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Prepared by and hold for:

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Wake Forest, NC 27588-1187

PRESENTED
FOR
REGISTRATION

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LAURENCE
REGISTRATION
WAKE COUNTY

NORTH CAROLINA

WAKE COUNTY

DECLARATION OF COVENANTS,
CONDITIONS & RESTRICTIONS FOR
BATTLE RIDGE SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS, made
this 28 day of August, 1998 by JERRY GOWER CONSTRUCTION
COMPANY, INC., a North Carolina corporation, hereinafter called
"Declarant", W I T N E S S E T H :

WHEREAS, Declarant is the Owner of the real property described
on attached Exhibit "A".

WHEREAS, the Declarant desires to create a "Consolidated Open
Space Development" with certain active and passive recreational
facilities and those structures necessary for the operation of a
water and a waste water system more particularly described as
Common Properties for the benefit of said community and for the
benefit of all the Lots set forth hereinabove; and

WHEREAS, the Declarant desires to provide for the preservation
of the value, amenities and conceptual intent of the said community
and for the maintenance of the said Common Properties; and, to this
end, desires to subject the said real property above described,
together with such additions as may hereafter be made, to the
covenants, restrictions, easements, affirmative obligations,
charges and liens, hereinafter set forth, each and all of which is
and hereby declared to be for the benefit of said property and each
and every Owner of any and all parts thereof; and

WHEREAS, Declarant has caused or will later cause to be
incorporated under the Laws of the State of North Carolina, as a
non-profit corporation, BATTLE RIDGE HOMEOWNERS ASSOCIATION, INC.,
for the purpose of exercising the functions aforesaid, and which
are hereinafter more fully set forth.

NOW, THEREFORE, in consideration of the premises and covenants
contained herein, the Declarant declares that the real property
described above, and such additions thereto as may hereinafter be
made, is and shall be subject to the covenants, restrictions,
conditions, easements, charges, assessments, affirmative
obligations, and liens (referred to as "The Covenants") hereinafter
set forth, and said covenants shall run with the land and be
binding on all persons claiming under and through the Declarant.

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ARTICLE 1

DEFINITIONS:

Section 1. The following words and terms, when used in this Declaration, or any Supplemental Declaration, shall have the following meanings:

(a) "Association" shall mean and refer to the Battle Ridge Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

(b) "Common Properties or Open Space" shall mean and refer to a parcel or parcels of land within a tract, or a combination of land and water, designed and intended primarily for Open Space preservation, and preserved as farm or forest land or designed for the active or passive recreational use and enjoyment of the residents or employees of the development.

(c) "Declarant" shall mean and refer to Jerry Gower Construction Company, Inc., a North Carolina corporation, its successors and assigns.

(d) "Lot" shall mean and refer to any improved or unimproved parcel of land, shown upon any recorded subdivision map of the Properties, intended for the construction of a detached single family dwelling, excluding any "Common Properties or Open Space" as heretofore defined.

(e) "Member" shall mean and refer to all Owners as heretofore defined.

(f) "Owner" shall mean and refer to the record Owner, whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any tract situated upon the Properties, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee, its successors or assigns, unless and until such mortgagee has acquired title pursuant to foreclosure or a proceeding in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(g) "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, as are subjected to this Declaration or any Supplemental Declaration.

ARTICLE II

ANNEXATIONS, MERGERS AND DISSOLUTIONS:

Section 1. Existing Property. The real property which is subject to these covenants is located in Wake County, North Carolina, and is particularly described on Exhibit "A". All of the real property shall be referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Declaration Additions. Prior to January 1, 2004, the Declarant and its successors and assigns shall have the right to

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bring within the plan and operation of this Declaration, additional contiguous properties, whether currently owned or hereafter acquired, at future stages of the development.

The additions authorized under this and the succeeding subsection, shall be made by filing of record Supplementary Declarations of Covenants with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property. All Supplemental Declarations shall be approved by the Raleigh City Attorney or his deputy prior to its recordation.

The Supplementary Declarations may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect the different character, if any, of the added properties.

(b) Other Additions. Upon approval in writing of the Association pursuant to two-thirds of the vote of each class at a duly called meeting, the Owner of property other than the Declarant who desires to add contiguous lands to these covenants and to subject it to the jurisdiction of the Association, may record a Supplementary Declaration of Covenants with respect to the additional property which shall extend the operation and effect of the covenants to such additional property. All Supplemental Declarations shall be approved by the Raleigh City Attorney or his deputy prior to its recordation.

The Supplementary Declaration may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect the different character, if any, of the added properties.

(c) Conveyance of Common Properties Within New Additions. Prior to the sale of the first Lot within a new addition, the Landowners shall convey, in accordance with the same restrictions of Article IV, Section 3, all Common Properties within said addition to the Association.

(d) Mergers or Dissolution. Upon a merger or consolidation of the Association with another association as provided for in the Bylaws of the Association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions established upon any other properties as one plan. No such merger or consolidation, however, shall effect any revocation,

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change of or addition to the Covenants established by this Declaration as herein provided. If the Association is ever dissolved with no successor in interest to carry on its affairs, the properties, rights and obligations of the Association shall be offered to the City of Raleigh. No merger or dissolution shall occur without the prior written approval of the Raleigh City Attorney or his deputy.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:

Section 1. Membership. The Declarant and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot which is subject to the Covenants is a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association; membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

CLASS "A" - Class A Members shall be all those Owners of Lots except the Declarant, and said Owners shall be entitled to one (1) vote per Lot owned.

CLASS "B" - The Class B Member shall be the Declarant. The Class B Member shall be entitled to three votes for each Lot held, Class B Membership shall terminate on the happening of either of the following events, whichever occurs earlier: (a) when the Declarant has sold seventy-five (75%) percent of all Lots affected by these Covenants, provided Class B membership shall be reinstated if the Declarant, pursuant to Article II, adds additions to the Association prior to the date listed in paragraph (b) herein; or (b) January 1, 2004. Thereafter, the Declarant shall be entitled to one (1) vote per Lot owned.

The total vote of the Association shall consist of the sum of the votes of Class A Members and the votes of Class B Members. When more than one person holds an interest in any Lot, all such persons shall be Members; and the vote for such Lot shall be exercised as they among themselves determine, but in no event may more than one vote be cast with respect to any Lot owned by Class A Members, and fractional voting shall be prohibited. When one or more Co-Owners sign a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more of the other Co-Owners is present and objects to such vote, or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before a vote is counted.

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ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES:

Section 1. Use of Permanent Common Open Space. Common Properties shall be reserved for the use of residents and their guests only.

Section 2. Delegation of Use. Any Member may delegate in accordance with the Bylaws, his right of use and enjoyment to the Common Properties and facilities to the Members of his family, his guests, his tenants, or contract purchasers who reside on the property .

Section 3. Title to Common Properties. The Declarant hereby covenants, for itself, its successors and assigns, that it shall convey, bargain and sell, free and clear of all outstanding liens and encumbrances, except utility, drainage and greenway easements, the Common Properties to the Association on or before the date of the conveyance of the first Lot as shown, or to be shown, on the recorded maps of the subdivision.

Section 4. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following provided, however, that if ingress or egress to any residence is through the Common Properties, any conveyance or encumbrance of such area contemplated herein is subject to the Lot Owner's easement:

(a) The right of the Association, in accordance with its Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties; provided that the rights of any lender shall be subordinate to the rights thereto of the Owners and the Association and the assent for the loan of at least two-thirds of each Class is obtained at a duly called meeting.

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure.

(c) The right of the Association, as provided in its Bylaws, to suspend the enjoyment of rights of any Member or any tenant of any Member for any period during which any assessment remains unpaid; and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligations to pay the assessment.

(d) The right of the Association, in accordance with Raleigh City Code § 10-3073(a)(2), to exchange any part of the Common Properties for such purposes and subject to such conditions as may be agreed to by the Members; provided that no exchange shall be effective without the assent of both the Raleigh City Planning

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Director and two-thirds (2/3) or more of the Class A Members determined at a duly called meeting following written notice of the proposed action that is mailed to every Class A Member a minimum of twenty (20) days and a maximum of forty (40) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(e) The right of the Association to give, sell or lease all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift, sale or lease shall be effective unless authorized by the vote of two-thirds (2/3) of the vote at a duly called meeting and unless written notice of the proposed action is mailed to every Member a minimum of twenty (20) days and a maximum of forty (40) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENTS:

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot shall, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these Covenants and to pay to the Association: (1) Annual assessments or charges; (2) Special Assessments for the purposes set forth in Section 4 of this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special Assessments together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the property against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. In the case of co-

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ownership of a Lot, all of such Co-Owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement, maintenance, and operation of the Common Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereof, and for the cost of labor, equipment, materials, management and supervision thereof and any other additions, replacements and repair of structures used for the common benefit of Battle Ridge Subdivision and for the maintenance of landscaped medians located within streets rights-of-way adjoining the Property. The Special Assessments shall be used for the purposes set forth in Section 4 of this Article.

Section 3. Maximum Annual Assessment. The maximum annual assessment for the calendar year 1998 shall be Two Hundred Fifty and No/100 (\$250.00) Dollars per Lot.

(a) After calendar year 1998, the maximum annual assessment may be increased each calendar year not more than ten percent (10%) above the maximum assessment for the previous calendar year without a vote of the membership.

(b) After calendar year 1998, the maximum annual assessment may be increased above ten percent (10%) 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. Any such annual assessment shall have the assent of two-thirds (2/3) of the vote at a duly called meeting, written notice of which shall be mailed a minimum of twenty (20) days and a maximum of forty (40) days in advance and shall set forth the purpose of the meeting. For voting purposes herein, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of the total vote of each class of membership shall constitute a quorum.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. However, the Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year at a lesser amount, but such action shall not constitute a waiver by the Association of its right to revert to the full assessment for future years as provided above.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section 4, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto or addition to the Common Property. Any such assessment shall have the assent of two-thirds (2/3) of the vote at a duly

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called meeting, written notice of which shall be mailed a minimum of twenty (20) days and a maximum of forty (40) days in advance and shall set forth the purpose of the meeting. For the purpose of acting under this Section 4, the presence at the meeting of Members or of proxies, entitled to cast sixty percent (60%) of the total vote of the Class A membership shall constitute a quorum. For the purposes of this subsection only, no vote shall be cast under Class B. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and if the same is called for a date no later than sixty (60) days after the date of the first meeting, the required quorum at that subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting.

Section 5. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessment shall be made for the balance of the calendar year and shall be payable in full within thirty (30) days after the first day of the month fixed for commencement. The assessments for any year after the first year, shall similarly be payable in full within thirty (30) days after the first day of January of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereto, as the remaining number of months in the year bear to twelve. The same reduction in the amount of assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

The pro-rating of any annual or special assessment due to change in ownership of any Lot during a calendar year shall be the responsibility of the individuals involved and not the Association.

Section 6. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against all Lots for each assessment period and shall at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner or his agent.

Written notice of the assessment shall thereupon be mailed to every Owner subject thereto.

The Association shall upon demand at any time furnish to any

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Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner, the Lien; Remedies of Association. If the annual assessment or any special assessment is not paid on the date when due (being the dates specified in Section 5 hereof), then such assessment shall become delinquent and shall, together with interest thereon at the rate of ten (10%) percent per annum from the due date and cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the Lot and all improvements thereon, against which each assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives, successors in title and assigns.

If the annual assessment or any special assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally and/or foreclose the lien against the Lot, and there shall be added to the amount of such assessments the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or Deed of Trust now or hereafter placed upon the properties subject to assessment.

Section 9. Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

- (a) The grantee in conveyances made for the purpose of granting utility easements;
- (b) All Common Properties as defined in Article I, Section 1, hereof;
- (c) All properties exempted from taxation by the Laws of the State of North Carolina, upon the terms and to the extent of such legal exemptions;
- (d) All properties owned by Declarant upon which no certificate of occupancy has been issued by the City of Raleigh and model homes owned by the Declarant.
- (e) Properties owned by builders, who acquired such Lots for the purpose of engaging in the business of constructing residential buildings, for a period of one year from the date the Deed to the builder is recorded or upon resale by builder, whichever shall

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first occur.

ARTICLE VI

UTILITIES:

Section 1. Electrical Service. The Declarant has entered into a Contract with Carolina Power & Light Company for the installation of underground electric cables which required an initial contribution and for the installation of street lighting which will require a continuing monthly payment to Carolina Power & Light Company by the Owners of each Lot. Both the initial contribution and continuing monthly payment to Carolina Power & Light Company shall be the sole responsibility of each individual homeowner.

Section 2. Water and Waste Water Utility Service. The City of Raleigh is duly franchised by the North Carolina Utilities Commission and will be providing water utility and waste water treatment service to the homeowners in Battle Ridge Subdivision.

Because of the difficulty of disconnecting a homeowners' sewer service for non-payment of the monthly sewer utility charge, the Declarant has agreed with the City of Raleigh, its successors and assigns, that in the event a homeowner fails to pay its monthly sewer utility charge, as approved by the North Carolina Utilities Commission, then the City may, at its election, disconnect and discontinue water service to the delinquent homeowner until such time as the monthly utility charge has been paid in full. All costs of reconnecting the water service shall be the sole responsibility of the homeowner.

ARTICLE VII

ARCHITECTURAL CONTROL:

Section 1. Review and Approval of Landscaping Specifications for Additions, Alterations or Changes to Structures. No building, wall, fence, swimming pool, or other improvement shall be commenced, erected, or maintained upon any Lot, nor shall any landscaping be done, nor shall any exterior addition to any such existing structure or change or alteration therein, be made until the complete plans and specifications therefor showing the nature, color, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony and compatibility of its external design and location, with the surrounding structures and topography, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designed committee, fails to approve or disapprove such design and location within thirty (30) days after said completed plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, however, that all decisions under this section shall be the sole

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responsibility of Declarant until such time as Declarant shall no longer vote as a Class B Member of the Association.

ARTICLE VIII

USE RESTRICTIONS:

1. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories and a private garage for not more than three cars.

2. The ground floor area of the main structure exclusive of one-story open porches and garages, shall not be less than 1,200 square feet or the ground floor area of a two-story structure shall not be less than 700 square foot. Variations equal to or less than eight percent (8%) of the required minimum square footage may be approved by the Declarant until Class B membership terminates and thereafter by the Board of Directors of the Association or the Architectural Committee.

3. No building shall be located on any Lot nearer to the front Lot line than twenty (20) feet nor nearer to any rear Lot line than twenty (20) feet. Each non-corner Lot shall carry an aggregate of fifteen (15) feet in interior Lot line setbacks; however, no building shall be located any nearer to an interior Lot line than five (5) feet. No building shall be located nearer than twenty (20) feet to a side street. The Architectural Committee reserves the right to approve deviations from building line restrictions.

4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on Exhibit "A" attached hereto and made a part hereof.

5. No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereof which may become an annoyance or nuisance to the neighborhood.

6. No structure of a temporary character, trailer, basement, vehicle, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

7. Except for unit identification signs required by the City of Raleigh, no sign of any kind shall be displayed to public view on any Lot, provided: one professional sign of not more than one square foot may be placed and one sign not exceeding six square feet advertising this property during the construction and sale period may be utilized.

8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes and further provided they do not constitute a nuisance or annoyance to the neighborhood. No dog

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pens or dog runs shall be allowed.

9. No Lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

10. All clotheslines, satellite dish, and playground equipment, including, but not limited to, swings, swing sets, merry-go-rounds, play pens, and sandboxes, toys, etc., shall be located in the rear yard of the home and not in the front yard and must be kept in neat order.

11. No inoperable or unlicensed motor vehicles shall be parked on any Lot or dedicated subdivision street for more than thirty (30) days, the purpose of this restriction being to prohibit any junk cars being located in the subdivision.

ARTICLE IX

INSURANCE

The Association shall obtain a public liability policy insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents. The policy shall have at least a One Million Dollar (\$1,000,000.00) combined single limit per occurrence and aggregate as respects bodily injury and property damage.

ARTICLE X

GENERAL PROVISIONS:

Section 1. Duration and Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Declarant, or the Owner of any land subject to this Declaration, their respective legal representative, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded after which time all covenants shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than three-quarters (3/4) of the Lot Owners. No amendment shall be effective without the prior approval of the Raleigh City Attorney or his deputy. Any Amendment must be recorded with the Wake County Registry.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the person who appears as Member upon the Association's Membership roll or Owner on the records of the Association at the time of such mailing; provided, that any notice called for herein may be hand carried and deposited in the mailbox of an Owner in lieu of mailing. Notice to one of two or more Co-Owners of a Lot shall constitute notice to

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all Co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any changes of address and it shall be the responsibility of any new Member to immediately notify the Association of the date of the transfer of ownership.

Section 3. Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these Covenants, and failure by the Association or any Owner or the Declarant to enforce any Covenant herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 4. Severability. Should any Covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase, or term of this Declaration be declared to be void, or unenforceable, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 5. FHA/VA/FNMA Approval. As long as there is a Class B membership, the following actions will require the prior written approval of FNMA, and the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Properties, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Landscaping of Island(s). Landscaping of Island(s) within right(s)-of-way of public street(s) shall be the responsibility of the Association as set forth in Article V, Section 2. Such area(s) shall remain, neat, clean, attractive and safe. Damaged, unsafe or dead plants must be removed by the Association. Neither the City nor the State will be liable for any accidents or damage caused by such encroachment within the rights(s)-of-way and the Association shall hold harmless the public and indemnify the City and State from such liability. The cost of maintaining landscape island(s) is a common expense.

Section 7. Conservation Zoning Classification. Certain Lots and Common Areas within Battle Ridge Subdivision will contain areas designated as conservation buffer ("Buffer"). Uses of property within a Buffer are regulated by the City of Raleigh so that, among other things, the construction of buildings, vehicle surface areas, and loading areas are prohibited within the Buffer area, and the area is to be landscaped, planted and maintained as required by the City. Destruction, injury or removal of City-required landscaping within a Buffer is a violation of the Raleigh City Code, punishable by fines and imprisonment. Neither the Association, as to Common Property nor any Owner whose Lot contains a Buffer area shall,

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without the prior written approval of the City of Raleigh Zoning Inspector, add, remove or alter any vegetation within the Buffer area on such property.

Section 8. Greenway - City of Raleigh Approval.

Notwithstanding any other provisions of these Declarations, the Association, Owners, Members, Tenants of members, member's guest or invitees, or families of members shall not, within any portion of the Common Area which is greenway are dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh;

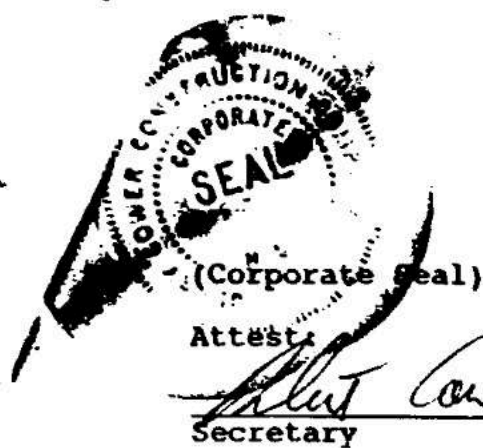
- (a) Grant easements of any nature whatsoever;
- (b) Remove any trees or vegetation;
- (c) Erect gates, fences or other structures;
- (d) Place any garbage receptacles;
- (e) Fill or excavate;
- (f) Plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of said greenway in its natural state, including without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

It is understood and agreed that within any greenway area, the City of Raleigh may erect trails, trail markers, place litter receptacles, and other convenience facilities and adopt and amend regulations concerning the use of the greenway (including without limitation hours of operation), which shall be equally applicable to the general public and the Owners. The Association and Lot Owners may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the City and may enter into such agreements with the City of Raleigh as is deemed appropriate to insure the maintenance and upkeep of the greenway in its natural state, free of litter and unsightly debris.

Section 9. Drainage Easements. Storm drainage easements will be shown on the recorded plat for this subdivision. These easements are not accepted by the City of Raleigh and, consequently belong to all Lot Owners. In the event that abandonment or relocation of one or more drainage easements is necessary following the recordation of the subdivision plat, the Association is herein given the authority on behalf of all Lot Owners to approve any such abandonment or relocation, provided none of the Properties is adversely affected by said abandonment or relocation.

IN WITNESS WHEREOF, Jerry Gower Construction Company, Inc., a North Carolina corporation, has caused this instrument to be executed the day and year first above written.

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JERRY GOWER CONSTRUCTION COMPANY, INC., a
North Carolina Corporation - Declarant

By: [Signature]
President

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Robert Cameron personally came before me this day and acknowledged that he is Secretary of JERRY GOWER CONSTRUCTION COMPANY, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 28 day of



[Signature]
NOTARY PUBLIC

Commission expires 8/5/2003.

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of _____

[Signature]
Notary Public

is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By [Signature]
Deputy Register of Deeds

Prepared by and hold for:

Kelly J. Mackay, Attorney
 W. Perry & Anthony, P.L.L.C.
 Post Office Box 1187
 Wake Forest, NC 27588-1187

PRESENTED
FOR

REGISTRATION

99 FEB -9 AM 10:23

LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY

NORTH CAROLINA
 WAKE COUNTY

DECLARATION OF COVENANTS,
 CONDITIONS & RESTRICTIONS FOR
 BATTLE RIDGE SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS,
 made this 3 day of February, 1999 by JERRY GOWER
 CONSTRUCTION COMPANY, INC., a North Carolina corporation,
 hereinafter called "Declarant",

WITNESSETH:

WHEREAS, Declarant is the Owner of the real property
 described on attached Exhibit "A".

WHEREAS, the Declarant desires to create a "Consolidated Open
 Space Development" with certain active and passive recreational
 facilities and those structures necessary for the operation of a
 water and a waste water system more particularly described as
 Common Properties for the benefit of said community and for the
 benefit of all the Lots set forth hereinabove; and

WHEREAS, the Declarant desires to provide for the
 preservation of the value, amenities and conceptual intent of the
 said community and for the maintenance of the said Common
 Properties; and, to this end, desires to subject the said real
 property above described, together with such additions as may
 hereafter be made, to the covenants, restrictions, easements,
 affirmative obligations, charges and liens, hereinafter set forth,
 each and all of which is and hereby declared to be for the benefit
 of said property and each and every Owner of any and all parts
 thereof; and

WHEREAS, Declarant has caused or will later cause to be
 incorporated under the Laws of the State of North Carolina, as a
 non-profit corporation, BATTLE RIDGE HOMEOWNERS ASSOCIATION, INC.,
 for the purpose of exercising the functions aforesaid, and which
 are hereinafter more fully set forth; and

WHEREAS, a Declaration of Covenants, Conditions &
 Restrictions for Battle Ridge Subdivision was recorded on October
 7, 1998, in Book 8161, Page 2709, Wake County Registry, which
 Declaration Declarant desires to amend.

NOW, THEREFORE, in consideration of the premises and
 covenants contained herein, the Declarant declares the Declaration
 of Covenants, Conditions, & Restrictions for Battle Ridge
 Subdivision recorded on October 7, 1998, in Book 8161, Page 2709,
 Wake County Registry, null and void and to be hereby revoked and
 further declares that the real property described above, and such
 additions thereto as may hereinafter be made, is and shall be

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subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens (referred to as "The Covenants") hereinafter set forth, and said covenants shall run with the land and be binding on all persons claiming under and through the Declarant.

ARTICLE 1

DEFINITIONS:

Section 1. The following words and terms, when used in this Declaration, or any Supplemental Declaration, shall have the following meanings:

(a) "Association" shall mean and refer to the Battle Ridge Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

(b) "Common Properties or Open Space" shall mean and refer to a parcel or parcels of land within a tract, or a combination of land and water, designed and intended primarily for Open Space preservation, and preserved as farm or forest land or designed for the active or passive recreational use and enjoyment of the residents or employees of the development.

(c) "Declarant" shall mean and refer to Jerry Gower Construction Company, Inc., a North Carolina corporation, its successors and assigns.

(d) "Lot" shall mean and refer to any improved or unimproved parcel of land, shown upon any recorded subdivision map of the Properties, intended for the construction of a detached single family dwelling, excluding any "Common Properties or Open Space" as heretofore defined.

(e) "Member" shall mean and refer to all Owners as heretofore defined.

(f) "Owner" shall mean and refer to the record Owner, whether one or more persons, firms, associations, corporations, or other legal entities, of the fee simple title to any tract situated upon the Properties, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee, its successors or assigns, unless and until such mortgagee has acquired title pursuant to foreclosure or a proceeding in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(g) "Properties" shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, as are subjected to this Declaration or any Supplemental Declaration.

ARTICLE II

ANNEXATIONS, MERGERS AND DISSOLUTIONS:

Section 1. Existing Property. The real property which is

subject to these covenants is located in Wake County, North Carolina, and is particularly described on Exhibit "A". All of the real property shall be referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

(a) Declaration Additions. Prior to January 1, 2004, the Declarant and its successors and assigns shall have the right to bring within the plan and operation of this Declaration, additional contiguous properties, whether currently owned or hereafter acquired, at future stages of the development.

The additions authorized under this and the succeeding subsection, shall be made by filing of record Supplementary Declarations of Covenants with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property. All Supplemental Declarations shall be approved by the Raleigh City Attorney or his deputy prior to its recordation.

The Supplementary Declarations may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect the different character, if any, of the added properties.

(b) Other Additions. Upon approval in writing of the Association pursuant to two-thirds of the vote of each class at a duly called meeting, the Owner of property other than the Declarant who desires to add contiguous lands to these covenants and to subject it to the jurisdiction of the Association, may record a Supplementary Declaration of Covenants with respect to the additional property which shall extend the operation and effect of the covenants to such additional property. All Supplemental Declarations shall be approved by the Raleigh City Attorney or his deputy prior to its recordation.

The Supplementary Declaration may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of the Declarant, to reflect the different character, if any, of the added properties.

(c) Conveyance of Common Properties Within New Additions. Prior to the sale of the first Lot within a new addition, the Landowners shall convey, in accordance with the same restrictions of Article IV, Section 3, all Common Properties within said addition to the Association.

(d) Mergers or Dissolution. Upon a merger or consolidation of the Association with another association as provided for in the Bylaws of the Association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or

consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions established upon any other properties as one plan. No such merger or consolidation, however, shall effect any revocation, change of or addition to the Covenants established by this Declaration as herein provided. If the Association is ever dissolved with no successor in interest to carry on its affairs, the properties, rights and obligations of the Association shall be offered to the City of Raleigh. No merger or dissolution shall occur without the prior written approval of the Raleigh City Attorney or his deputy.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:

Section 1. Membership. The Declarant and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot which is subject to the Covenants is a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association; membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

CLASS "A" - Class A Members shall be all those Owners of Lots except the Declarant, and said Owners shall be entitled to one (1) vote per Lot owned.

CLASS "B" - The Class B Member shall be the Declarant. The Class B Member shall be entitled to three votes for each Lot held, Class B Membership shall terminate on the happening of either of the following events, whichever occurs earlier: (a) when the Declarant has sold seventy-five (75%) percent of all Lots affected by these Covenants, provided Class B membership shall be reinstated if the Declarant, pursuant to Article II, adds additions to the Association prior to the date listed in paragraph (b) herein; or (b) January 1, 2004. Thereafter, the Declarant shall be entitled to one (1) vote per Lot owned.

The total vote of the Association shall consist of the sum of the votes of Class A Members and the votes of Class B Members. When more than one person holds an interest in any Lot, all such persons shall be Members; and the vote for such Lot shall be exercised as they among themselves determine, but in no event may

more than one vote be cast with respect to any Lot owned by Class A Members, and fractional voting shall be prohibited. When one or more Co-Owners sign a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more of the other Co-Owners is present and objects to such vote, or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before a vote is counted.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES:

Section 1. Use of Permanent Common Open Space. Common Properties shall be reserved for the use of residents and their guests only.

Section 2. Delegation of Use. Any Member may delegate in accordance with the Bylaws, his right of use and enjoyment to the Common Properties and facilities to the Members of his family, his guests, his tenants, or contract purchasers who reside on the property.

Section 3. Title to Common Properties. The Declarant hereby covenants, for itself, its successors and assigns, that it shall convey, bargain and sell, free and clear of all outstanding liens and encumbrances, except utility, drainage and greenway easements, the Common Properties to the Association on or before the date of the conveyance of the first Lot as shown, or to be shown, on the recorded maps of the subdivision.

Section 4. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following provided, however, that if ingress or egress to any residence is through the Common Properties, any conveyance or encumbrance of such area contemplated herein is subject to the Lot Owner's easement:

(a) The right of the Association, in accordance with its Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties; provided that the rights of any lender shall be subordinate to the rights thereto of the Owners and the Association and the assent for the loan of at least two-thirds of each Class is obtained at a duly called meeting.

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure.

(c) The right of the Association, as provided in its Bylaws, to suspend the enjoyment of rights of any Member or any tenant of any Member for any period during which any assessment remains unpaid; and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any

assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligations to pay the assessment.

(d) The right of the Association, in accordance with Raleigh City Code § 10-3073(a)(2), to exchange any part of the Common Properties for such purposes and subject to such conditions as may be agreed to by the Members; provided that no exchange shall be effective without the assent of both the Raleigh City Planning Director and two-thirds (2/3) or more of the Class A Members determined at a duly called meeting following written notice of the proposed action that is mailed to every Class A Member a minimum of twenty (20) days and a maximum of forty (40) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(e) The right of the Association to give, sell or lease all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift, sale or lease shall be effective unless authorized by the vote of two-thirds (2/3) of the vote at a duly called meeting and unless written notice of the proposed action is mailed to every Member a minimum of twenty (20) days and a maximum of forty (40) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association thereon shall be made and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENTS:

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot shall, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these Covenants and to pay to the Association: (1) Annual assessments or charges; (2) Special

Assessments for the purposes set forth in Section 4 of this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special Assessments together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the property against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. In the case of co-ownership of a Lot, all of such Co-Owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement, maintenance, and operation of the Common Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereof, and for the cost of labor, equipment, materials, management and supervision thereof and any other additions, replacements and repair of structures used for the common benefit of Battle Ridge Subdivision and for the maintenance of landscaped medians located within streets rights-of-way adjoining the Property. The Special Assessments shall be used for the purposes set forth in Section 4 of this Article.

Section 3. Maximum Annual Assessment. The maximum annual assessment for the calendar year 1998 shall be Two Hundred Fifty and No/100 (\$250.00) Dollars per Lot.

(a) After calendar year 1998, the maximum annual assessment may be increased each calendar year not more than ten percent (10%) above the maximum assessment for the previous calendar year without a vote of the membership.

(b) After calendar year 1998, the maximum annual assessment may be increased above ten percent (10%) 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. Any such annual assessment shall have the assent of two-thirds (2/3) of the vote at a duly called meeting, written notice of which shall be mailed a minimum of twenty (20) days and a maximum of forty (40) days in advance and shall set forth the purpose of the meeting. For voting purposes herein, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of the total vote of each class of membership shall constitute a quorum.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. However, the Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for

any year at a lesser amount, but such action shall not constitute a waiver by the Association of its right to revert to the full assessment for future years as provided above.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section 4, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto or addition to the Common Property. Any such assessment shall have the assent of two-thirds (2/3) of the vote at a duly called meeting, written notice of which shall be mailed a minimum of twenty (20) days and a maximum of forty (40) days in advance and shall set forth the purpose of the meeting. For the purpose of acting under this Section 4, the presence at the meeting of Members or of proxies, entitled to cast sixty percent (60%) of the total vote of the Class A membership shall constitute a quorum. For the purposes of this subsection only, no vote shall be cast under Class B. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and if the same is called for a date no later than sixty (60) days after the date of the first meeting, the required quorum at that subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting.

Section 5. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessment shall be made for the balance of the calendar year and shall be payable in full within thirty (30) days after the first day of the month fixed for commencement. The assessments for any year after the first year, shall similarly be payable in full within thirty (30) days after the first day of January of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereto, as the remaining number of months in the year bear to twelve. The same reduction in the amount of assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

The pro-rating of any annual or special assessment due to change in ownership of any Lot during a calendar year shall be the responsibility of the individuals involved and not the Association. Section 6. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against all Lots for each assessment period and shall at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner or his agent.

Written notice of the assessment shall thereupon be mailed to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner, the Lien; Remedies of Association. If the annual assessment or any special assessment is not paid on the date when due (being the dates specified in Section 5 hereof), then such assessment shall become delinquent and shall, together with interest thereon at the rate of ten (10%) percent per annum from the due date and cost of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the Lot and all improvements thereon, against which each assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives, successors in title and assigns.

If the annual assessment or any special assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally and/or foreclose the lien against the Lot, and there shall be added to the amount of such assessments the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or Deed of Trust now or hereafter placed upon the properties subject to assessment.

Section 9. Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration shall be exempted from the assessment, charge and lien

created herein:

(a) The grantee in conveyances made for the purpose of granting utility easements;

(b) All Common Properties as defined in Article I, Section 1, hereof;

(c) All properties exempted from taxation by the Laws of the State of North Carolina, upon the terms and to the extent of such legal exemptions;

(d) All properties owned by Declarant upon which no certificate of occupancy has been issued by the City of Raleigh and model homes owned by the Declarant.

(e) Properties owned by builders, who acquired such Lots for the purpose of engaging in the business of constructing residential buildings, for a period of one year from the date the Deed to the builder is recorded or upon resale by builder, whichever shall first occur.

ARTICLE VI

UTILITIES:

Section 1. Electrical Service. The Declarant has entered into a Contract with Carolina Power & Light Company for the installation of underground electric cables which required an initial contribution and for the installation of street lighting which will require a continuing monthly payment to Carolina Power & Light Company by the Owners of each Lot. Both the initial contribution and continuing monthly payment to Carolina Power & Light Company shall be the sole responsibility of each individual homeowner.

Section 2. Water and Waste Water Utility Service. The City of Raleigh is duly franchised by the North Carolina Utilities Commission and will be providing water utility and waste water treatment service to the homeowners in Battle Ridge Subdivision.

Because of the difficulty of disconnecting a homeowners' sewer service for non-payment of the monthly sewer utility charge, the Declarant has agreed with the City of Raleigh, its successors and assigns, that in the event a homeowner fails to pay its monthly sewer utility charge, as approved by the North Carolina Utilities Commission, then the City may, at its election, disconnect and discontinue water service to the delinquent homeowner until such time as the monthly utility charge has been paid in full. All costs of reconnecting the water service shall be the sole responsibility of the homeowner.

ARTICLE VII

ARCHITECTURAL CONTROL:

Section 1. Review and Approval of Landscaping Specifications for Additions, Alterations or Changes to Structures. No building, wall, fence, swimming pool, or other improvement shall be

commenced, erected, or maintained upon any Lot, nor shall any landscaping be done, nor shall any exterior addition to any such existing structure or change or alteration therein, be made until the complete plans and specifications therefor showing the nature, color, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony and compatibility of its external design and location, with the surrounding structures and topography, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designed committee, fails to approve or disapprove such design and location within thirty (30) days after said completed plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, however, that all decisions under this section shall be the sole responsibility of Declarant until such time as Declarant shall no longer vote as a Class B Member of the Association.

ARTICLE VIII

USE RESTRICTIONS:

1. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories and a private garage for not more than three cars.
2. The ground floor area of the main structure exclusive of one-story open porches and garages, shall not be less than 1,100 square feet or the ground floor area of a two-story structure shall not be less than 700 square foot. Variations equal to or less than eight percent (8%) of the required minimum square footage may be approved by the Declarant until Class B membership terminates and thereafter by the Board of Directors of the Association or the Architectural Committee.
3. No building shall be located on any Lot nearer to the front Lot line than twenty (20) feet nor nearer to any rear Lot line than twenty (20) feet. Each non-corner Lot shall carry an aggregate of fifteen (15) feet in interior Lot line setbacks; however, no building shall be located any nearer to an interior Lot line than five (5) feet. No building shall be located nearer than twenty (20) feet to a side street. The Architectural Committee reserves the right to approve deviations from building line restrictions.
4. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on Exhibit "A" attached hereto and made a part hereof.
5. No noxious or offensive activity shall be carried upon

any Lot, nor shall anything be done thereof which may become an annoyance or nuisance to the neighborhood.

6. No structure of a temporary character, trailer, basement, vehicle, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

7. Except for unit identification signs required by the City of Raleigh, no sign of any kind shall be displayed to public view on any Lot, provided: one professional sign of not more than one square foot may be placed and one sign not exceeding six square feet advertising this property during the construction and sale period may be utilized.

8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes and further provided they do not constitute a nuisance or annoyance to the neighborhood. No dog pens or dog runs shall be allowed.

9. No Lot shall be used or maintained as a dumping ground for rubbish or trash. Garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

10. All clotheslines, satellite dish, and playground equipment, including, but not limited to, swings, swing sets, merry-go-rounds, play pens, and sandboxes, toys, etc., shall be located in the rear yard of the home and not in the front yard and must be kept in neat order.

11. No inoperable or unlicensed motor vehicles shall be parked on any Lot or dedicated subdivision street for more than thirty (30) days, the purpose of this restriction being to prohibit any junk cars being located in the subdivision.

ARTICLE IX

INSURANCE

The Association shall obtain a public liability policy insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents. The policy shall have at least a One Million Dollar (\$1,000,000.00) combined single limit per occurrence and aggregate as respects bodily injury and property damage.

ARTICLE X

GENERAL PROVISIONS:

Section 1. Duration and Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Declarant, or the Owner of any land subject to

this Declaration, their respective legal representative, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded after which time all covenants shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than three-quarters (3/4) of the Lot Owners. No amendment shall be effective without the prior approval of the Raleigh City Attorney or his deputy. Any Amendment must be recorded with the Wake County Registry.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the person who appears as Member upon the Association's Membership roll or Owner on the records of the Association at the time of such mailing; provided, that any notice called for herein may be hand carried and deposited in the mailbox of an Owner in lieu of mailing. Notice to one of two or more Co-Owners of a Lot shall constitute notice to all Co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any changes of address and it shall be the responsibility of any new Member to immediately notify the Association of the date of the transfer of ownership.

Section 3. Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these Covenants, and failure by the Association or any Owner or the Declarant to enforce any Covenant herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 4. Severability. Should any Covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase, or term of this Declaration be declared to be void, or unenforceable, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 5. FHA/VA/FNMA Approval. As long as there is a Class B membership, the following actions will require the prior written approval of FNMA, and the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Properties, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Landscaping of Island(s). Landscaping of Island(s) within right(s)-of-way of public street(s) shall be the

responsibility of the Association as set forth in Article V, Section 2. Such area(s) shall remain, neat, clean, attractive and safe. Damaged, unsafe or dead plants must be removed by the Association. Neither the City nor the State will be liable for any accidents or damage caused by such encroachment within the rights(s)-of-way and the Association shall hold harmless the public and indemnify the City and State from such liability. The cost of maintaining landscape island(s) is a common expense.

Section 7. Conservation Zoning Classification. Certain Lots and Common Areas within Battle Ridge Subdivision will contain areas designated as conservation buffer ("Buffer"). Uses of property within a Buffer are regulated by the City of Raleigh so that, among other things, the construction of buildings, vehicle surface areas, and loading areas are prohibited within the Buffer area, and the area is to be landscaped, planted and maintained as required by the City. Destruction, injury or removal of City-required landscaping within a Buffer is a violation of the Raleigh City Code, punishable by fines and imprisonment. Neither the Association, as to Common Property nor any Owner whose Lot contains a Buffer area shall, without the prior written approval of the City of Raleigh Zoning Inspector, add, remove or alter any vegetation within the Buffer area on such property.

Section 8. Greenway - City of Raleigh Approval. Notwithstanding any other provisions of these Declarations, the Association, Owners, Members, Tenants of members, member's guest or invitees, or families of members shall not, within any portion of the Common Area which is greenway are dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh;

- (a) Grant easements of any nature whatsoever;
- (b) Remove any trees or vegetation;
- (c) Erect gates, fences or other structures;
- (d) Place any garbage receptacles;
- (e) Fill or excavate;
- (f) Plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of said greenway in its natural state, including without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

It is understood and agreed that within any greenway area, the City of Raleigh may erect trails, trail markers, place litter receptacles, and other convenience facilities and adopt and amend regulations concerning the use of the greenway (including without limitation hours of operation), which shall be equally applicable to the general public and the Owners. The Association and Lot Owners may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the City and may

enter into such agreements with the City of Raleigh as is deemed appropriate to insure the maintenance and upkeep of the greenway in its natural state, free of litter and unsightly debris.

Section 9. Drainage Easements. Storm drainage easements will be shown on the recorded plat for this subdivision. These easements are not accepted by the City of Raleigh and, consequently belong to all Lot Owners. In the event that abandonment or relocation of one or more drainage easements is necessary following the recordation of the subdivision plat, the Association is herein given the authority on behalf of all Lot Owners to approve any such abandonment or relocation, provided none of the Properties is adversely affected by said abandonment or relocation.

IN WITNESS WHEREOF, Jerry Gower Construction Company, Inc., a North Carolina corporation, has caused this instrument to be executed the day and year first above written.



JERRY GOWER CONSTRUCTION COMPANY, INC., a
North Carolina Corporation - Declarant

By: Jerry J. Maney
Vice President

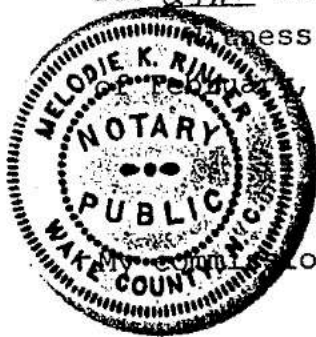
(Corporate Seal)

Shoudean J. Hedrick
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Shoudean J. Hedrick personally came before me this day and acknowledged that she is Asst. Secretary of JERRY GOWER CONSTRUCTION COMPANY, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by her as its Asst. Secretary.



Witness my hand and official stamp or seal, this 3rd day
of February, 1999.

Melodie K. Rinker
NOTARY PUBLIC

My commission expires 7/31/2002.

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Melodie K. Rinker
Notary (ies) Public

is (are) certified to be correct. This instrument and this certificate are duly registered at
the date and time and in the book and page shown on the first page hereof.

LAURA E. RINECK, Register of Deeds

By: Laura E. Rineck
Asst./Deputy Register of Deeds

EXHIBIT "A"

A CERTAIN TRACT OR PARCEL OF LAND CONTAINING 107.58 ACRES MORE OR LESS, LYING IN AND BEING IN ST. MARY'S TOWNSHIP, WAKE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING ON THE NORTHERN RIGHT OF WAY LINE OF BATTLEBRIDGE ROAD (30' FROM CENTER) (NC SR 2552); THENCE ALONG SAID RIGHT OF WAY LINE N 44° 29' 09" W, 113.72' TO A POINT; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N 44° 29' 09" W, 39.30' TO A POINT; THENCE CONTINUING ALONG SAID RIGHT OF WAY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 909.83' AN ARC LENGTH OF 91.65' AND A CHORD BEARING AND DISTANCE OF N 47° 22' 18" W, 91.61' TO A POINT; THENCE LEAVING SAID RIGHT OF WAY LINE N 39° 44' 33" E, 10.00' TO A POINT THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00' AN ARC LENGTH OF 43.02' AND A CHORD BEARING AND DISTANCE OF N 80° 26' 44" E, 37.90' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 89.00' AN ARC LENGTH OF 20.87' AND A CHORD BEARING AND DISTANCE OF N 37° 52' 02" E, 20.82' TO A POINT; THENCE N 44° 35' 07" E, 17.02' TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 89.00' AN ARC LENGTH OF 6.91' AND A CHORD BEARING AND DISTANCE OF N 42° 20' 05" E, 6.91' TO A POINT; THENCE N 65° 27' 26" W, 116.78' TO A POINT; THENCE N 24° 32' 34" E, 384.76' TO A POINT; THENCE N 25° 19' 25" E, 60.48' TO A POINT; THENCE N 16° 31' 20" E, 486.48' TO A POINT; THENCE N 18° 43' 09" E, 71.63' TO A POINT; THENCE N 24° 08' 58" E, 80.25' TO A POINT; THENCE N 35° 47' 32" E, 75.25' TO A POINT; THENCE N 42° 01' 56" E, 72.20' TO A POINT; THENCE N 46° 03' 52" E, 59.60' TO A POINT; THENCE N 30° 48' 40" E, 43.72' TO A POINT; THENCE N 85° 45' 14" W, 907.74' TO AN EXISTING CONCRETE MONUMENT; THENCE N 05° 50' 48" E, 1318.41' TO A POINT IN THE CENTERLINE OF ROCKY MOUNT SPRING (CENTERLINE OF ROCKY MOUNT SPRING BEING THE COMMON LINE BETWEEN GOWER CONSTRUCTION COMPANY PROPERTY AND T.C. RANDALL PROPERTY (DB 2794 PAGE 876)) THENCE ALONG THE CENTERLINE OF ROCKY MOUNT SPRING THE FOLLOWING CALLS:

S 56° 49' 37" E, 76.40'; S 61° 28' 37" E, 54.75'; N 05° 09' 35" E, 27.62'; N 61° 03' 44" E, 57.23'; N 04° 03' 32" W, 85.71'; N 63° 34' 36" E, 83.71'; S 42° 17' 56" E, 93.32'; S 31° 33' 13" E, 25.32'; N 68° 48' 31" E, 136.47'; S 65° 39' 20" E, 69.62'; N 74° 54' 21" E, 29.69'; N 22° 06' 12" E, 19.42'; N 28° 21' 00" E, 164.44' (ALONG THE CENTER OF A 13.5' CORRUGATED METAL PIPE); N 24° 39' 29" E, 85.58'; N 66° 55' 25" E, 115.59'; S 64° 23' 42" E, 85.12'; N 00° 26' 19" E, 50.82'; N 87° 37' 31" E, 69.03'; N 08° 53' 44" E, 60.25'; N 44° 00' 51" W, 47.27'; N 77° 24' 20" E, 56.03'; N 32° 01' 06" E, 53.07'; N 43° 31' 36" W, 70.91'; N 36° 35' 08" E, 39.15'; S 44° 56' 33" E, 38.14'; N 63° 32' 46" E, 45.85'; N 13° 07' 25" E, 76.63'; S 35° 40' 01" E, 64.33'; N 58° 06' 39" E, 63.18'; N 23° 51' 43" E, 89.91'; S 40° 59' 03" E, 59.36'; N 56° 56' 28" E, 36.67'; N 49° 18' 12" E, 130.73'; S 20° 42' 19" E, 47.45'; S 88° 58' 01" E, 157.83'; N 56° 43' 04" E, 100.21'; S 78° 44' 47" E, 65.56'; S 21° 26' 21" E, 73.68'; N 66° 00' 43" E, 282.27'; S 89° 28' 55" E, 60.59'; S 00° 42' 27" W, 56.70'; N 35° 36' 20" E, 184.31'; S 82° 57' 23" E, 204.76' TO A POINT SAID POINT BEING AT THE CENTERLINE INTERSECTION OF ROCKY MOUNT SPRING AND THE BANK OF THE NEUSE RIVER; THENCE LEAVING THE BANK OF THE NEUSE RIVER S 06° 18' 16" W, 2423.69' TO AN EXISTING CONCRETE MONUMENT; THENCE N 85° 45' 14" W, 1066.69' TO AN EXISTING IRON PIPE; THENCE S 16° 32' 40" W, 924.72' TO AN IRON PIPE SET; THENCE S 24° 32' 34" W, 629.00' TO THE POINT AND PLACE OF BEGINNING. SAID TRACT DESCRIBED CONTAINING 107.58 ACRES MORE OR LESS ACCORDING TO A SURVEY BY ROBERT T. NEWCOMB AND ASSOCIATES, P.C.