

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants is made this 4th day of MAY, 1998, by WHITTIER PARK, L.L.C., a Virginia limited liability company, its successors and assigns (the "Owner"); and THE CITY OF FALLS CHURCH, VIRGINIA ("City"), beneficiary.

R E C I T A L S

WHEREAS, Owner holds title to that certain Real Property composed of six lots, designated as Lots 25, 26, 32, 33, 34 and 35 of James Wren Estate, located in the City of Falls Church, Virginia (the "Property"); and

WHEREAS, Owner intends to construct improvements on the Property, consisting of six (6) townhouse residential units ("Units"); and

WHEREAS, each Unit shall for a period of fifty (50) years ("ADU Control Period") following initial sale by the Owner of each completed Unit, and including the initial sale of each Unit, be an Affordable Dwelling Unit ("ADU"). The ADU Control Period shall consist of two phases. The initial phase ("Resale Price Control Period") shall be in force for a period of thirty (30) years following initial sale of each completed Unit. The second phase shall be in force after year thirty (30) to the end of year fifty

(50). The ADU Control Period shall terminate at the end of year fifty (50) following initial sale of each ADU by the Owner.

NOW, THEREFORE, the Owner hereby declares, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, that the Property is subject to the following Restrictive Covenants, and grants to the City, as beneficiary, the right to enforce such Covenants as follows:

1. The Owner intends, declares and covenants, on behalf of itself and all future owners of the Property, being Lots 25, 26, 32, 33, 34 and 35 of James Wren Estate, more particularly described upon the plat of survey entitled "James Wren Estate" drawn by Eugene A. Kiernan, Jr., C.L.S., of BC Consultants, No. 97-014-21A, of record among the land records of Arlington County, and incorporated herein by this reference, and any Units constructed thereon, for a period of fifty (50) years following initial sale of the completed Unit by the Owner, and including the initial sale of the Unit, that the restrictions and requirements set forth herein (i) shall be and are in favor of the City on the Property and (ii) covenants running with the Property, binding upon the Owner and the Owner's successors in title and all subsequent owners of the Property and any improvements constructed thereon, including by way of description and not limitation any purchaser, grantee, owner or lessee of any portion of the Property and any Unit constructed thereon, and any other person or entity of any type or description having any right, title, or interest therein and the respective

heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner or lessee of any portion of the Property and any other person or entity of any type having any right, title, or interest therein.

2. The Owner covenants and declares that it will construct and build for sale in fee simple a Unit on each of the six lots of the Property consistent with the approved Site Plan for the Property and as follows:

Affordable Dwelling Units (ADU) Owner shall provide six (6) side-by-side affordable dwelling units ("ADUs"), that is, as units which Owner shall sell for a base sales price of not more than One Hundred Fifty Thousand Dollars (\$150,000.00) each to qualified individual owner-occupied purchasers, subject to restrictive covenants limiting resale pricing.

3. Property conveyed is to be owned and occupied by the ADU purchaser hereunder except as hereinafter provided.

4. In the event that any ADU purchaser shall cease to occupy his or her Unit, or in the event that an ADU purchaser shall die (both of them if more than one party is named as ADU purchaser), or in the event that an ADU purchaser shall determine to sell a lot with improvements thereon which is the subject of this Declaration, at any time within thirty (30) years from the initial sale of each completed Unit by the Owner, the Resale Control Price (as hereinafter defined) shall be in effect. The Resale Control Price shall be the lesser of (a) the fair market value of the Property at the time of its resale, or (b) the original sales price plus the percentage increase of the original sales price equal to the

increase in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for the City of Washington, D.C. (all times, 1967-1969 equals 100%) (or its successor) between the index in effect on the date of this Declaration and the index in effect at the beginning of the calendar year immediately prior to the settlement on the resale hereunder (the price in clause (a) or clause (b) being the "Resale Control Price"); provided, however, that the Resale Control Price shall not be increased in excess of 5% (calculated annually, not compounded) of the original sales price for each twelve-month period between the date of the initial sale of the Unit and the beginning of the calendar year immediately prior to the date of the resale settlement.

5. After the expiration of the thirty (30) year Resale Price Control Period, but prior to the expiration of fifty (50) years after initial sale of such Unit, the ADU owner has the right (but not the obligation) to sell the Unit for fair market value, provided that in the first resale of a Unit to a bona fide third-party purchaser in an arm's length transaction, for fair market value, the City of Falls Church receives \$30,000 from the net profits of the sale; or in the event that the net profits of sale are less than \$30,000, then the City of Falls Church shall receive one hundred percent (100%) of the net profits of sale.

6. During the Resale Price Control Period, income limits for all buyers, qualifications, and sales prices will be established by the City or its designee. The City must approve all buyers before

purchase. The City will establish income limits for purchasers of the Units for the initial sale and resale of the Units. In the event that the City-established income limits prove unreasonable or unworkable, the City will use the current fiscal year income limits and median family income for the Washington D.C. Metropolitan Area published by HUD to determine income limits, and sales price consistent with the intent to make the Unit an ADU, and the City shall retain the right to establish income levels, qualifications, and sale price. Upon receipt of a request for approval of a potential buyer, the City shall approve or disapprove such purchaser within ten (10) business days of receipt of required verification documentation, provided that if the City fails to respond to such request for approval, then the City shall be deemed to have approved the potential purchaser for whom such approval was requested.

7. Each and every contract, deed or other instrument hereafter executed covering or conveying an ADU or any portion thereof or interest therein shall contain express provisions making such conveyance subject to the covenants, restrictions, and charges contained herein and specifically shall require that the recipient of such conveyance undertake all obligations set forth herein by delivering an executed copy of each such instrument to the City. Provided, however, that any such contract, deed, or other instrument shall conclusively be held to have been executed, delivered and accepted subject to the Restrictive Covenants herein, regardless of whether or not such covenants are set forth or

incorporated by reference in such contract, deed, or other instrument.

8. The Covenants set forth herein shall be deemed to be Covenants running with the land and shall be an encumbrance on the Property subject to the limitations set forth above.

9. This Declaration may be amended only by written agreement by the City of Falls Church and the parties having the right to enforce the Covenants contained herein.

10. Any buyer of the ADU must occupy the Unit as such buyer's principal domicile, and must not lease or rent or permit exclusive occupancy of the Unit to any other party or parties, except for members of the purchaser's immediate family.

11. If any provision of these Covenants shall be held invalid or unenforceable, such holdings shall not invalidate or make unenforceable any other provision hereof.

12. If the City shall determine that any default has occurred under these Covenants, the City, or its successors, may enforce these Covenants by proceeding at law, or in equity, against the persons or entities violating or attempting to violate any of the Covenants herein contained, either to restrain any violation hereof or to recover damages, including reasonable attorneys' fees and the costs of collection, or to proceed against the applicable Unit or

its owner in the enforcement of any lien or obligation created by or resulting from these Covenants. No remedy conferred upon or reserved to the City by these Covenants is intended to be exclusive of any other available remedy or remedies, but each and every such remedy is cumulative and in addition to every other remedy given under these Covenants existing at law or equity. No delay or omission to exercise any right or power conferred hereunder will impair any such right or power or will be construed to be a waiver thereof. The City has a right to invalidate a transfer made in violation hereof.

13. This Declaration of Restrictive Covenants shall cover all transfers of the Property or any ADU constructed thereon during the period described in Paragraph 1, and shall automatically terminate fifty (50) years from the initial sale of the ADU by the Owner.

NOTIFICATION TO THE CITY OF FALLS CHURCH

Owner agrees that until written notice of change of address is received from the City of Falls Church, its designee, successor or assigns, all notices hereunder to the City of Falls Church, its designee, successor or assigns shall be sent by certified mail addressed as follows:

City of Falls Church, its designee, successor or assigns
300 Park Avenue
Falls Church, VA 22046

IN WITNESS WHEREOF, the Owner has caused this Declaration to be executed as of the date first written above.

WHITTIER PARK, L.L.C.,
a Virginia Limited Liability Company

By: WHITTIER PARK, INC., a Virginia Corporation, managing member

By Wallace F. Holladay, Jr. (Seal)
Wallace F. Holladay, Jr.
President

DISTRICT OF COLUMBIA

The foregoing Declaration was acknowledged before me this 4th day of April, 1998, by Wallace F. Holladay, Jr., President of Whittier Park, Inc., a Virginia corporation, managing member of Whittier Park, L.L.C., a Virginia limited liability company, on behalf of said company.

[Signature]
Notary Public

My commission expires:
2/23/2000