Directors may at any time and from time to time effect an appropriate corrective amendment without the approval of the Owners upon receipt by the Board of Directors of an opinion from independent counsel to the effect that the proposed amendment is permitted by the terms of this sentence.

Section 28. Annexation. Additional lots or property in the vicinity of the Property may be annexed to the Property by the Declarant without the consent of the Class A members of the Association, if any. Any annexations made pursuant to this Section, or otherwise, shall be made by recording a Supplementary Declaration among the land records of Fairfax County, which Supplementary Declaration shall extend the scheme of this Declaration to such annexed property, or by the recordation of a deed of dedication or deed of subdivision for such additional property or any portion thereof which shall by its terms subject such additional property to the operation of the provision of this Declaration. Such annexations need not be made by the Declarant; provided, however, that any such annexation accomplished by persons other than the Declarant shall have the consent of the Declarant. All lots described in the Supplemental Declaration, deed of dedication or subdivision shall be assessed a pro rata share of the annual assessments and any special assessments pursuant to the provisions of this Declaration.

Section 29. Common Driveways. Common or Pipestem Driveways, shown on the subdivision deeds and/or plats for the Property, shall be used exclusively for the purpose of ingress and egress to the Lots and for governmental and other emergency vehicle ingress and egress, and for construction and maintenance of utilities. "Affected Lots" shall mean and refer to the Lots served by the Common Driveways. Lots which are subject to the ingress and egress easements as shown on the plat, but which do not use the Common Driveways for access, are not Affected Lots, and are not subject to the maintenance provisions of paragraph

(b) below, unless the Owners of such Lots, or their agents, guests, tenants, or members of their families, make regular use of the Common Driveways.

(a) Restrictions are as follows:

(i) No act shall be performed by the Owner of any Affected Lot, his tenants, guests, agents or members of his family, which would in any manner affect or jeopardize the free and continuous use and enjoyment of any other Owner of an Affected Lot in and to the Common Driveways or an Affected Lot.

(ii) There shall be no parking within the Common Driveways at any time except for delivery and/or emergency vehicles, unless the Owners of all Affected Lots for a particular Common Driveway agree upon other parking limitations.

(b) Maintenance, Damage or Destruction. The Owners of all Affected Lots shall have an obligation for maintenance of the Common Driveway serving their Lot, as hereinafter provided, which obligation is a condition of their ownership of the Lot and which runs with the land. In the event that a Common Driveway needs maintenance, or is damaged or destroyed:

(i) through the act of any Owner of an Affected Lot or his agents, guests, tenants, or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to maintain, rebuild and repair the Common Driveway without cost to the Owners of other Affected Lots.

(ii) other than by the act of an Owner of an Affected Lot, his agents, guests, tenants, or members of his family (including, by way of example, deterioration from ordinary wear and tear and lapse of time), it shall be the obligation of the Association to maintain, rebuild and repair the Common Driveway.

(iii) The right of the Owner of any Affected Lot to contribution from the Owner of any other Affected Lot for the maintenance, rebuilding or repair of the Common Driveways, pursuant to paragraph (b) (i) above, shall run with and be appurtenant to the land, and shall pass to such Owners' successors in title.

Section 30. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, for a term not to exceed twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty (20) years unless terminated, at least six (6) months before the

commencement of any extension, by a vote of not less than seventy-five percent (75%) of the Members, evidence of which shall be recorded.

Section 31. Termination By Unanimous Agreement. This Declaration may be terminated at any time by the unanimous agreement, in writing, in the form of a Deed of Revocation, executed by all of the Owners and all holders of mortgages or judgement or other liens affecting the Lots. This deed of revocation shall become effective upon being recorded.

Section 32. Notice. All notices required to be served upon Owners pursuant to this Declaration or the By-Laws shall be sufficient if delivered to the Lot or mailed to the Owner at the Lot mailing address by regular mail and if delivered or mailed to the Declarant at the business office of the Declarant. The effective date of a notice shall be the date of delivery to the Lot or the Declarant's business office in the case of actual delivery and a date of five (5) days after deposit in the mail in the case of notice sent by mail.

Section 33. Severability. If any provisions of this Declaration are determined to be invalid, that determination shall not affect the validity or effect of the remaining provisions hereof, the By-Laws or any rules and regulations, all of which shall continue in effect as if the invalid provisions had not been included herein.

Section 34. Headings. The headings herein are for reference purposes only and shall not affect the meaning or interpretation of this Declaration.

Section 35. Effective Date. This Declaration shall become effective when it has been duly entered of record.

Section 36. Binding. This Declaration shall inure to the benefit of and shall be binding on the Declarant's successors or assigns.

Section 37. Party Walls. The rights and duties of the Owners of Lots with respect to party walls shall be governed by the following:

(a) General Rules of Law to Apply. Each wall which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party wall, and with respect to such wall, each of the adjoining Owners shall assume the burdens and be subject to an easement for that portion of a party wall on his Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding

party walls and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

(b) Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his tenants, invitees, agents, or members of his family (including ordinary wear and tear and deterioration from lapse of time) then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, in proportion to their respective use of the party wall.

(c) Repairs Necessitated by Act of One Owner. If any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

(d) Other Changes. In addition to meeting the other requirements of these restrictive covenants, and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his residence in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

(e) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section 37 shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties. In the event the affected owners are subject to a Subassociation, the Board of Directors may delegate its duties with respect to this Article to such Subassociation.

(g) The terms and obligations of this Section 37 shall also apply to party fences, i.e. fences located along the boundary of two (2) Lots.

Section 38. Additional Covenants.

(a) Compliance Fairfax County Zoning Ordinance. These covenants, conditions, restrictions and easements shall be subject to the regulations set forth in Section 2-702 of the Fairfax County Zoning Ordinance entitled "Common Open Space and Common Improvement Regulation" as said regulation may be amended from time to time.

(b) Site Plan Compliance. Except for such temporary construction facilities of Declarant, no building shall be permitted on the Common Area of the Property except those which were approved by Fairfax County, Virginia, in its final site plan concerning this Property or are subsequently approved as revisions to the final site plan.

(c) Dissolution of Association and Disposal of Common Area. The Owners of Lots shall not dissolve or disband the Association, nor shall the Association dispose of any Common Area by sale, or otherwise, to any entity other than a non-profit organization conceived and organized to own and maintain the Common Area, without first offering to dedicate the same to the jurisdiction in which the Property is located, or such other appropriate governmental agency. The Association may dissolve itself according to the provisions of the Articles of Incorporation.

(d) Rezoning and Proffer Amendments. The Declarant reserves the right to seek to rezone or amend the zoning or proffers applicable to any portion of the Property, without the approval of any Owner except the Owner of the land described in the application. To the extent the approval and/or consent of any other Owner is required under State or local law to obtain any such rezoning or proffer condition amendment or any such submission, the Declarant may execute the application or consent or such other document on behalf of, and as the authorized agent, of such Owner; in the alternative, each Owner, by his acceptance of the deed for his Lot, agrees to sign all such documentation required for such action described herein. Any such joinder shall be without liability or cost to such Owner unless such liability or cost is expressed accepted by such Owner.

IN WITNESS WHEREOF, the Declarant has set its hand and seal the day and year first written above.

FAIR LAKES CHASE, LP, a Virginia limited partnership

By: TOLL VA GP CORP.,
Its general partner

By: James Smith
Name: JAMES SMITH
Title: Vice President

STATE/Commonwealth of Virginia:
COUNTY OF Fairfax:

On this, 3rd day of June, 1999 before me a notary public, personally appeared James Smith who acknowledged himself to be the Vice President of Toll Va. GP Corp., on behalf of Fair Lakes Chase, LP, and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

My commission expires: 9-30-2001

Julia D. Baker
Notary Public

EXHIBIT A**To Declaration of Covenants for Fair Oaks Chase Homeowners Association**

Lots 1 through 95, inclusive, and Parcels A, B, C, D, E and F, Fair Oaks Chase, as duly dedicated, platted and recorded immediately prior hereto in the Deed of Subdivision for Fair Oaks Chase.

toll/8895/exh.a

JAN -4 00
RECORDED FAIRFAX CO VA
TESTE: *John J. Fry*
CLERK

000353

00 JUN -4 AM 11:37

DEED OF SUBDIVISION, DEDICATION, EASEMENT,
CONVEYANCE AND DECLARATION OF COVENANTS

THIS Deed of Subdivision, Dedication, Easement, Conveyance and Declaration of Covenants made this 3rd day of June, 1999, by and among **FAIR LAKES CHASE L.P.**, a Virginia limited partnership, Grantor (also called "Owner"); **THE [BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA]**, a body corporate and politic, Grantee (also called "County"); **FAIRFAX COUNTY WATER AUTHORITY**, a body corporate, Grantee (also called "Authority"); and **FAIR OAKS CHASE HOMEOWNERS ASSOCIATION, INC.**, a Virginia non-stock corporation, Grantee (also called "Association").

****WITNESSETH****

WHEREAS, the Owner is the owner of certain real property located in Fairfax County, Virginia, as shown on the plat attached hereto (the "Property"), having acquired the Property by virtue of deeds recorded in Deed Book 10709 at pages 98, 100, and 104, in Deed Book 10751 at pages 861, 864, 867, 1331, 1402, 1405, 1408, and 1998, in Deed Book 10752 at pages 1, 4, 7, 10, 13, 15, 18, 21, and 24, and in Deed Book 10753 at page 990, among the land records of Fairfax County, Virginia (the "Land Records"); and

WHEREAS, it is the desire of the Owner to subdivide the hereinafter described Property; to dedicate certain portions of the Property as public streets; to grant certain private easements; to grant certain easements unto the County and Authority; and to convey certain property to the Association, all as shown on a plat attached hereto and made a part hereof

DEPT. OF PUBLIC WORKS & ENGINEERING										FACILITY SERVICES									
OFFICE OF SITE DEVELOPMENT										RECORDS									
9	8	2	8	-	R	P	-	9	1	-	M	-	0	2					
DOCUMENT CONTROL NUMBER																			

TM# 46-1-(11)36-57
(9828-RP-01-2)

Prepared by / Return to: Walsh, Colucci
Box 67

entitled "Record Plat FAIR OAKS CHASE" made by Paciulli, Simmons & Associates, Ltd. and dated 8/18/99 (the "Plat").

WHEREAS, it is the desire of the Owner to subject the Property (or a portion thereof) to a certain Declaration of Covenants, Conditions and Restrictions (defined hereinafter as the "Declaration") as more particularly described herein; and

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), receipt and sufficiency of which are hereby acknowledged, the Owner, being the sole owner and proprietor and the only party having any interest in the above-described Property, does hereby subdivide the Property into Lots 1 through 95, inclusive, and Parcels A, B, C, D, E and F, FAIR OAKS CHASE, as more particularly described on the Plat attached hereto and made a part hereof.

THIS DEED FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00), receipt and sufficiency of which are hereby acknowledged, the Owner does hereby dedicate for public street purposes and convey unto the County, in fee simple, that portion of the Property consisting of 21,820.02 square meters, as more particularly shown on the Plat attached hereto and made a part hereof. The Owner reserves for itself and its successors and assigns in interest to the Property density credit for the area dedicated for public street purposes per Article 2-308(4)(A)(2) of the Fairfax County Zoning Ordinance.

[COUNTY INGRESS EGRESS]

FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey unto the County, its successor and assigns, Ingress Egress Easements for the purpose of ingress and egress by County Emergency, Maintenance and Police Vehicles over and across Parcels A, B, C, D, E and F and the areas more particularly bounded and described on the Plat as "INGRESS-EGRESS EASEMENT". The easements are subject to the following terms and conditions:

1. All streets, service drives, trails, sidewalks, driveways and all appurtenant facilities installed in the easements and rights-of-way shall be and remain the property of the Owner, its successor and assigns, who shall properly maintain the property and said facilities.

2. The County and its agents shall have full and free use of the said easements and rights-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the easements and rights-of-way including the right, but not the obligation to perform (if the Owner fails to do so) such repairs and maintenance as the County may deem necessary. The cost of such repairs and maintenance shall be reimbursed to the County by the Owner, its successors and assigns, upon demand.

[SIGHT DISTANCE EASEMENT]

FURTHER WITNESSETH, that in consideration of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby grants to the County, its successors and assigns, Sight Distance easements upon the property of the Owner, said property and easements being more particularly bounded and described on the

Plat attached hereto and incorporated herein. The easements are subject to the following terms and conditions:

1. The Owner, its successors and assigns, shall not place any structure, plant or object within the easement more than two feet in height.
2. The Owner, its successors and assigns, agrees to cut and trim all plants in order to maintain the height limit. The County shall have the right (but not the obligation) to enter the property in order to maintain the height limit if the Owner fails to do so at any time. The cost of such work shall be reimbursed to the County by the Owner, its successors and assigns, upon demand.
3. The Owner reserves the right to make any use of the property that will not be inconsistent with the easements.

[SIDEWALK]

FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby grants unto the County, its successors and assigns, a Sidewalk Easement for the purpose of constructing, operating and maintaining public sidewalks through and across the property of the Owner, said property and easement being more particularly bounded and described on the plat attached hereto and made a part hereof. The easement is subject to the following terms and conditions:

1. All facilities installed in the easement and right-of-way shall be and remain the property of the County, its successors and assigns.
2. The County and its agents shall have full and free use of the said easement and right-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easement and right-of-way including the right of reasonable access to and from the right-of-way and right to use adjoining land of the

Owner where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance, and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.

3. The County shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or near the easement being conveyed, deemed by it to interfere with the proper and efficient construction, operation, maintenance or enjoyment of the sidewalks; provided, however, that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery, and the reseeding or resodding of lawns or pasture areas, but not the replacement of structures, trees or other obstructions.

4. Owner reserves the right to construct and maintain roadways over said easement and to make any use of the easement herein granted which may not be inconsistent with the rights herein conveyed, or interfere with the use of the easement by the County for the purpose named; provided, however, that Owner shall not erect any building or other structure, except a fence running parallel to the easement, without obtaining prior written approval of the County.

[STORM DRAINAGE]

FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars(\$10.00), cash in hand paid, receipt and sufficiency of which are hereby acknowledged, the Owner does grant and convey unto the County, its successors and assigns, Storm Drainage Easements for the purpose of constructing, operating, maintaining, adding to or altering present or future storm drainage facilities, sewers and appurtenances for the collection of storm drainage and its transmission through and across the property of the Owner, said property and easements being more particularly bounded and described on the Plat attached hereto and made a part hereof. The easements are subject to the following terms and conditions:

1. All storm drainage and appurtenant facilities which are installed in the easements and rights-of-way shall be and remain the property of the County, its successors and assigns.

2. The County and its agents shall have full and free use of the said easements and rights-of-way for the purposes named and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easements and rights-of-way including the right of reasonable access to and from the rights-of-way and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance; and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.

3. The County shall have the right to trim, cut and remove trees, shrubbery, fences or other obstructions or facilities in or near the easements being conveyed deemed by it to interfere with the proper construction, operation and maintenance of said drainage facilities; provided, however that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery, the resodding and the reseedling of lawns and pasture areas, but not the replacement of structures, trees or other obstructions.

4. The Owner reserves the right to make any use of the easements herein granted which may not be inconsistent with the right herein conveyed or interfere with the use of said easements by the County for the purposes named; provided, however, that no use shall be made of the easements which shall interfere with the natural drainage.

[MAINTENANCE ACCESS EASEMENT]

FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey unto the County, its successors and assigns, a Maintenance Access Easement for the purpose of ingress and egress by County Maintenance, Emergency and Police Vehicles through and across the Property, said property and easement

being more particularly bounded and described on the Plat attached hereto and made a part hereof. The easement is subject to the following terms and conditions:

1. All facilities which are installed in the easement and right-of-way shall be and remain the property of the County, its successors and assigns.

2. The County and its agents shall have full and free use of the said easement and right-of-way for the purposes named and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easement and right-of-way including the right of reasonable access to and from the rights-of-way and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance; and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.

3. The County shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or near the easement being conveyed deemed by it to interfere with the proper and efficient construction, operation, and maintenance of said facilities; provided, however that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery, and the resodding or reseedling of lawns or pasture areas, but not the replacement of structures, trees or other obstructions.

4. The Owner reserves the right to make any use of the easement herein granted which may not be inconsistent with the rights herein conveyed or interfere with the use of said easement by the County for the purposes named; provided, however, that the Owner shall not erect any building or other structure, excepting a fence running parallel to the easement, on the easement, without obtaining the prior written approval of the County.

[SANITARY SEWER EASEMENT]

THIS DEED FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey unto the County, its successors and assigns, sanitary sewer easements for the purposes of constructing, operating, maintaining,

adding or altering present or future sanitary sewer lines, plus necessary inlet structures, manholes and appurtenant facilities for the collection of sanitary sewage and its transmission through and across the property of the Owner, said Property and easements being more particularly bounded and described on the Plat attached hereto and incorporated herein.

These sanitary sewer easements are subject to the following terms and conditions:

1. All sewers, manholes, inlet structures and appurtenant facilities which are installed in the easements and rights-of-way shall be and remain the property of the County, its successors and assigns.
2. The County and its agents shall have full and free use of the easements and rights-of-way for the purposes named and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easements and rights-of-way including the right of reasonable access to and from the right-of-way and the right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance, and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.
3. The County shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or near the easements being conveyed, deemed by it to interfere with the proper and efficient construction, operation and maintenance of said sewers; provided, however, that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery and the reseeding or resodding of lawns or pasture areas, but not the replacement of structures, trees or other obstructions.
4. The Owner reserves the right to construct and maintain roadways over the easements and to make any use of the easements which may not be inconsistent with the rights herein conveyed, or interfere with the use of the easements by the County for the purposes named; provided, however, that the Owner shall not erect any building or structure, except a fence, on the easements without the prior written approval of the County.

[GRADING AND TEMPORARY CONSTRUCTION EASEMENT]

FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, receipt and sufficiency of which are hereby acknowledged, the Owner does grant and convey unto the County, its successors and assigns, Grading and Temporary Construction Easements for the purposes of establishing a new permanent grade or topography and performing construction work and activities on, through and across Parcels E and F, said property and easements being more particularly bounded and described on the Plat attached hereto and incorporated herein. The easements are subject to the following terms and conditions:

1. The County and its agents shall have full and free use of the said easements and rights-of-way for the purposes named, and shall have all rights and privileges reasonably necessary to the enjoyment and exercise of the easements and rights-of-way including the right of reasonable access to-and from the rights-of-way and right to use adjoining land where necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual surveying, construction, reconstruction or maintenance, and further, this right shall not be construed to allow the County to erect any building or structure of a permanent nature on such adjoining land.
2. The County and its agents shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other obstructions or facilities in or near the easements being conveyed, deemed by it to interfere with the proper and efficient construction, grading, or maintenance of the property; provided, however, that the County at its own expense shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches, the replacement of shrubbery and the reseeding or resodding of lawns or pasture areas, but not the restoration of the original grade or topography or the replacement of structures, trees or other obstructions.
3. Owner reserves the right to make any use of the easements herein granted which may not be inconsistent with the rights herein conveyed, or interfere with the use of the easements by the County for the purposes named, provided, however, that Owner shall not erect any building or other structure, including a fence, on the easements, without obtaining the prior written approval of the County.

11203 1040

4. The temporary construction easements shall terminate at such time as construction along West Ox Road is completed by V.D.O.T.

[RESTRICTIVE PLANTING EASEMENT] [DAM]

FURTHER WITNESSETH, that for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey unto the County, its successors and assigns, a restrictive planting easement for the purposes of promoting the stability of the dam and/or regulating plant growth within the easement area of the dam as further described as "RESTRICTIVE PLANTING EASEMENT (SEE NOTE 7)" on the Plat attached hereto and made a part hereof. The easement is subject to the following terms and conditions:

1. The Owner, its successors and assigns, shall not place any structure, bulb, plant, tree or other object within the easement, except for grasses, without the written permission of the County.

2. The Owner, its successors and assigns, agrees to maintain the easement area by mowing, cutting and/or trimming all permitted plantings. The County shall have the right, but not the obligation, to enter the property in order to perform such maintenance if, in the County's sole judgment, the Owner fails to perform such maintenance. The costs of such maintenance shall be reimbursed to the County by the Owner, its successors and assigns, upon demand.

3. No clearing or grading shall be permitted, and the easement area shall not be denuded, defaced or otherwise disturbed in any manner, without the prior written approval of the appropriate agency or department of the County. The Owner otherwise reserves the right to make any use of the easement area that will not be inconsistent with the terms and conditions of this easement.

1200 1340

[WATER AUTHORITY]

THIS DEED FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does grant and convey unto the Authority, its successors and assigns, easements and rights-of-way for the purposes of installing, constructing, operating, maintaining, adding to or altering and replacing one or more present or future water mains, including fire hydrants, valves, meters, building service connections and other appurtenant facilities, for the transmission and distribution of water through, upon and across the Property of the Owner, said property and easements being more particularly bounded and described on the Plat attached hereto and made a part hereto, subject to the following conditions:

1. All water mains and appurtenant facilities which are installed in the easements and rights-of-way shall be and remain the property of the Authority, its successors and assigns.

2. The Authority and its agents shall have full and free use of the easements and rights-of-way for the purposes named and shall have all rights and privileges reasonably necessary to the exercise of the easements and rights-of-way and the right to use abutting land adjoining the easements when necessary; provided, however that this right to use abutting land shall be exercised only during periods of actual construction or maintenance, and then only to the minimum extent necessary for such construction and maintenance; and, further, this right shall not be construed to allow the Authority to erect any building or structure of a permanent nature on such abutting land.

3. The Authority shall have the right to trim, cut and remove trees, shrubbery, fences, structures or other facilities in or on property abutting the easements being conveyed, deemed by it to interfere with the proper and efficient construction, operation and maintenance of said water mains and appurtenant facilities; provided, however, that the Authority at its own expense shall restore, as nearly as possible, to their original condition all land or premises included within or abutting said easements which is disturbed in any

manner by the construction, operation and maintenance of said water mains and appurtenant facilities. Such restoration shall include the backfilling of trenches, repaving, the replacement of fences, the reseeding or resodding of lawns or pasture areas, the replacement of shrubbery, and the replacement of structures and other facilities located without the easement, but shall not include the replacement of trees or the replacement of structures or other facilities located within the easement.

4. The Owner reserves the right to construct and maintain roadways over said easements and to make any use of the easements herein conveyed which may not be inconsistent with the rights herein granted, or interfere with the use of said easements by the Authority for the purposes named; provided, however, that the Owner shall not erect any building or other structure, excepting a fence, or change existing ground elevation, or impound any water on the easements without obtaining the prior written approval of the Authority.

5. At such time as any portion of the land within the above-described easement is accepted by the Commonwealth of Virginia or any appropriate agency thereof for maintenance into the state highway system, all easement rights acquired by the Authority by this instrument in such portion of land shall cease and terminate, provided that the Commonwealth of Virginia or any appropriate agency thereof concurrently grants to the Authority all necessary permits for the continued operation, maintenance, inspection, repair and replacement of its water mains and appurtenant facilities in said location.

6. Owner covenants that they are seized of and have the right to convey the said easement, rights and privileges, that the Authority shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges, and that Owner shall execute such further assurances thereof as may be required.

[INGRESS-EGRESS/COMMON DRIVEWAYS]

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of Ten Dollars (\$10.00), cash in hand paid, receipt and sufficiency of which are hereby acknowledged, the Owner does hereby create and establish easements for ingress and egress over and across the Property, in the locations as shown on the Plat, for the construction and maintenance of common driveways and for the construction and maintenance of utilities, all

for the use and benefit of the owners of Lots 19-22, 61-64 and 83-85, and their successors and assigns, of the lots served thereby, subject to the following conditions:

1. "Common Driveway" shall mean and refer to the area within the ingress and egress easements as shown on the Plat. "Affected Lots" shall mean and refer to the lots served by the Common Driveways. Lots which are subject to the ingress and egress easements as shown on the Plat, but which do not use the Common Driveways for access, are not Affected Lots, and are not subject to the maintenance provisions of paragraph 5 hereof, unless the owners of such lots, or their agents, guests, tenants, or members of their families, make regular use of the Common Driveways.

2. The Common Driveways shall be used for the purpose of ingress and egress to the Affected Lots, for governmental and other emergency vehicle ingress and egress, and for construction and maintenance of utilities.

3. No act shall be performed by the owner of any Affected Lot, his tenants, guests, agents, or members of his family, which would in any manner affect or jeopardize the free and continuous use and enjoyment of any other owner of an Affected Lot in and to the Common Driveways or an Affected Lot.

4. There shall be no parking within the Common Driveways at any time except for delivery and/or emergency vehicles, unless the owners of all Affected Lots for a particular Common Driveway agree upon other parking limitations.

5. The owners of all Affected Lots shall have an obligation for maintenance of the Common Driveway serving their Lot, as hereinafter provided, which obligation is a condition of their ownership of the lot and which runs with the land. In the event that a Common Driveway needs maintenance, or is damaged or destroyed:

(a) through the act of any owner of an Affected Lot or his agents, guests, tenants, or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such owner to maintain, rebuild and repair the Common Driveway without cost to the owners of other Affected Lots.

(b) other than by the act of an owner of an Affected Lot, his agents, guests, tenants, or members of his family, (including, by way of example, deterioration from ordinary wear and tear and lapse of time) it shall be the obligation of the Association to maintain, rebuild and repair the Common Driveway.

6. The right of the owner of any Affected Lot to contribution from the owner of any other Affected Lot for the maintenance, rebuilding or repair of the Common Driveways, pursuant to paragraph 5 hereof, shall run with and be appurtenant to the land, and shall pass to such owners' successors in title.

[SANITARY SEWER LATERAL EASEMENT]

FURTHER WITNESSETH, that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby dedicate and create sanitary sewer lateral easements in the locations set forth on the Plat, for the benefit of all lots serviced by the laterals. The owners of Lots 19-22, 51, 61-64 and 83-95, which benefit from the easements (the "Lot Owners") shall have the right of entry upon the easement area to construct, maintain and repair the laterals, and all the rights reasonably necessary for the exercise of these easement rights, including the right of reasonable access to the easement area and the right to use adjoining land where necessary (which right shall be exercised only during periods of actual construction or maintenance). The Lot Owners shall restore, as nearly as possible, the premises to their original condition, such restoration to include the backfilling of trenches and the reseedling or resodding of lawns, but not the replacement of structures, shrubbery, trees, fences or other obstructions.

[SIGN EASEMENT]

FURTHER WITNESSETH, that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey

unto the Association sign easements, in the location on the Property set forth on the Plat, subject to the following conditions:

1. All improvements in the easement areas shall be and remain the property of the Association.

2. The Association shall have full and free use of the said easements for the purposes of placing signs and monumentation thereon for the Association and the subdivision development, and for maintaining, replacing and repairing the same. The Association shall have all rights and privileges necessary to the exercise of the easements, including the right of access to and from the easement areas, and the right to use adjoining land where necessary.

3. The owner of the Property may not erect any building or structure or landscaping or any improvement on the easement areas.

[RESERVATION OF UTILITY EASEMENT]

FURTHER WITNESSETH, that in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby reserve unto itself, its successors and assigns, the right to grant Utility Easements for cable, electric, telephone or other utility purposes, to the appropriate grantees, over and across Parcels A, B, C, D, E and F, FAIR OAKS CHASE, said property and future easement area being more particularly bounded and described on the Plat attached hereto and made a part hereof.

[PRIVATE INGRESS-EGRESS]

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of Ten Dollars (\$10.00), cash in hand paid, receipt and sufficiency of which are hereby

acknowledged, the Owner does hereby create and establish an easement for ingress and egress over Parcel C, in the location as shown on the Plat, for the non-exclusive use and benefit of Owner of Lot 51, and their successors and assigns of their lot served thereby, which lot is designated as Fairfax County Tax Map #46-1-((1))-51 ("Lot 51"). The easement is granted subject to the following conditions:

1. The owner of the Lot 51 shall have full and free use of the said easement and right-of-way for vehicular ingress and egress, and shall have all rights and privileges reasonably necessary to the exercise of the easement and right of way, and further shall have the obligation of all repairs and maintenance to the improvements in the easement area.

2. The easement area shall be used for the purpose of ingress and egress, for governmental and other emergency vehicle ingress and egress, and for construction and maintenance of utilities.

3. The Owner of Parcel C reserves the right to make any use of the easement area which is not inconsistent with the rights granted herein.

[DECLARATION OF COVENANTS]

THIS DEED FURTHER WITNESSETH, that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby subjects property consisting of Lots 1-95, inclusive, and Parcels A, B, C, D, E & F, FAIR OAKS CHASE, to the Declaration of Covenants, Conditions, and Restrictions recorded immediately subsequent hereto (the "Declaration").

[CONVEYANCE OF PARCELS]

THIS DEED FURTHER WITNESSETH, that for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner does hereby grant and convey with special warranty of title, unto the Association, the following property: **Parcels A, B, C, D, E, and F, FAIR OAKS CHASE**, as dedicated and platted herein. This conveyance is made subject to the easements, rights of way, restrictions and conditions contained in the deeds forming the chain of title to this property. **Parcels A, B, C, D, E, and F, FAIR OAKS CHASE**, shall not be denuded, defaced or disturbed in any manner at any time without the approval of the appropriate County Department.

[COVENANTS REAL]

The Owner declares that the agreements and covenants stated in this Deed are not covenants personal to the Owner but are covenants real, running with the land.

[FREE CONSENT]

This Deed of Subdivision, Dedication, Easement, Conveyance and Declaration of Covenants is made with the free consent and in accordance with the desire of the undersigned owner(s), proprietor(s) and trustee(s), if any, of the above-described property, and is in accordance with the Statutes of Virginia and the ordinances in force in Fairfax

County governing the platting and subdivision of land, and is approved by the proper authorities as is evidenced by their endorsements on said Plat attached hereto.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES.]

WITNESS the following signatures and seals:

FAIR LAKES CHASE L.P.

By: Toll VA GP Corp., Its General Partner

By: James Smith
Name: JAMES SMITH
Title: Vice President

STATE OF Virginia :
COUNTY OF Fairfax : to-wit


The foregoing instrument was acknowledged before me this 3rd day of June,
1999, by James Smith, Vice President of
Toll VA GP Corp., general partner of FAIR LAKES CHASE L.P.

Julia D. Baker
Notary Public

My Commission Expires: 9-30-2001

Accepted on behalf of The Board of Supervisors of Fairfax County, Virginia, by authority granted by the said Board.

APPROVED AS TO FORM:


County Attorney


Director, Office of Site Development Services

COMMONWEALTH OF VIRGINIA :
COUNTY OF Virginia : to-wit

The foregoing instrument was acknowledged before me this 24th day of December, 1999, by Jeffrey Blackford, Director, Office of Site Development Services, on behalf of the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA.**

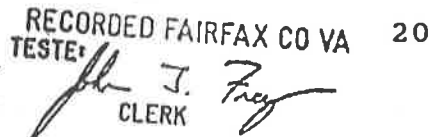

Notary Public

My Commission Expires: 06/30/00

J:\TOLL\8896\DEEDSUB
2/5/99,2/8/99,4/9/99,4/13/99,5/20/99

with plat attached

JAN -4 00

RECORDED FAIRFAX CO VA 20
TESTE: 
CLERK