

**MASTER DECLARATION OF RESTRICTIVE AND PROTECTIVE  
COVENANTS FOR VISTA CAY VILLAGE SUBDIVISION  
(the "Declaration")**

Prepared by and return to:  
Gaylor Edwards & Vatcher, P.A.

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

1<sup>st</sup> THIS MASTER DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS, is made this the \_  
day of August, 2024 by **BEAVER CREEK INVESTORS, INC.**, a North Carolina corporation, hereinafter called  
"Declarant," **ATLANTIC CONSTRUCTION, INC.**, a North Carolina corporation, hereinafter called "Atlantic" and  
**PARAGON BANK**, a banking corporation, hereinafter referred to as "Lienholder",

**W I T N E S S E T H:**

**WHEREAS**, Declarant is the owner, except as hereinafter provided, of all that certain tract of land situated in Swansboro Township, Onslow County, North Carolina, being more particularly described on **Exhibit "A"**, being hereinafter referred to as the "**Development Area**";

**WHEREAS**, Atlantic is the owner of one or more lots as shown and described on the maps set forth in Article I below;

**WHEREAS**, Declarant or Atlantic is constructing on a portion of the Development Area, a residential subdivision, which may include community facilities for the benefit of the community, with single family houses, hereinafter referred to as the "**Project**", and plans to construct on the remainder of the Development Area either single family houses, or a mix of single family houses and single family townhouses;

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of the property values and amenities within said community and to provide for the maintenance of common areas, properties and improvements located thereon, and to this end desires to subject the Project property to the covenants, restrictions, easements, charges and liens as are hereinafter set forth, each and all of which are for the benefit of said real property and each present and future owner thereof;

submitted electronically by "Gaylor Edwards Vatcher LawFirm"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Onslow County Register of Deeds.

WHEREAS, Declarant desires to provide and allow for the annexation of additional "sections" to the Project as said "sections" are developed and completed, and to provide for equality of rights, privileges and obligations of all lot owners in all "sections" of the Project by adding and annexing such "sections" to the Project by recordation of "Supplemental Declarations" or "Amendments to Declaration" to this Declaration.

**DECLARATION:**

**ARTICLE I  
PROPERTY**

NOW, THEREFORE, it is hereby declared that the Property described herein is, and shall be, held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth; said Property being more particularly described as follows:

BEING all of Lots 7, 8, 9, 10, 11, 12, 13, 14 and 117 CBU Lot, as shown and described on a plat entitled, "Minor Subdivision (Type I) VISTA CAY VILLAGE SECTION VII-A," dated March 20, 2024, prepared by John L. Pierce & Associates, P.A. and recorded in Map Book 86, Page 70, in the Office of the Register of Deeds of Onslow County, North Carolina, and

BEING all of Lots 1, 2, 3, 4, 5, 6 and 116 Septic Lot, as shown and described on a plat entitled, "Minor Subdivision (Type I) VISTA CAY VILLAGE SECTION VII-B," dated July 11, 2024, prepared by John L. Pierce & Associates, P.A. and recorded in Map Book 86, Page 203, in the Office of the Register of Deeds of Onslow County, North Carolina, said properties being hereinafter referred to as the "Property" or "Subdivision".

**ARTICLE II  
DEFINITIONS**

**Section 1.** Association shall mean and refer to "VISTA CAY VILLAGE HOMEOWNERS ASSOCIATION, INC.", its successors or assigns.

**Section 2.** Board shall mean and refer to the Board of Directors of the Association.

**Section 3.** Common Area shall mean all real property owned by the Association, if any, for the common use, benefit and enjoyment of the Owners and designated as "Common Area", on any recorded subdivision map of any portion of the Property. The Common Area to be conveyed to the Association initially will be the parcel of land designated "Lot 117 CBU Lot," on the plat recorded in Map Book 86, Page 70, Onslow County Registry, and "Lot 116 Septic Lot," on the map recorded in Map Book 86, Page 203, Onslow County Registry.

**Section 4.** Common Expenses shall mean and refer to :

- a. the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Articles of Incorporation of the Association and its By-Laws;
- b. all amounts expended by the Association in accordance with Article XVI in holding and being responsible for the obligations of the Stormwater Management Permit SW8 240706 overseeing, supervising, administering, managing, repairing, replacing and insuring all Stormwater Management Facilities located within the Property as required by this Declaration and all amounts expended in enforcing the provisions of the Permit;
- c. all amounts expended by the Association for the maintenance, repair and replacement of any sign, fence or other improvements, including the landscaping thereof, within any Sign Easement, or Fence Easement, both of which are hereinafter defined, and any expenditures required to maintain compliance

- d. with the North Carolina Erosion and Sedimentation Control Permit for the Property;  
all amounts expended by the Association for the maintenance, repair and replacement of "Lot 117 CBU Lot" and "Lot 116 Septic Lot," as shown on the aforementioned recorded plats of the Subdivision, including any improvements thereon;

**Section 5.** Declaration shall mean the covenants, conditions, restrictions and easements and all other provisions set forth in this entire document, as may from time to time be modified or amended.

**Section 6.** Declarant shall mean and refer to BEAVER CREEK INVESTORS, INC., a North Carolina corporation, or any successor in title or any successor in interest of BEAVER CREEK INVESTORS, INC. to all of the Property then owned by BEAVER CREEK INVESTORS, INC., or if it is provided in writing by the Declarant that the successor in title or successor in interest is to assume the rights and obligations of Declarant, then to any successor in title or successor in interest to any portion of the Property then subject to this Declaration.

**Section 7.** Development Area shall include that property described on Exhibit "A", all or part of which may from time to time be submitted to and made subject to the terms of this Declaration.

**Section 8.** Development Rights means the rights of Declarant, independently or in combination with others, to: (i) add real estate to the Property; (ii) create lots, common area or limited common area within the Property; (iii) subdivide or combine lots or convert lots into common area, (iv) re-allocate the permissible built-upon area of any Lot or Lots; or (v) withdraw real estate from the Property.

**Section 9.** Fence Easement shall mean any area of the Property designated as "Fence Easement" on the any recorded subdivision map of any portion of the Properties.

**Section 10.** Limited Common Expenses shall mean and refer to all amounts expended by the Association for the maintenance, repair, restoration and replacement of Lot 116 Septic Lot and the force mains/supply lines for wastewater treatment systems situated within the septic system easements and access easements dedicated for such purpose for Lots 2, 3, 4, 5, 6 and 7, in the Subdivision, as shown on the recorded maps set forth in Article I hereof, together with such other lots, if any, which may be annexed to the Subdivision with off-site wastewater treatment systems.

**Section 11.** Limited Common Assessments shall mean and refer to all charges, fees, costs and expenses to be collected from the owners of Lots 2, 3, 4, 5, 6 and 7 as shown on the recorded plats of the Subdivision for Limited Common Expenses, and owners of such other lots, if any, with off-site wastewater treatment systems annexed to the Subdivision.

**Section 11.** Lot shall mean any separately described parcel of land, other than streets, roadways, areas designated as easements, Lot 117 CBU Lot and Lot 116 Septic Lot, as shown on any recorded subdivision map of the Property.

**Section 12.** Permit shall mean the State of North Carolina Stormwater Management Permit number SW8 240706 issued by the Division of Energy, Mineral and Land Resources under NCAC 2H.1000, and any subsequent modification thereto or other stormwater management permit hereafter issued for any property annexed to the Subdivision by the Declarant.

**Section 13.** Project Property or Area shall mean the real property described in Article I, supra, together with all structures and other improvements thereon, together with such other portions of the Development Area as may from time to time be added to and annexed in the Project Area by Supplemental Declaration.

**Section 14.** Property or Properties shall mean and refer to any real property which is, or may be, subject to this Declaration, or any Supplemental Declaration.

**Section 15.** Sign Easement shall mean any area of the Property designated as "Sign Easement" on any recorded subdivision map of any portion of the Properties.

**Section 16.** Special Declarant Rights means the rights of Declarant, its successors and assigns, to: (i) complete improvements indicated on recorded plats and any plans for the Property; (ii) exercise any development right; (iii) maintain sales offices, management offices, signs advertising the Property, and models; (iv) use easements through common areas for the purpose of making improvements within the Property, or within real estate which may be added to the Property; (v) make the Property part of a larger planned community or group of planned communities; (vi) make the Property subject to a master

association; or (vii) appoint or remove any officer or executive board member or director of the Association or any master association during any period of Declarant control.

**Section 17. Supplemental Declaration** shall mean and refer to any declaration of covenants, restrictions, easements, charges and liens recorded by the Declarant, or its successors and assigns, which applies to a specific tract or parcel land annexed to the Subdivision, if any.

**ARTICLE III  
PURPOSES**

No Lot or Lots shall be put to any use other than for occupancy by one (1) single family for residential purposes, except that any Lot, including, but not limited to a Reserved By Owner Lot, which is owned by Declarant may be used by the Declarant for a street or roadway or off-site sanitary sewer disposal system. All Lots with the suffix "A", if any, shall be used solely for sanitary sewer disposal and shall be owned and conveyed together with the same numeral parent Lot whether or not it is described in the deed of conveyance of such parent Lot.

**ARTICLE III  
LAND USE AND BUILDING TYPE**

No building shall be used except for single family residential purposes. No structure shall be erected, placed, altered, or permitted to remain on any such Lot other than one (1) single family dwelling not to exceed three (3) stories in height, a private garage which may contain living quarters for occupancy by domestic servants of the lot occupant only, and such other outbuildings as may be reasonably appurtenant to the dwelling, provided that the same are constructed in line with the general architectural design and construction standards used as the dwelling itself, except as provided in Article XIII, below. This covenant shall not be construed as prohibiting the use of a new single family dwelling as a model home for sales purposes.

No construction, alteration or improvement to any Lot shall be made which will result in the amount of built-upon area ("BUA") exceeding the "BUA" permitted under Article XVI, unless an additional amount of "BUA" has been assigned to such Lot by the Declarant. Prior to commencement of any construction, alteration or improvement to any Lot the Owner shall submit the plans therefore to the Declarant, or the Association, for its written approval and acknowledgment that such proposed construction, alteration or improvement will not result in a violation of the permitted BUA under Article XVI.

**ARTICLE IV  
DWELLING QUALITY AND SIZE AND MAXIMUM IMPERVIOUS AREA**

The ground floor area of the main structure, exclusive of one-story porches and garages, shall be not less than 1,000 square feet for a one-story dwelling, nor less than 650 square feet for a dwelling of more than one story. All exterior colors of the structure (i.e. exterior walls, window frames, soffit and shingles) must be approved by the Declarant or its assign prior to construction.

The maximum impervious area for each Lot is set forth in Article XVI, entitled, "Stormwater Management". Prior to commencement of construction of any improvements on a Lot, the Owner shall submit to the Declarant or the Association evidence in the form of a survey, preliminary plot plan or other evidence satisfactory to the Declarant or Association, in their sole discretion, that the construction of the proposed improvements will not result in a violation of the maximum impervious area permitted in Article XVI, below.

**ARTICLE V  
BUILDING LOCATION**

No building shall be located on any corner lot nearer to the front line or any side street line than as shown on the recorded plat nor nearer than 15 feet to the rear lot line. No building shall be located with respect to interior side lot lines so as to be nearer than 8 feet to either such line. No dwelling shall be located on any interior lot nearer to the front lot line than as shown

on the recorded plat nor nearer than 15 feet to the rear lot line. No garage or other permitted accessory building shall be located nearer than 15 feet to any rear lot line. For the purposes of this covenant, eaves, steps, open porches, and carports shall not be considered as part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another Lot. An error of not more than ten percent (10.0%) in the location of a building on the lot with respect to the minimum set back lines shall not be considered a violation of this covenant.

**ARTICLE VI  
NUISANCES**

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

**ARTICLE VII  
RESERVATION OF EASEMENTS**

(A) **Utility, Septic System and Drainage Easements and Maintenance.** Easements for installation and maintenance of utilities, including, but not limited to septic system facilities, and drainage facilities are reserved as shown on any recorded plat of the Property, and over the rear ten (10) feet of each Lot. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority, or utility company is responsible.

(B) **Reservation of Right to Grant Future Easements.** The Declarant reserves for itself, its successors and assigns, an easement and right at any time in the future to grant an easement or right of way under, over, upon and along the side, rear and front property lines of each and every Lot in the Subdivision described herein, for drainage, and the installation and maintenance of poles, lines, conduits, pipes, and other equipment necessary to or useful for furnishing electric power, gas, telephone, and cable service, drainage or other utilities, including water and sanitary sewer or storm water sewer services.

**ARTICLE VIII  
ANIMALS, LIVESTOCK AND POULTRY**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other customary household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes. Owners shall be obligated to construct fences in compliance with the fence requirements set forth in Article X, infra, or invisible fencing, to insure pets remain confined on the owner's lot. Pets shall not be restrained on Lots by any chains, ropes or other leash type device anchored or fastened to a temporarily or permanently immovable object or structure. Any and all pets shall not be allowed off the owner's Lot, unless same are leashed, under the direct physical control of the owner at all times, and are not creating a nuisance to, or threat to the safety of, the other residents, or guests of residents, in the Subdivision. Any violation of the provisions set forth in this Article shall subject the lot owner to a fine, and/or a directive for the owner's animal to be permanently removed from the subdivision, as determined in the reasonable discretion of the Declarant, or the Association, in accordance with North Carolina General Statutes Section 47F-3-102(12).

Notwithstanding the foregoing, and subject to any governmental law, rule, ordinance or regulation, not more than five (5) chicken hens (but no roosters) may be kept on a lot for domestic purposes only, subject to the following restrictions and conditions: (a) the hens shall be continuously confined in a predator proof cage, coop, crate or other similar fully enclosed apparatus, (b) the cage, coop, crate or other fully enclosed apparatus must be situated in the rear of the primary dwelling so as to restrict it from being viewed from the street or streets adjacent to the lot as much as reasonably possible, (c) no coop shall be placed closer than 25 feet from the rear property line, nor closer than 10 feet to any side lot line, (d) chicken waste shall be

disposed of in an expeditious manner so as not to transmit an offensive odor to adjoining lots, and (e) the chickens shall not be maintained for any business or commercial use.

**ARTICLE IX  
BUILDING PLANS AND SPECIFICATIONS**

No dwelling or other building shall be erected upon any lot unless the plans and specification thereof meet or exceed the requirements of "minimum property standards for one and two living units". (FHA. No.300), Federal Housing Administration.

**ARTICLE X  
ERECTION OF FENCES AND FENCE ENCROACHMENT EASEMENTS**

Every Owner of a Lot shall be entitled to construct a fence on his Lot, in accordance with the specifications in this Article:

- (A) Fences, not to exceed six (6) feet in height, constructed of wood or vinyl materials may be constructed between the front of the primary dwelling and the rear lot line. No chain link fences shall be permitted. No fence shall be erected between the front of the primary dwelling and the street right of way, unless such fence shall be of an ornamental nature. Brick and split-rail shall be deemed to meet the requirements of this restriction. Fencing traversing a Lot shall be parallel to the front lot line. Provided, however, that with respect to corner lots, no fencing shall be erected or maintained without the prior written approval of the Declarant, its successor or assign. The Declarant, or its assign, shall be entitled to connect to any existing fence situated on a common property line, or within one (1) foot thereof.
  
- (B) All reconstruction of any shared fence walls shall be subject to general rules of law regarding party walls. The cost of reasonable repair and maintenance of a shared fence wall shall be shared by the Owners who make use of the fence. Every Owner shall have an easement and right of entry upon the Lot of any other Owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a shared fence wall and those improvements belonging to his Lot which encroach on an adjoining Lot or Common Area. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot or Lots and Common Area to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

**ARTICLE XI  
GARBAGE AND REFUSE DISPOSAL**

No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste and recyclable materials shall not be burned or disposed of on any Lot, and shall be kept in enclosed sanitary containers . All equipment for the storage, prior to disposal of such material, shall be kept in a clean and sanitary condition. The placement of containers for such materials shall be kept in an enclosed area, not subject to view from outside of the enclosed area, except for the pick up for disposal. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**ARTICLE XII  
SIGHT DISTANCE AT INTERSECTION**

No fences, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply upon any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be

permitted to remain within such distance of such intersection, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**ARTICLE XIII  
TEMPORARY STRUCTURES**

No structure of a temporary character, such as, trailer, storage shed, tent, shack, garage (not on a permanent foundation), barn or other outbuilding shall be erected or allowed to remain on any Lot as a residence, temporarily or permanently. Such temporary structures, not used as a residence, shall only be allowed within an enclosed area to the rear of the main dwelling and substantially concealed from street view. The Declarant may, in its sole discretion, grant a variance to Article III requirement of all buildings being similar to the general architectural design of the main dwelling, provided such variance is for the location of a structure within an enclosed area, substantially concealed from street view.

**ARTICLE XIV  
DRAINAGE**

All driveways shall have drainage tile in the street ditches installed and sized in accordance with the N.C. State Highway recommendations and in accordance with the stormwater rules and restrictions set forth in Article XVI.

**ARTICLE XV  
MISCELLANEOUS RESTRICTIONS**

(A) Operative motor vehicles used by a resident of a Lot as a primary source of transportation may be parked only in the driveway of such Lot Owner or in any garage space owned by the Owner of such Lot. However, the residents of any one Lot may not collectively park more than four (4) operative motor vehicles in the Subdivision. Inoperative, non-licensed and/or non-registered motor vehicles (collectively "Restricted Vehicles") may not be parked on the Properties (as defined in the Declaration), unless such Restricted Vehicles are parked in the garage and the garage door is completely closed. No auto maintenance and/or repairs may be performed on the Properties, except if performed inside the garage, or behind an enclosed fence, of a Lot Owner. Motor vehicles, whether owned by the Lot Owner or not, parked in violation of any provision in this Declaration, or in violation of any Rules or Regulations adopted by the Association, shall be towed away and stored at the Owner's risk and expense. By parking on the Properties, the owner of the vehicle or other vehicle user is deemed to waive any claim against the Declarant or Association resulting directly or indirectly out of the towing and/or storage, unless the towing can be shown, by a preponderance of the evidence, to have been done maliciously. The Association is not obliged to try to determine the owner of a vehicle and first give notice, before authorizing the towing of the vehicle parked in violation hereof.

(B) No recreational equipment, including, but not limited to trampolines, swimming pools or other devices, other than non-portable basketball goals, shall be permitted in the area between the front of the dwelling situated on any Lot and the street right of way, provided that non-portable basketball goals shall not be permitted within the street right of way adjacent to any Lot.

(C) No boat or boat trailer shall be parked in the area between the front of the dwelling situated on any lot and the street right of way.

(D) Each Lot Owner shall be responsible for repairing, and restoring to its original condition, the non-paved portion of the street right of way adjacent to any Lot damaged by the parking of the owner's, their family members' or guests' motor vehicles in that area.

(E) All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth, including, but not limited to weeds and grass, or accumulation of rubbish or debris shall be permitted to remain on a Lot or within the right of way adjacent to such Lot. The Declarant, and Association, their successors or assigns, reserve the right to enter upon and cut grass, weeds, or undergrowth on any Lot, easement or area between a Lot and the adjoining street right of

way, but shall be under no obligation to do so. The cost and expense incurred by the Declarant or Association for maintenance of a Lot, including, but not limited to, lawn mowing, shall be deemed a Limited Common Expense to be paid by the Lot Owner, which shall be a lien on such Lot and enforceable as provided in Article XIX(M) of this Declaration. Declarant, or Association, their successors or assigns, further reserve the right to impose such other rules and regulations to prohibit "group" or "party" car washes and other activities which it deems an unreasonable annoyance or nuisance to the community.

(F) No sign, billboard, or other advertising of any kind, including without limitation professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size. Although approval by the Declarant or Association is not required prior to the display of such signs, the Declarant or Association may itself remove, have removed, or require the removal of any such sign which in its opinion adversely affects the appearance of the community. A valid easement shall exist on any Lot for such removal by the Declarant or Association or its agents. Provided, however, nothing shall prohibit or limit in any manner "construction" signs designating the job site and builder which may be placed upon a Lot during the period of the construction of a residential dwelling on the Lot, but must be immediately removed upon final completion of such construction, nor the erection of temporary banners for recognizing accomplishments of residents of the Subdivision. Notwithstanding the above, any additions to the Property may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the Declarant or its assigns.

(G) Lawn mowers, lawn equipment, animal kennels, bicycles, motorcycles, raw firewood, or other items of personal property may be stored only in a garage, behind and enclosed fence, or on that part of any Lot to the rear of the extended rear/back line of the dwelling so as to be shielded from view from any street to the greatest extent reasonably possible.

(H) Only draperies or blinds shall be permitted as window dressings hung at windows, or in any manner so as to be visible from the outside of any building erected upon any Lot, shall be permitted, unless otherwise approved by the Declarant or the Association.

(I) Clotheslines shall not be permitted, unless otherwise approved by the Declarant or Association.

(J) Outdoor swimming pools, hot tubs, Jacuzzis, and other similar recreational facilities may be located only directly to the rear of the primary dwelling, and within an enclosed fence, on a Lot. All such facilities shall be subject to approval and compliance with all governmental laws and regulations.

(K) No Lot shall be leased for a term of less than thirty (30) days.

#### ARTICLE XVI STORMWATER MANAGEMENT

(A) The following covenants and restrictions set forth in this Article XVI are intended to insure continued compliance with State Stormwater Management Permit Number SW8 240706 as issued by the Division of Energy, Mineral and Land Resources (the "Division") under NCAC 2H.1000.

(B) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.

(C) The covenants set forth in this Article XVI pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Energy, Mineral and Land Resources.

(D) Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Energy, Mineral and Land Resources.

(E) The maximum allowable built-upon area ("BUA") per lot is **5,000 square feet for all Lots, except Lot 82 which shall be 7,675 square feet**. This allotted amount includes any built-upon area constructed within the Lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area has the same meaning as set forth in NCGS Section 143-214.7, as amended.

The Permit provides for additional BUA square feet (the "Excess BUA") for future allocation by the Declarant, or its successors or assigns, provided however, the BUA set forth in paragraph (E) above may not be increased or decreased by the Declarant or any Lot owner, unless and until the Declarant or Lot owner notifies the Division and obtains prior written approval from the Division.

(F) In case of a Lot within CAMA's regulated Area of Environmental Concern, where the Division of Coastal Management calculates a different maximum allowable built-upon area for that Lot than as shown herein, the governing maximum built-upon area for that Lot shall be the most restrictive of the two amounts.

(G) Filling in or piping of any vegetative conveyances (such as ditches, swales, etc.) associated with the development, except for the minimum amount necessary under driveways to provide access to lots and the minimum amount necessary to direct runoff beneath an impervious surface such as a road, is strictly prohibited by any person.

(H) Each Lot will maintain a minimum fifty (50) foot wide vegetated buffer between impervious areas and surface waters in accordance with 15A NCAC 02h.1003(4) and the approved plans.

(I) All roof drains shall terminate at least fifty (50) feet from the mean high water mark of surface waters.

(J) Any individual or entity found to be in non-compliance with the provisions of the stormwater management Permit or requirements of the stormwater rules found in 15A NCAC 02H.1000 and Section Law 2008-211, is subject to enforcement procedures as set forth in NCGS 143, Article 21. Built upon area in excess of the permitted amount is not allowed unless a state stormwater permit modification is issued prior to construction, which permit modification may or may not be granted as determined by the Division of Energy, Mineral and Land Resources.

(K) These covenants are to run with the land and be binding on all persons and parties claiming under them.

(L) Placement of dredged or fill material, or development within the waters of the United States and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act. This activity also requires notification to the Division of Energy, Mineral and Land Resources, Stormwater and Wetlands Sections.

(M) Declarant, its successors and assigns, shall have the right, but not the obligation, in Declarant's sole discretion, to assign all or any portion of the Excess BUA to a Lot or Lots in the Subdivision, as may be expanded, by execution of a "Notice of Assignment of Built Upon Area," with the joint execution of such other Lot Owner (if other than the Declarant), which shall be recorded in the Onslow County Registry, and a copy delivered to DEMLR. If Declarant is the owner of any Lot, the Declarant may increase or decrease the permissible BUA without the joinder of any other Owner or mortgagee, provided such increase or decrease does not result in a violation of the total permissible BUA under the Permit.

All permitted runoff from future development of the Property shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the stormwater control system as permitted.

Declarant, the Association, the State of North Carolina and their respective successors and assigns, reserve and retain the right to go upon any Lot to inspect for the compliance of such Lot with the Permit and to maintain, repair, replace and construct ditches and devices necessary to insure that such Lot is in compliance with the Permit.

#### ARTICLE XVII RESERVATION OF EASEMENTS AND RIGHTS BY DECLARANT

Declarant hereby reserves for itself, the Association, their successors and assigns, for any purposes it deems useful to its development of the Property, the development of other property now owned, or which may be owned in the future by Declarant, or the development of other property to which Declarant may grant the benefit of such easements, those easements shown on any recorded subdivision map of the Property, or subsequently annexed property, and the following additional

easements and rights:

A. **Ingress, Egress, Drainage and Utility Easements:** A perpetual easement for ingress, egress, regress, access, the installation and maintenance of utilities, further subdivision, and the right to dedicate to public use, over, under and upon all streets and drainage and utility easements shown on any recorded map of the Property or lying within the subdivision and the water and sewer easements lying within the subdivision;

B. **Right to Grant Additional Easements:** The right to grant easements for the purposes of ingress, egress, regress, access, the installation, use and maintenance of utilities and further subdivision, over, under and upon (i) all streets shown on any recorded map of the Property and (ii) the drainage and utility easements and easements for the water and sanitary sewer systems located within the Property, to any property outside the Subdivision and Property to which Declarant deems the grant of such easements desirable, whether or not the property to which the easements are granted is owned by Declarant;

C. **Reservation of Underground Utility Easements:** A perpetual easement over, under and upon all streets and drainage and utility easements shown on any recorded subdivision map of the Property for the purpose of establishing, constructing and maintaining any underground utility, conduits and wires for telephone, electric power and other purposes and of laying, installing and maintaining facilities for sewage, potable and non-potable water, gas, storm drainage and other utilities therein. This reservation shall not be construed as an obligation of Declarant to provide or maintain any such activity or services;

D. **Easement to Remove Easement Obstructions:** A perpetual access easement over, under and upon the Lots to trim, cut and remove any trees and brush necessary for the installation, operation and maintenance of utility lines, gas, water and sewer mains and other services for the convenience of the property owners and appurtenances thereto;

E. **Transmission Easements:** A perpetual and exclusive easement for the installation and maintenance of radio and television transmission cables within the rights-of-way and easement areas reserved and defined above.

F. **Sign and Fence Easements:** A perpetual easement for the erection, maintenance, repair and replacement of a sign or signs within any Sign Easement and a fence or fences within any Fence Easement as shown on the recorded map of the Property.

G. **Reservation of Development Rights and Special Declarant Rights.** The Declarant shall be entitled to exercise and hereby reserves for itself, its successors and assigns, the Development Rights and Special Declarant Rights set forth in Article II, Section 8 and Section 15, respectively, for a period ending upon: (i) the conveyance of all building Lots, or (ii) ten (10) years following the date of recordation of this Declaration, whichever occurs first.

#### ARTICLE XVIII

##### OWNER'S MAINTENANCE OBLIGATIONS AND RIGHT OF DECLARANT AND ASSOCIATION TO PERFORM CERTAIN MAINTENANCE

A. On each Lot, the rights-of-way and easement areas reserved by Declarant, except for any Sign Easement or Fence Easement area, or dedicated to public utilities purposes, shall be maintained continuously by the Lot owner. No structure, plantings or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of the flow of water through drainage channels in the easements, or which damage or interfere with established slope ratios or which create erosion problems. It is provided, however, that where the existing location of an easement or drainage channel reserved in this Declaration or shown on any recorded subdivision map of the Property would hinder the orderly development of the Lot on which the easement is located, the easement or drainage channel may be relocated by Declarant. Improvements within such areas also shall be maintained by the

Lot owner, except for those for which a public authority or utility is responsible. Further, the Declarant reserves the right to dedicate additional drainage easements, of such dimensions, as may reasonably necessary or desirable for the orderly development of the Subdivision.

B. In the event the owner of any Lot shall fail to maintain the Lot, and/or the improvements situated thereon in a manner in keeping with this Declaration (*that is, in a manner which enhances and preserves the property values*), in addition to any other rights set forth herein or provided by law, the Declarant and the Association shall have the right, but not the obligation, through their agents and employees, to enter upon said Lot and clear, clean, repair, maintain and restore the Lot, the exterior of any building and any other improvements erected thereon, to a condition so as not to distract from the appearance of the Subdivision. There is included in the authority herein granted the power to clear any Lot of undergrowth, rubbish, debris, weeds or grass, including the mowing of same to conform to as close as possible to the other Lots in the Subdivision. In the event the owner of any Lot shall damage or through negligent failure to act allow damage to occur to Stormwater Management Facilities, located on said owner's Lot, or fail to comply with all applicable North Carolina Sedimentation and Erosion Control Permits, in addition to any other rights set forth herein or provided by law, the Declarant, and the Association shall have the right, but not the obligation, through their agents and employees, to enter upon said Lot and clear, clean, repair, maintain and restore the Stormwater Management Facilities, and to bring the Lot into compliance with the applicable governmental authorities North Carolina Sedimentation and Erosion Control Permits. There is included in the authority herein granted the power to clear Lots of undergrowth, rubbish, debris, weeds or grass, including the mowing of same.

The costs of the maintenance or repair authorized by this Article shall be considered the legal obligation of the Lot owner. The Declarant, or the Association, as applicable, may maintain an action in court having jurisdiction for such costs, together with all collection costs, including reasonable attorney's fees, and expenses incurred in pursuing such action. The costs shall not constitute a lien on said Lot, unless and until the final judgment of such court shall be entered in the office of the Clerk of Court of Onslow County. Any such lien obtained shall be subordinate to any first deed of trust.

## ARTICLE XIX

### VISTA CAY VILLAGE HOMEOWNERS ASSOCIATION, INC.

A. **Purposes of Association.** The VISTA CAY VILLAGE HOMEOWNERS ASSOCIATION, INC. (the "**Association**") has been or will be formed at the direction of the Declarant pursuant to the rules and requirements of the Nonprofit Association Act (Chapter 55A) of the General Statutes of North Carolina as an association of the owners of the Lots. Its purposes are to: (1) oversee, inspect, maintain, repair and replace the Stormwater Management Facilities constructed pursuant to the Permit; (2) enforce the provisions of the Permit; (3) enforce each Lot owner's obligations with respect to the Stormwater Management Facilities pursuant to this Declaration; (4) enforce each Lot owner's obligations with respect to all applicable North Carolina Sedimentation and Erosion Control Permits; said authority to be exercised, if and only if, and when and only when, Declarant transfers the Permit to the Association; (5) inspect, maintain, repair and replace any improvements constructed or located upon or under Lot 116 Septic Lot, the septic system easements and access easements, including, but not limited to any bridges or gates situated thereon; (6) inspect, maintain, repair and replace signs and landscaping located within any Sign Easement; (7) inspect, maintain, repair and replace fences located within any Fence Easement; and (8) take such action as is authorized in Article XVIII, supra. The Association shall have no authority with respect to the Lots located in the Subdivision until such time as Declarant transfers such rights to the Association.

B. **Membership.** Each owner of a Lot within the Subdivision shall be a member of the Association. The Declarant, by this Declaration, and the owners of each individual Lot, by their acceptance of a deed thereto, covenant and

agree with respect to the Association:

- (1) that for so long as each is an owner of a Lot within the Subdivision, each will perform all acts necessary to remain in good and current standing as a member of the Association; and
- (2) that any unpaid assessment, whether general or special, levied by the Association in accordance with this Declaration, the Articles of Incorporation (herein called the "Articles") or the Bylaws of the Association (herein called the "Bylaws") shall be a lien upon the Lot upon which such assessment was levied and also shall be the personal obligation of the person who was the owner of the Lot at the time the assessment fell due.
- (3) Each membership in the Association shall relate to and have a unity of interest with an individual Lot which may not be separated from the ownership of said Lot. The books and all supporting documentation, the Declaration, the Articles, the Bylaws, and all amendments thereto shall be available for examination by all Lot owners, and their lenders or their lenders' agents during normal business hours at the principal office of the Association.

C. **Classes of Voting Members.** The Association shall have two (2) classes of voting membership, as follows:

**Class A:** Initially, the Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Person shall be members. Provided, however, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. If multiple owners of a Lot cannot provide written verification of the authority of a designated individual to cast their vote, then no vote may be cast by that particular Lot Owner. Any Class A member may assign its voting rights to the Declarant, whether or not the Declarant owns any other Lot, which shall entitle the Declarant to ten (10) votes for such Lot as a Class B member.

**Class B:** The Class B member shall be the Declarant and shall be entitled to ten (10) votes for each Lot owned, or each Lot for which an assignment of voting rights has been granted from a Class A member. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events:

- (i) at such time as all of the Lots have been sold and are occupied by permanent residents thereof; or
- (ii) ten (10) years from the date of recordation of this Declaration; or
- (iii) when, in its discretion, the Declarant so determines.

D. **Stormwater Management Permit.** The Declarant shall, at its sole cost and expense, initially construct all Stormwater Management Facilities required to be located upon the Lots and Property or upon any property annexed into the Subdivision by the Declarant to the standards required by the applicable Permit. Upon completion of the construction of said Stormwater Management Facilities located in the Subdivision, the Declarant shall transfer the applicable Permit to the Association and the Association shall accept the transfer of the applicable Permit from the Declarant upon the earlier to occur of (i) the date the North Carolina Department of Environment and Natural Resources allows such transfer to occur; or, (ii) the date upon which at least fifty percent (50%) of the Lots in the Subdivision are conveyed to owners, other than Declarant. Prior to any such transfer, the Stormwater Management Facilities for the Subdivision, including any property annexed by Declarant into the Subdivision, shall be certified, either by state inspection or by a licensed engineer, as being in compliance with the applicable Permit prior to such assignment or transfer. The Association shall indemnify and hold Declarant harmless from any loss, cost, claim, fee, fine, suit, damage or expense, including reasonable attorneys' fees, incurred by Declarant in the defense of any action against Declarant as the holder of the Permit occurring after Declarant tenders transfer of the Permit to the Association following the approval of such transfer by the North Carolina Department of Environment and Natural Resources and the certification of compliance as set forth above. Further, Declarant may bring an action for specific performance of the obligations of the Association pursuant to this paragraph. From and after the transfer of the Permit from the Declarant following the approval of the North Carolina Department of Environment and Natural Resources,

the oversight, supervision, management and administration of the Permit shall be the sole responsibility of the Association. The Association's duties with regard to the Permit shall be carried out in accordance with the terms and conditions of this Declaration, the Articles, the Bylaws and the Permit. The Association hereby is granted and conveyed an easement over, under and upon each Lot and future lots in the Subdivision for the purpose of access to and inspection, maintenance, repair and replacement of all Stormwater Management Facilities located upon each Lot and future subdivided lot. In the event, the Declarant annexes additional property into the Subdivision and transfers the applicable Permit to the Association, the Association shall have, and hereby is granted and conveyed, an easement over, under and upon each annexed Lot for the purpose of access to and inspection, maintenance, repair and replacement of all Stormwater Management Facilities located upon each annexed lot.

**E. Expenses of the Association.** The expenses of the Association shall include:

(1) All amounts expended by the Association in holding and being responsible for the obligations of the Permit and overseeing, supervising, administering, managing, repairing, replacing and insuring all Stormwater Management Facilities and Sedimentation and Erosion Control facilities located within the Subdivision as required by this Declaration; all amounts expended by the Association for maintenance and repairs of the Cluster Mailbox Units ("CBU") area and facilities; all amounts expended by the Association in enforcing the provisions of this Declaration, as may be amended; all amounts expended by the Association in the performance of its duties hereunder from and after the time Declarant transfers the Permit; and all amounts expended by the Association in legal, engineering or architectural fees and all similar fees which may be incurred by the Association from time to time in performing the functions delegated to the Association by this Declaration.

(2) All amounts expended by the Association in carrying out any duty or obligation as may be required or allowed by this Declaration, the Articles or the Bylaws.

(3) All amounts expended by the Association in operating, administering, managing, repairing, replacing, improving, paying all taxes imposed on and insuring the improvements, including landscaping, situated in the Sign Easement.

(4) All amounts expended by the Association for the maintenance, repair and replacement of any fence erected in the Fence Easement as shown on the recorded plat of the Subdivision.

(5) All amounts expended by the Association in repairing, replacing, and improving Lot 116 Septic Lot, and the force main/supply lines of any wastewater treatment systems and/or sanitary sewer (septic system) easements, if any, dedicated for such purpose.

**F. Assessments.** Each purchaser or grantee of any Lot in the Subdivision which has been improved by the construction of a single family residence thereon and occupied by such purchaser or grantee, individually or by his/her/their tenants or assigns, by acceptance of a deed for the same (whether or not it shall be so expressed in such deed) is deemed to covenant and agree, to pay to the Association annual general assessments or charges and specific special assessments, as hereinafter provided. The annual general assessments and specific special assessments, together with interest, costs and reasonable attorneys' fees, shall be a separate charge and lien on the land and, subject to the limitations set forth herein, shall be a continuing lien upon the property against which each such assessment is made. Furthermore, each such assessments, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligations of the person who was the owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title to a Lot, unless expressly assumed by them, but, subject to the provisions of this Declaration, delinquent assessments shall continue to be a lien upon such Lot.

(1) Until January 1, 2025, the **annual General Assessment** for all Lots shall be **Three Hundred Dollars (\$300.00)** per Lot. Until January 1, 2025, the **annual Limited Common Assessment** for Lot 2, 3, 4, 5, 6 and 7 shall be **One Hundred Dollars (\$100)** per Lot.

(2) From and after January 1, 2025, the annual general assessment and/or annual limited common assessment may be increased upon the vote of a majority of the Board of Directors of the Association by no more than twenty percent (20%) of the annual general assessment or annual limited common assessment for the preceding year.

(3) Any increase of the annual general assessment, exceeding fifteen percent (15%) of such assessment for the preceding year must be approved by the owners of at least two-thirds (2/3) of the Lots subject to such assessment, who are voting in person or by proxy at a meeting called for this purpose.

(4) Once the annual general assessment and annual limited common assessment have been set, notice of the annual general assessment and annual limited common assessment shall be given to all Lot owners for the General Assessment and to owners of Lots 2, 3, 4, 5, 6 and 8 for the Limited common Assessment. It is provided, however, that no owner is relieved from the obligation to pay the assessment because of failure to give such notice. After the initial notice of the assessment, no bills for such assessment will be forwarded to any owner, but such assessment thereafter shall become due and payable as provided by the Board of Directors.

(5) As provided in the Bylaws, and subject to the restrictions and limitations provided herein, the Board of Directors shall establish an Annual Budget in advance for each fiscal year. Such budget shall project all expenses for the forthcoming fiscal year which may be required for the proper operation, management and maintenance of the Stormwater Management Facilities, the North Carolina Sedimentation and Erosion Control Permits, the "Entrance Signs" situated in any Sign Easement, any fence situated in any Fence Easement, the operation, management and maintenance of the improvements and facilities situated upon Cluster Box Units area and the Association, including a reasonable allowance for contingencies and reserves. The budget shall take into account any projected or anticipated income. Upon adoption of such Annual Budget by the Board of Directors, copies of the Budget shall be delivered to each owner together with a statement of the applicable assessment(s) for each Lot as provided herein, based upon such budget; however, the non-delivery of a copy of said Budget shall not affect the liability of any owner for such assessment(s). The Annual Budget for the annual general assessment shall be divided by the number of Lots subject to the annual general assessments at the time of the annual meeting of the members and the quotient shall be the annual general assessment per Lot for the succeeding fiscal year.

(6) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the Association to the payment of any expense of operating and managing the Association or the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles and the Bylaws. Although all funds and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer said owner's membership interest therein, except as an appurtenance of said owner's Lot. When the owner of a Lot shall cease to be a member of the Association by reason of said owner's divestment of ownership of such Lot, by whatever means, the Association shall not be required to account to such owner for any share of the fund or assets of the Association, including any monies which said owner may have paid to the Association, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Association.

(7) Written notice of any meeting called for the purpose of taking any action requiring a meeting shall be sent to all members not less than twenty (20) days, or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast **ten percent (10%)** of the votes of all members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

I. Annual general assessments and limited common assessments shall be fixed at a uniform rate for all Lots.

J. The annual general assessments and annual limited common assessment provided for herein shall commence as to each Lot when it has been improved by the construction of a single family residence thereon and occupied by the purchaser or grantee, individually or through his/her/their tenants or assigns, on the date of recordation of the deed for such Lot in the Office of the Register of Deeds of Onslow County and shall be prorated on a calendar year basis through the date of such recordation. The annual general assessments and annual limited common assessments shall be assessed for each calendar year thereafter and shall be payable annually, or more frequently, with the due date for such payments and payment frequency, being as established by the Board of Directors.

K. The annual general assessment levied by the Association shall be used exclusively to oversee, inspect, maintain and repair the Stormwater Management Facilities, Cluster Box Units facilities, Sign Easement and Fence Easement areas, if any; to enforce the provisions of this Declaration relating to the Stormwater Management Facilities, the Permit, the applicable North Carolina Sedimentation and Erosion Control Permit and to pay the expenses of the Association from and after the time, if ever, Declarant transfers the Permit to the Association. The Association's functions shall be to oversee, inspect, maintain and repair the Stormwater Management Facilities, Sign Easement and Fence Easement areas; to enforce the provisions of this Declaration relating to the Stormwater Management Facilities, the Permit, the applicable North Carolina Sedimentation and Erosion Control Permits. The powers of the Association may not be expanded beyond those purposes. Nothing herein relieves the owner of a Lot from said owner's obligation to maintain the areas upon said owner's Lot upon which the Stormwater Management Facilities and sanitary sewer (septic system) and access easements are located as provided herein and not to damage or allow damage to occur to said Stormwater Management Facilities and septic system/access easements, and to comply with the provisions of all applicable North Carolina Sedimentation and Erosion Control Permits.

L. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

M. General special assessments, and special assessments may be levied against Lots for such reasons as are provided in this Declaration, the Articles or the Bylaws, and on such terms as provided by the directors and the members. Upon a two-thirds (2/3) vote of the Directors and a two-thirds (2/3) vote of the owners of Lots who are voting in person or by proxy at a meeting duly called for this purpose, the Association may levy and impose special assessments. The purposes for which special assessments may be levied are limited to providing funds to pay for the oversight, inspection, maintenance and repair of the Stormwater Management Facilities, Cluster Box Units, Sign Easement and Fence Easement areas, if any, off-site septic systems and repair areas, if any, to enforce the provisions of this Declaration relating to the Stormwater Management Facilities, the Permit and all applicable North Carolina Sedimentation and Erosion Control Permits, Sign Easement and Fence Easement areas, Cluster Box Units and off-site septic systems and repairs areas, which exceed the general assessment then on hand to pay same and to provide a contingency fund for capital improvements and extraordinary expenses. General special assessments shall be levied at a uniform rate for all Lots to which such assessments may be charged as set forth in this Declaration. Special assessments may be assessed against the owner of a Lot after written notice has been given by the Association to the owner of said Lot at the address of the owner appearing upon the records of the Association by United States mail, postage prepaid, that the Stormwater Management Facilities located on said Lot have been damaged by the act or negligent failure to act of said owner or that said owner has failed to comply with all applicable North Carolina Sedimentation and Erosion Control Permits and such Stormwater Management Facilities are in need of repair or replacement in order to comply with the Permit or actions must be taken in order to comply with the applicable North Carolina Sedimentation and Erosion Control Permits and the owner of said Lot has not taken the necessary action to bring the Stormwater Management Facilities located on said owner's Lot into compliance with the Permit or to comply with the provisions of all applicable North Carolina Sedimentation and Erosion Control Permits within thirty (30) days after the mailing of said notice. If said owner commences the necessary action to repair or replace the Stormwater Management Facilities or septic system and/or septic system easement located on said owner's Lot and to bring the Stormwater Management Facilities into compliance with the Permit or to bring the Lot into compliance with the applicable North Carolina Sedimentation and Erosion Control Permits, or to maintain or repair off-site septic systems or septic system easements, within the thirty (30) day period set forth above, the imposition of a specific special assessment shall be deferred by the Association for the period during which said owner diligently pursues to completion the repair or replacement of the Stormwater Management Facilities located on said Lot or compliance with the applicable North Carolina Sedimentation and Erosion Control Permits, or maintenance or repair of the off-site septic system or septic system easement. Special assessments shall be limited to the amount of funds actually expended, or in the discretion of the Board of Directors, the amount of funds reasonably estimated by the Board of Directors will be expended, by the Association to repair or replace the Stormwater Management Facilities located upon the Lot or to comply with the applicable North Carolina Sedimentation and Erosion Control Permit upon which the specific special assessment is assessed. Special assessments, either general or specific, together with interest, costs and reasonable attorneys' fees, shall be a charge and lien on the land and, subject to the provisions set forth in this Declaration, shall be a continuing lien upon the Lot against which each such assessment is made. The personal

obligation of an owner of a Lot for delinquent special assessments, whether general or specific, or limited common assessment, shall not pass to a successor in title to a Lot, unless expressly assumed by the successor, but, subject to the provisions of this Declaration, delinquent special assessments shall continue to be a lien upon such Lot.

N. Any annual general assessment, annual limited common assessment, general special assessment, or specific special assessment, if not paid within thirty (30) days after the date such assessment is due, shall be subject to a late payment charge, and shall bear interest at the maximum legal rate of per annum thereafter. The Association may record a claim of lien against the Lot for such delinquent assessments and charges, together with costs of collection, court costs, and reasonable attorneys' fees in the Office of the Clerk of Superior Court of Onslow County in accordance with Section 47F-3-116 of the North Carolina General Statutes, or file a suit to collect such delinquent assessments and charges. The Association may file Notice of Lis Pendens, bring an action at law against the owner personally obligated to pay the same and/or bring an action to foreclose the lien against the Property. The lien of any assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu therefor, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No owner may waive or otherwise escape liability for the assessments provided for herein.

O. In the event the Articles of Incorporation and/or Bylaws of the Association are amended to expand the rights and duties of the Association, those amendments shall have no effect on the Lots or the Subdivision unless, by recorded amendment to this Declaration, joined in by Declarant.

#### **ARTICLE XX WETLANDS**

It shall be the responsibility of each Owner, prior to alteration of any Lot, to determine if any portion of the Lot shall have been determined to meet the requirements for designation as regulatory "wetlands". Any subsequent fill or alteration of the "wetlands" shall conform to the requirements of the wetlands rules adopted by the State of North Carolina and in force at the time of the proposed alteration. The intent of this restriction is to prevent additional fill or alteration of designated "wetlands", so the property Owner should not assume that a future application for fill or alteration will be approved. The property Owner shall report the name of the subdivision in any application pertaining to "wetlands" rules. These covenants and restrictions are intended to insure the continued compliance with "wetlands" rules adopted by the State of North Carolina, therefore compliance may be enforced by the State of North Carolina or authorized agency or department thereof.

#### **ARTICLE XXI REMEDIES**

In the case of failure of a Lot owner to comply with the terms and provisions contained in this Declaration, the Articles or the Bylaws of the Association, the following relief shall be available:

A. The Declarant (whether or not the Declarant is the owner of any Lot), the Association, any Lot owner and any party to whose benefit this Declaration inures, including but not limited to the State of North Carolina or its assignees with respect to the Permit, may proceed at law and in equity to prevent the violation of any term or provision of this Declaration, the Articles and Bylaws and also recover damages for such violation and the court in any such action may award the successful party said party's reasonable expenses and costs in prosecuting such action, including reasonable attorney's fees.

B. The remedies hereby specified are cumulative and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity or under any statute. No delay or failure on the part of the Association, the Declarant or an aggrieved party to invoke an available remedy with respect to a violation of any of this Declaration, the Articles and Bylaws shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to that party upon the reoccurrence or continuation of said violation or the occurrence of a different violation.

**ARTICLE XXII**

**COMPLIANCE WITH DEPARTMENT OF TRANSPORTATION TRAFFIC MAINTENANCE STANDARDS**

Driveway head walls, fences, mailboxes, newspaper delivery boxes, basketball goals or other roadside obstructions, constructed or placed within the right of way of any street as shown on the recorded plat of the subdivision in a location or out of materials determined to be a traffic safety hazard by the North Carolina Department of Transportation or the Declarant, shall not be permitted. It shall be the duty of the Owner of any Lot to remove such obstruction, at the Owner's sole expense, within thirty (30) days following written notification of such objection by the North Carolina Department of Transportation or Declarant. In the event any Owner fails, or refuses, to remove such obstruction or obstructions within the thirty (30) day period following written notification thereof, the Declarant or the Association shall have the right, but not the duty, to remove the obstruction or obstructions and to charge the Owner the costs thereof which shall be a lien against the Owner's Lot and may be enforced in the same manner as provided in Article XIX (N), above.

**ARTICLE XXIII**

**STREET LIGHTING AGREEMENT**

The Declarant reserves the right to subject the Property, or any other property annexed into the Subdivision, to a contract with an electric utility company for the installation of street lighting, and/or entrance sign lighting, either or all of which may require an initial payment and/or a continuing monthly payment to an electric company by each Lot Owner for a pro rata share of installation, operation and maintenance expenses.

**ARTICLE XXIV**

**ANNEXATION OF ADDITIONAL PROPERTY INTO SUBDIVISION**

The Declarant, for itself and its successors and assigns, hereby expressly reserves the right, but shall in no way be obligated, to expand the real property which is subject to this Declaration without the consent or joinder of any Owner or Owners of any Lot or Lots or person or entities having a lien or security interest in such Lot or Lots, by annexing, from time to time other real property into the Subdivision. From and after the date of such annexation, the annexed Lots shall be subject to the jurisdiction of the Association and the owners of the annexed Lots shall be members of the Association.

An amendment to this Declaration shall be made and recorded in the office of the Register of Deeds of Onslow County, North Carolina, to include each portion of the real property which is to be subject to this Declaration, and each such portion of the real property shall constitute an addition to the Subdivision. The right of the Declarant, or its successors and assigns, to expand the Subdivision as herein provided shall expire fifteen (15) years following the date of recordation of this Declaration.

**ARTICLE XXV**

**SUPPLEMENTAL DECLARATION(S)**

The Declarant shall have the right, from time to time, to record Supplemental Declarations which may designate specific use and other restrictions within other real property annexed into the Subdivision, may create Common Areas within such other real property for the use of all owners in the Subdivision, as may be expanded, and may create a separate owners association exclusively for such other real property; and may exercise all rights reserved in Article XVII, supra, provided however, no Supplemental Declaration shall avoid membership in the Association by Owners of Lots in said other real property, nor shall any Supplemental Declaration modify or amend the terms of this Declaration or any prior Supplemental Declaration for another tract annexed, without the required consent of Owners of all tracts of land constituting the then existing Subdivision.

**ARTICLE XXVI  
ENFORCEMENT**

Enforcement shall be by proceedings at law or in equity against any person or person violating or attempting to violate any covenant, either to restrain violations or to recover damages. In the event any proceeding is commenced to enforce the provisions of this Declaration, the non-prevailing party shall be obligated to pay, in addition to any monetary damages or other award granted by the court, the expenses and costs of such proceeding, including reasonable attorneys' fees of the prevailing party.

**ARTICLE XXVII  
MODIFICATION**

These restrictions are subject to being altered, modified, canceled or changed at any time as to said subdivision as a whole, or as to any subdivided lot or part thereof, by written document executed by the Declarant, its successors in title, or assigns, and by the owners of lots to which at least sixty seven percent (67%) of the votes in the Association are allocated, and recorded in the Office of the Register of Deeds of Onslow County, North Carolina. If the Declarant is entitled to at least sixty seven (67%) percent of the votes in the Association, the Declarant may alter or amend these covenants without the consent of any other owner. Provided however, the Declarant, without the consent or joinder of any owner, may annex additional properties to the Subdivision, exercise any rights set forth in Article XVII, and exercise any other Development Rights and Special Declarant Rights. Provided further, the Declarant may, without the consent or joinder of any owner, (i) amend any terms, restrictions, conditions or provisions under Article XVI to comply with any stormwater law, rule or regulation, or (ii) increase or decrease the permissible "BUA" for any Lot or Lots in accordance with the terms of this Declaration, provided such increase or decrease does not result in the total BUA being in excess of that allowed under the Permit.

**ARTICLE XXVIII  
TERM**


The covenants, easements and restrictions set forth in this Declaration, as may be amended, are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date this Declaration is recorded, after which such time said Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change this Declaration, in whole or in part, with the exception of Article XVI.

**ARTICLE XXIX  
SEVERABILITY**

Invalidation of anyone of these covenants by judgment or Court Order shall in no way affect any of the other provisions which shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Declarant has caused this instrument to be signed by its President, with authority duly given by its board of directors, the day and year first above written.

**BEAVER CREEK INVESTORS, INC.**, a North Carolina corporation,

By:   
Name: **Betty Bullock**  
Title: **President**

ATLANTIC CONSTRUCTION, INC., a North Carolina corporation

By: [Signature]  
Name: Joseph J. Henderson, II  
Title: President

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

The undersigned, a Notary Public in and for said County and State, does hereby certify that **Betty Bullock**, known to me or having provided satisfactory proof of her identity, personally came before me this day and acknowledged that she is President of **BEAVER CREEK INVESTORS, INC.**, a North Carolina corporation, and that by authority duly given and as the act of the corporation, she executed the foregoing instrument on behalf of the corporation for the purposes set forth therein and in the capacity indicated.

Witness my hand and official stamp or seal, this 1<sup>st</sup> day of August, 2024.

[Signature]  
Notary Public  
Name: J. Dewey Edwards, Jr.  
Notary Public  
Onslow  
County  
DEWEY EDWARDS, J.R.  
NORTH CAROLINA

My Commission Expires: July 9, 2026

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

The undersigned, a Notary Public in and for said County and State, does hereby certify that **Joseph J. Henderson, II**, known to me or having provided satisfactory proof of her identity, personally came before me this day and acknowledged that he is President of **ATLANTIC CONSTRUCTION, INC.**, a North Carolina corporation, and that by authority duly given and as the act of the corporation, she executed the foregoing instrument on behalf of the corporation for the purposes set forth therein and in the capacity indicated.

Witness my hand and official stamp or seal, this 1<sup>st</sup> day of August, 2024.

[Signature]  
Notary Public  
Name: J. Dewey Edwards, Jr.

My Commission Expires: July 9, 2026

J. DEWEY EDWARDS, J.R.  
Notary Public  
Onslow  
County  
NORTH CAROLINA

IN WITNESS WHEREOF, the Lienholder has caused this instrument to be signed by its Vice President, with authority duly given by its board of directors, the day and year first above written, for the sole purpose of subordinating its lienhold interests in the Project Property, by virtue of the deed of trust recorded in Book 5960, Page 319, Onslow County Registry, to the easements, restrictions, covenants, and conditions set forth in the Declaration.

PARAGON BANK, a banking corporation

By: [Signature]

Name: John A. Tyndell

Title: Vice President

STATE OF NORTH CAROLINA

COUNTY OF Fender

The undersigned, a Notary Public in and for said County and State, does hereby certify that John A Tyndall, known to me or having provided satisfactory proof of his/her identity, personally came before me this day and acknowledged that (s)he is the/a Vice President of PARAGON BANK, a banking corporation, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by him/her in the capacity indicated and for the purposes set forth therein and in the capacity indicated.

Witness my hand and official stamp or seal, this 30 day of July, 2024.

[Signature]

Notary Public

Printed Name: Beverly Michelle Jacobs

MY COMMISSION EXPIRES: 11/16/29

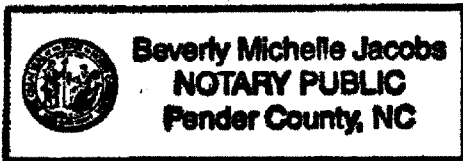


Exhibit "A"

Situated in Swansboro Township, Onslow County, North Carolina and being more particularly described as follows:

Being all of Tract 1, containing 11.77 acres, and Tract 2, containing 89.34 acres, as shown and describe on a plat entitled, "Boundary Plat, Prepared for BEAVER CREEK INVESTORS, INC., Showing WILLIAM D. PINSKY, JILL BAUM & GEOFFREY SURDY (OWNER)," dated April 18, 2023, prepared by John L Pierce & Associates, P.A. and recorded in Map Book 84, Page 11, in the Office of the Register of Deeds of Onslow County, North Carolina.