

DECLARATION OF COVENANTS,
COVENANTS AND RESTRICTIONS

WHEREAS, Metro Joint Venture, a Maryland general partnership, is the owner of a certain tract of land located in Montgomery County, Maryland, hereinafter described; and said tract of land has been subdivided into lots, and said subdivision has created certain parcels to be used for the common benefit of said lots, which said subdivision is called Plats 22 through 27, Derwood Station.

AND WHEREAS, Metro Joint Venture, is desirous of establishing certain covenants on said land to apply to said parcels and said lots and to the owners thereof;

AND WHEREAS, Derwood Station Homeowners Association No. 2, Inc., a Maryland nonprofit association, has been incorporated pursuant to the statutes of Maryland relating to such corporations, said corporation being the Derwood Station Homeowners Association No. 2, hereinafter referred to;

NOW THEREFORE, the said Metro Joint Venture (hereinafter referred to as Declarant) does declare the hereinafter set forth covenants, conditions and restrictions on that certain tract of land located in Montgomery County, Maryland, hereinafter described, and being a part of the same land conveyed to Metro Joint Venture, by deed recorded among the Land Records of said County in Liber 5410 at Folio 585, said tract to which this Declaration applies being more particularly described as follows.

MISC.

79.00

PARCEL 1

Lots 2 thru 6, Block F, Lots 1 thru 13, Block G, Lots 2 thru 17, Block H, Lot 30, Block K, Lots 1 and 2 and 12 and 13, Block P, as shown on Plat 22, Derwood Station, recorded among the Land Records of Montgomery County, Maryland, in Plat Book 114 as Plat 13562; Lots 1 and 7 and 8, Block F, Lot 1, Block H,

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CLERK'S OFFICE
MONTGOMERY COUNTY, MD

A.

Lots 1 thru 8 and 21 thru 26, Block J, Lots 1 thru 3, 15 thru 26 and 31 thru 33, Block K, Lots 1 thru 3, Block L, as shown on Plat 23, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13563; Lots 9 thru 20 and 27 thru 33, Block J, Lots 9 thru 14, Block K, Lots 4 thru 6, Block L, as shown on Plat 24, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13564; Lots 34 and 35, Block J, Lots 27 thru 29, Block K, Lots 7 thru 12, Block L, Lots 3 thru 11 and 14 thru 22, Block P, as shown on Plat 25, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13565; Lots 1 thru 9 and 47 thru 61, Block M and Lots 1 thru 21, Block N, as shown on Plat 26, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13566; Lots 10 thru 40, Block M, as shown on Plat 27, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13567.

PARCEL 2

Parcels A and B, Block H, as shown on Plat 22, Derwood Station, recorded among the Land Records of Montgomery County, Maryland, in Plat Book 114 as Plat 13562; Parcels A and D, Block J, as shown on Plat 23, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13563; Parcel E and Parcels F and C, Block J, as shown on Plat 24, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13564 (said Parcels C and F to be conveyed to the Maryland - National Capital Park and Planning Commission); Parcel G, Block J, and Parcels A and B, Block P, as shown on Plat 25, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13565; Parcel C and D, Block M, as shown on Plat 26, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13566; Parcels A and B,

Block M, as shown on Plat 27, Derwood Station, recorded among said Land Records in Plat Book 114 as Plat 13567.

The hereinabove described property shall be subject to the following covenants, conditions and restrictions, which shall run with the land. All of the above described properties shall be held, sold and conveyed subject to said covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of the real property and shall be binding upon all Parties having any right, title or interest in the said properties or any part thereof, and upon their heirs, distributees, executors, administrators, successors and assigns, and shall inure to the benefit of each owner of any interest in said properties.

Said Parcel 2 described above shall be used solely for the common benefit of the lots described in Parcel 1 above and for the owners thereof for the purpose of common recreational area, walkways, roadways, public utility rights of way, storm drainage, off-street parking, green space, water detention control facilities, erosion control facilities, landscaping and such other purposes and uses not inconsistent herewith as shall be determined by Derwood Station Homeowners Association No. 2, and all being in accordance with and subject to the provisions of this Declaration, except that Parcels C and F shown on Plat 24, Derwood Station are to be conveyed to the Maryland National Park and Planning Commission. In no case shall said Parcel 2 be used in a manner inconsistent with the provisions of the Zoning Ordinance or subdivision regulations applicable thereto. Said Parcel 2 will be conveyed to Derwood Station Homeowners Association No. 2, to be held by it for such purposes and uses, and in accordance with this Declaration, except for said conveyance of

Parcels C and F, Plat 24, Derwood Station and any of its successors or assigns falling within the definition of "Declarant" in Article I, Section 6 hereof, reserves the right to go upon Parcel 2 for the purpose of constructing or placing thereon such structures and other improvements and doing such work as in the opinion of Declarant is necessary or desirable to effectuate the use of said Parcel 2 for the aforesaid purposes, and said reservation of entry shall continue until Metro Joint Venture notifies Derwood Station Homeowners Association No. 2 that said work has been completed.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Derwood Station Homeowners Association No. 2, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is included in said Parcel 1, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to those certain real properties described in said Parcels 1 and 2 and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and to which this Declaration may be extended.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. Said Parcel 2 is the Common Area to be owned by the Association at the time of the conveyance of the first Lot to a

Class A member, except for said Parcels C and F, Plat 24 Derwood Station which are to be conveyed to the Maryland National Capital Park and Planning Commission.

Section 5. "Lot" shall mean and refer to any resident lot included in any recorded subdivision plat of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Metro Joint Venture, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1: Owners' Rights of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association, in accordance with its Articles and Bylaws, to adopt, publish and enforce rules and regulations governing the conduct of persons while upon and the use of the Common Area;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) 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 remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations; and

- (d) The right of the Association to dedicate, sell 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, sale or transfer of the Common Area shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication, sale or transfer has been recorded (except for the said conveyance fo said Parcels C and F, Plat 24 Derwood Station, asto which said requirement shall not apply, nor unless prior written approval of The Maryland-National Capital Park and Planning Commisison (or any agency that may be successor thereto) or, if there is a dissolution of said agency, any other appropriate agency of Montgomery County, Maryland, has been obtained.

Section 2: Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot that is subject to assessment hereunder shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such multiple owners of a Lot shall themselves determine. In no event shall more than one vote be cast with respect to any Lot and, in the event that multiple owners of any Lot have not designated in writing to the Association which one of them shall be entitled to cast the vote, the person who is first named on the deed unto them of such Lot shall be deemed to have the right to cast the vote. Members entitled to vote may by written proxy filed with the Association designate any other person to cast their vote.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes

for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total of the votes outstanding in the Class A membership equals the total of the votes in the Class B membership or
- (b) on December 31, 1987.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by Declarant within the properties, hereby covenants, and each owner of any Lot 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 and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees incurred for the collection, shall be the personal obligation of the owner of such property at the time when the assessment fell due and, in the case of multiple owners, shall be the joint and several obligation of such multiple owners. The personal obligation for delinquent assessments shall not pass to the successors in title of the owner or owners unless expressly assumed by such successors in title. The annual and special assessment, together with interest, cost and said reasonable

attorney's fees, shall be a charge on the land and improvements and shall be a continuing lien upon the property against which such assessment is made, provided, however, that such lien shall not come into being against any lot until notice of the lien has been recorded among the Land Records of Montgomery County, Maryland, by the Association. Said lien may be foreclosed by the Association in the same manner as mortgages or deeds of trust containing a power of sale or assent to a decree. It shall be the duty of the Association to cause to be executed a release of such lien as to which notice has been filed among the Land Records as aforesaid upon demand of any owner when the assessment creating a lien, together with interest, cost, and the reasonable attorney's fees relating thereto, have been paid. A reasonable charge may be made for such execution.

Any assessment levied pursuant to this Declaration, if unpaid for a period of ten (10) days or more after the date of the payment of the assessment is due, may be collected by suit filed to recover a money judgment, and the filing and maintenance of such suit shall not be a bar to foreclosure of said lien as aforesaid and shall not be deemed to waive the lien herein created. In the event of either or both foreclosure and filing of a suit for collection, interest, costs and reasonable attorney's fees shall be added to the amount of the assessment as to which said lien is foreclosed or as to which suit for collection is filed.

In the event that the assessments are levied, to be paid in monthly installments based on an annual amount, and there is a default in the payment of any one or more of said monthly installments, the entire balance of said annual installment may be accelerated at the option of the Board of Directors and be declared due and payable in full, with said lien, foreclosure and suit liens

to be then added to the entire accelerated amount. No member may exempt himself from liability for assessments by abandonment of any Lot belonging to him or by the abandonment of his right to use and enjoyment of the Common Areas and Community facilities.

Section 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; for the improvement and maintenance of the Common Areas; the operation of facilities thereon; and for necessary taxes, services and facilities related to the same or the use and enjoyment of the same. Nothing herein contained shall be deemed to require the Association to perform any specific improvement or maintenance of the Common Area or to operate any specific facilities thereon. It is not contemplated by this Declaration that the Association shall maintain any structure on any of said Lots or do any work on any of said Lots unless the Association has been granted by the owner of said Lot the right to use a portion of said Lot for the purposes of the Association, and then the Association may maintain whatever facilities it has been permitted to use on said Lot.

Section 3: Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an owner, the annual assessment shall be limited to a maximum of Seventy Dollars (\$70.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased each year not more than 5 percent above the maximum assessment permitted for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment permitted may be increased above 5 percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

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

Section 4: Special Assessment 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 duly called for this purpose.

Section 5: Notice and Quorum for Any Action Authorized

Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 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 60 percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and required quorum at the subsequent meeting shall be one-half (1/2) the required quorum at the preceding

meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or quarterly basis.

Section 7: Date of Commencement of Annual Assessment--
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. 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 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 have been paid.

Section 8: Assessment of Declarant and Exempt Property. Anything in this Declaration to the contrary notwithstanding, lots owned by the Declarant shall not be subject to any regular or special assessment until the completion of a dwelling on the lot, and the Declarant as to such Lot shall not be liable for any assessment until the completion of a dwelling on the lot.

No portion of the Common Area or community facilities shall be subject to assessment of any kind by the Association.

Section 9: Subordination of the Lien to Mortgages or Deeds of Trust. The lien of the assessment provided herein shall be subordinate to the lien of any mortgage or deed of

trust securing an obligation made in good faith and for value received recorded prior to the date of recording of the Notice of Lien by the Association, and shall be subordinate to the lien of any such mortgage or deed of trust recorded after receipt of a written statement from the Board of Directors reflecting the payment of assessment as to said Lot which is encumbered by such mortgage or deed of trust. Sale or transfer of any Lot shall not extinguish the assessment lien. However, sale or transfer of any Lot pursuant to foreclosure of a mortgage or deed of trust securing an obligation made in good faith and for value received or any proceeding in lieu thereof shall extinguish all liens arising from notices of lien recorded, as provided for above, subsequent to the date of recording of such mortgage or deed of trust; but no such sale or transfer shall relieve such lot from liability from any assessments thereafter becoming due from the lien thereof.

ARTICLE V

GENERAL PROVISIONS

Section 1: Enforcement. The Association or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

Section 3: Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than 80 percent of the Lot owners, and thereafter by an instrument signed by not less than 75 percent of the Lot owners. No amendment shall be made until The Maryland-National Capital Park and Planning Commission or any agency which may be successor thereto or, if there is a dissolution of said agency, any other appropriate agency of Montgomery County, Maryland, has given prior written approval of the amendment. Any amendment must be recorded.

Section 4: Rights of the Maryland-National Capital Park and Planning Commission, FHA and VA. Any other provision of this Declaration to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent of the Maryland-National Park and Planning Commission or any agency which may be successor thereto or, if there is a dissolution of said agency, any other appropriate agency of Montgomery County, Maryland, and the prior written consent of the Federal Housing Administration or the Veterans Administration so long as there is a Class B membership, which consent shall not be unreasonably withheld or delayed:

- (a) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities (except for the said conveyance of

Parcels C and F, Plat 24, Derwood Station), provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section;

(b) abandon or terminate the Declaration;

(c) modify or amend any material or substantive provision of the Declaration;

(d) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or

(e) substantially modify the method of determining and collecting assessments as provided in the Declaration.

The said Commission or its successors and Montgomery County, Maryland, and the Federal Housing Administration and Veterans Administration so long as there is a Class B membership, are entitled to the rights given by this Section and shall have the right to bring action for any legal or equitable relief necessary to enforce the rights and powers granted to the said Commission hereunder. The rights granted by this Section shall be in addition to and not in lieu of those rights given to The Maryland-National Capital Park and Planning Commission and Montgomery County, Maryland, in this Declaration.

ARTICLE VI

RIGHT OF PUBLIC AGENCIES TO MAINTAIN COMMON AREAS

The Association shall maintain the Common Area in good condition and keep in good repair all improvements thereon. Upon failure, refusal or neglect of the Association to perform such maintenance and repair, The Maryland-National Capital Park and Planning Commission or its successor if there is a dissolution of said agency, may direct such maintenance and repair and may direct correction thereof. Said public agencies, in determining whether or not such maintenance and repairs are being performed and whether or not said conditions are satisfactory, shall consider the purpose and the use of the Common Area and improvements thereon and the type, amount or method of maintenance and repair suitable for such purpose and use. If the Association fails to comply with such directive, the said agencies may cause such maintenance or repairs as are necessary to comply with the directive. In such case the cost thereof shall be a debt owed to the agency involved by the Association and collectible as are other debts. If the Association fails to satisfy the debt, the said agency may prorate the amount of the debt uniformly to each Lot and record notice of the prorated debt among the Land Records of Montgomery County, Maryland. Upon recordation of the notice, the prorated debt shall become a lien subordinate to the lien of any mortgage or deed of trust securing an obligation recorded prior to the recordation of the notice to the same extent as the lien of the assessments provided for hereinabove. Said lien may be foreclosed by the Association or its agent in the same manner as the lien of the assessments provided hereinabove. Nothing in this Section shall be deemed to

require the agencies to issue any directives or to cause any maintenance or repairs. The Maryland-National Capital Park and Planning Commission or its successor, if it is dissolved, or any other appropriate agency of Montgomery County, Maryland, shall have the right to bring action for any legal and equitable relief necessary to enforce the rights and powers granted to it hereunder.

ARTICLE VII

Section 1: Reservation of Easement Rights by the

Declarant. The Declarant hereby reserves a non-exclusive easement and right of way in, through, over and across the Common Areas and community facilities for the purpose of the storage of building supplies and materials, the installation, construction, maintenance, reconstruction and repair of sanitary sewer lines, water lines, CATV cables, storm drains and appurtenances to any of the same, and for all other purposes reasonably related to the completion of construction and the provisions of utility services, whether public or private, to the community and to other property adjacent to, or in the vicinity of, the community. Any and all instruments of conveyancing made by the Declarant to the Association with respect to any of the Common Areas and community facilities shall be conclusively deemed to incorporate this reservation, whether or not specifically set forth in such instruments. At the request in writing of the Declarant, the Association shall from time to time execute, acknowledge and deliver to the Declarant such further assurances of this reservation as may be necessary.

Any and all streets, walkways, roadways, sidewalks and the like that are owned by the Association shall be subject to non-exclusive easements for ingress, egress and regress for the

purposes therein contained and as the act of himself and said partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Diane F. Johnson
Notary Public
DIANE F. JOHNSON



My commission expires: 7/1/86

1st Part: 622 Hungerford Drive, Suite 26, Rockville, Md. 20850
2nd Part: N/A
Property Address: N/A
Title Insurance Co.: N/A
Parcel I.D.# 4-502-1926088