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Prepared by ~~and Return to:~~
P.D. Hartz Construction Company, Inc.
8995 West 95th Street
Palos Hills, Illinois 60465

**DECLARATION OF EASEMENTS,
RESTRICTIONS, AND COVENANTS
FOR TOWN POINTE WETLAND DETENTION AREA**

EXHIBIT ATTACHED

2 of 5

THIS DECLARATION is made as of the *31st* day of *MARCH*, 1999 by OLD KENT BANK, AS SUCCESSOR TO FIRST NATIONAL BANK OF EVERGREEN PARK, as Trustee under Trust No. 7573 dated November 1, 1983, hereinafter known as "Declarant" and P.D. HARTZ CONSTRUCTION COMPANY, INC., hereinafter known as "Developer."

WITNESSETH

A. The Declarant is the owner in fee simple of the following described parcel of real estate in the Village of Tinley Park, County of Cook, State of Illinois (hereinafter "Town Pointe Condominium Association"):

Lots 1 through 10 inclusive in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No. 98-194139, of part of the Southwest 1/4 of Section 35, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

And also,

That part of the Southwest 1/4 of Section *35*, Township *36* North, Range 12 East of the Third Principal Meridian, bounded and described as follows: COMMENCING at the Southwest corner of Lot 17 in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No. 98-194139, of part of said Southwest 1/4; thence South 85°-52'-20" East 197.00 feet along the Southern line of said Lot 17 and its extension East, to the Easterly line of Kirby Drive as dedicated in said Town Pointe Multi-Family Unit 1, also being the POINT OF BEGINNING; thence North 04°-07'-40" East 96.94 feet along said Easterly line, to the South line of Stratford Drive as dedicated in said Town Point Multi-Family Unit 1; thence South 89°-57'-04" East 92.56 feet along said South line, to the Northwest corner of Lot 7 in said Town Pointe Multi-Family Unit 1; thence South 04°-07'-40" West 463.03 feet along the Westerly line of said Lot 7 and the Westerly line of Lot 401 in Said Town Pointe Multi-Family Unit 1, to the West most Southwest corner of said Lot 401; thence South 46°-19'-26" East 242.14 feet along the Southwesterly line of said Lot 401; thence Westerly 120.50 feet along a curve being the arc of a circle of 973.00 feet radius convex Southeasterly having a chord bearing of South 57°-45'-48" West; thence North 28°-27'-33" West 45.31 feet, to a point of curve; thence Northwesterly 137.19 feet along said curve being the arc of a circle of 220.00 feet radius convex Northeasterly having a chord bearing of North 46°-19'-26" West, to a point of tangency; thence North 64°-11'-19" West 47.20 feet; thence Northerly 58.14 feet along a curve being the arc of a circle of 120.00 feet radius convex Easterly having a chord bearing of North 02°-20'-12" East, to a point of reverse curve; thence Northerly 58.26 feet along said curve, being the arc of a circle of

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213.00 feet radius convex Westerly having a chord bearing of North 03°-42'-29" West, to a point of tangency; thence North 04°-07'-40" East 328.44 feet, to the herein designated POINT OF BEGINNING, in Cook County, Illinois.

And also;

That part of the Southwest ¼ of Section 35, Township 36 North, Range 12 East of the Third Principal Meridian, bounded and described as follows: COMMENCING at the Southwest corner of Lot 17 in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No 98-194139, of part of said Southwest ¼; thence South 85°-52'-20" East 197.00 feet along the Southerly line of said Lot 17 and its extension East, to the Easterly line of Kirby Drive as dedicated in said Town Pointe Multi-Family Unit 1; thence North 04°-07'-40" East 96.94 feet along said Easterly line, to the South line of Stratford Drive as dedicated in said Town Pointe Multi-Family Unit 1; thence south 89°-57'-04" East 92.56 feet along said South line, to the Northwest corner of Lot 7 in said Town Pointe Multi-Family Unit 1; thence South 04°-07'-40" West 463.03 feet along the Westerly line of said Lot 7 and the Westerly line of Lot 401 in said Town Pointe Multi-Family Unit 1, to the West most Southwest corner of said Lot 401; thence South 46°-19'-26" East 242.14 feet along the Southwesterly line of said Lot 401; thence Westerly 160.51 feet along a curve being the arc of a circle of 973.00 feet radius convex Southeasterly having a chord bearing of South 58°-56'-28" West, to the POINT OF BEGINNING; thence continue 101.22 feet along said curve, being the arc of a circle of 973.00 feet radius convex Southeasterly having a chord bearing of South 66°-38'-51" West; thence North 00°-23'-11" East 6.83 feet; thence North 89°-36'-49" West 200.00 feet; thence South 85°-53'-12" West 104.52 feet; thence North 04°-03'-48" West 43.00 feet; thence Northerly 93.68 feet along a curve being the arc of a circle of 55.00 feet radius convex Southeasterly having a chord bearing of North 37°-8'-28" East; thence North 57°-01'-19" East 6.56 feet, to a point of curve; thence Easterly 46.59 feet along said curve, being the arc of a circle of 80.00 feet radius convex Northerly, having a chord bearing of North 73°-42'-15" East, to a point of tangency; thence South 89°-36'-49" East 58.32 feet to a point of curve; thence Northeasterly 115.15 feet along a curve being the arc of a circle of 120.00 feet radius convex Southeasterly having a chord bearing of North 62°-53'-45" East; thence South 64°-11'-19" East 47.20 feet to a point of curve; thence Southeasterly 112.25 feet along said curve, being the arc of a circle of 180.00 feet radius convex Southwesterly having a chord bearing of South 46°-19'-26" East, to a point of tangency; thence South 28°-27'-33" East 44.65 feet, to the herein designated POINT OF BEGINNING, in Cook County, Illinois.

Part of PIN 27-35-301-002-0000

B. The Declarant is the owner in fee simple of the following described parcel of real estate in the Village of Tinley Park, County of Cook, State of Illinois (hereinafter "Kirby Condominium Association"):

Lots 11 through 17 inclusive in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No. 98-194139, of part of the Southwest ¼ of Section 35, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

And also;

That part of the Southwest ¼ of Section 35, Township 36 North, Range 12 East of the Third Principal Meridian, bounded and described as follows: BEGINNING at the Southwest corner of Lot 17 in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No. 98-194139, of part of said Southwest ¼; thence South 85°-52'-20" East 157.00 feet along the Southerly line of said Lot 17, to the Southeast corner of said Lot 17; thence South 04°-07'-40" West 328.44 feet along the extension South of the Westerly line of Kirby Drive as dedicated in said Town Pointe Multi-Family Unit 1, to a point of curve; thence Southerly 69.20 feet along said curve being the arc of a circle of 253.00 feet radius convex Westerly having a chord bearing of South 03°-42'-29" East, to a point of reverse curve; thence Westerly 142.32 feet along said curve, being the arc of a circle of 80.00 feet radius convex Southeast

having a chord bearing of South 39°-25'-16" West, to a point of tangency; thence North 89°-36'-49" West 58.32 feet, to a point of curve; thence Westerly 69.88 feet along said curve, being the arc of a circle of 120.00 feet radius convex Northerly having a chord bearing of South 73°-42'-15" West, to a point of tangency; thence South 57°-01'-19" West 6.56 feet; thence Westerly and Southerly 210.96 feet along a curve being the arc of a circle of 55.00 feet radius convex Westerly having a chord bearing of South 15°-49'-03" West; thence South 04°-03'-48" East 43.00 feet; thence South 85°-56'-12" West 201.83 feet; thence North 04°-03'-48" West 300.00 feet; thence North 85°-56'-12" East 243.73 feet; thence North 45°-01'-56" East 75.58 feet; thence North 04°-07'-40" East 313.85 feet, to the herein designated POINT OF BEGINNING, in Cook County, Illinois.

Part of PIN 27-35-301-002-0000

C. The Declarant is the owner in fee simple of the parcel of real estate in the County of Cook, State of Illinois legally described on Exhibit A and depicted on Exhibit B both attached hereto and made a part hereof (hereinafter "Wetland Detention Area").

D. The Kirby Condominium Property, the Town Pointe Condominium Property are sometimes collectively referred to as the "Condominium Property."

E. The Wetland Detention Area is a common area for the benefit of all of the Property for the purpose of providing open space, storm water detention, drainage and wetland conservation.

F. The Declarant desires and intends by this Declaration to establish for its own benefit and for the benefit of all future owners and occupants of the Condominium Property, and each part thereof, certain easements and rights in, over and upon the Property and the Wetland Detention Area and certain mutually beneficial restrictions and obligations with respect to the use and maintenance of the Wetland Detention Area.

G. The Declarant desires and intends by this Declaration to declare that the owners, mortgagees, occupants and other persons acquiring any interest in the Property shall at all times enjoy the benefits of and shall at all times hold their interests subject to the rights, easements, privileges and restrictions hereafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the benefits of the Wetland Detention Area for all of the Property.

NOW, THEREFORE, the Declarant as the holder of legal title to the aforescribed real estate and for the purposes above set forth, DECLARES AS FOLLOWS:

ARTICLE I DEFINITIONS

A. Association means TOWN POINTE WETLAND DETENTION AREA ASSOCIATION. Board means the Board of Directors of the Association.

B. By-Laws means the By-Laws of the Association which are set forth in this Declaration, as may be amended from time to time;

C. Closing means the date on which title to a Condo Unit is conveyed by Declarant to a Purchaser. Condo Unit means a part of the Condominium Property designated and intended for any type of independent residential use.

D. Condo Unit Owner means the Person or Persons whose estates or interest individually or collectively, aggregate fee simple absolute ownership of a Condo Unit.

E. Condo Unit Ownership means fee simple title to a part of the Condominium Property consisting of one Condo Unit and the undivided percentage interest in the Common Elements allocated thereto.

F. Condominium Declaration means the Declaration of Condominium Ownership and of Easements, Restrictions, and Covenants for the Kirby Condominium Property and the Town Pointe Condominium Property as recorded in the Office of the Recorder of Deeds of Cook County, Illinois, and all amendments thereto.

G. Wetland Detention Area means that real estate legally described above in paragraph "C" of the recitals.

H. Wetland Expenses means the proposed or actual expenses affecting the Wetland Detention Area, including Reserves, if any, lawfully assessed by the Board.

I. Declaration means this instrument and all amendments to this instrument made from time to time pursuant to the provision of this instrument.

J. Developer means P.D. HARTZ CONSTRUCTION COMPANY, INC., including any successor or successors to the entire interest of such party in the Property other than the purchaser of any Condo Unit.

K. Majority Vote means that on the basis of each Condo Unit having one (1) vote that there is an affirmative vote of a majority of the Voting Members.

L. Owner or Owners means a Condo Unit Owner.

M. Person or Persons means a natural individual, corporation, partnership, Trustee or other legal entity capable of holding title to real property.

N. Plat of Subdivision means the Plat of Subdivision for Lots 1 - 17 and Lot 401 in Town Pointe Subdivision, including any amendments thereto, as recorded as document number 98-194139 in the Office of the Recorder of Deeds for the County of Cook, State of Illinois.

O. Purchaser means any Person other than the Developer who purchases a Condo Unit in a bona fide transaction for value.

P. Reserves means those sums paid by Owners which are separately maintained by the Board for purposes specified by the Board.

Q. Two-Thirds Vote means that on the basis of each Condo Unit having one (1) vote, that there is an affirmative vote of two-thirds of the Voting Members.

R. Voting Member means the person entitled to exercise all voting power in respect to a Condo Unit.

ARTICLE II EASEMENTS

A. Easements. The Condominium Property and their respective Owners shall each have the perpetual right to use the Wetland Detention Area for open space, storm water detention and drainage, and wetland conservation.

B. Easements Reserved by the Developer. The Developer and each of its agents, employees contractors, guests, invitees, and licensees, shall have the right and easement at all times to use the

Wetland Detention Area (i) to perform any construction, maintenance, repair, renovation, restoration or rehabilitation of, in or under, all of any part of the Wetland Detention Area which the Developer desires to perform.

C. Easements to Run with Land. All easements and rights described in this Declaration are easements and rights appurtenant running with the land, and in perpetuity shall remain in full force and effect and inure to the benefit of each person and entity specified in this Declaration in whose favor such easement is granted, and be binding on the property and each Condo Unit, Condo Unit Owner, Owner, Purchaser, mortgagee and other Persons having an interest in the Property or any part thereof.

ARTICLE III ADMINISTRATION

A. Title to Wetland Detention Area. The Developer shall cause fee simple title to the Wetland Detention Area to be conveyed to the Association on or before the date of the initial meeting of the Voting Members.

B. Association. The Association shall be the governing body for all of the Owners for the maintenance, repair, replacement, administration and operation of the Wetland Detention Area and for the other purposes specified in this Declaration. The Developer or the Association after the recording of the Declaration, may cause the Association to be incorporated under the laws of Illinois as a not-for-profit corporation under the name TOWN POINTE RETENTION ASSOCIATION. The Association shall not be deemed to be conducting business of any kind, and all funds received by the Association shall be held and applied by it for the use and benefit of all Owners in accordance with the provisions of this Declaration. Each Owner shall be a member of the Association so long as he shall be an Owner and upon the transfer of his Unit Ownership the new Owner succeeding to same shall likewise succeed to such membership in the Association. The Association may issue certificates evidencing membership therein and shall have only one class of membership.

C. Administration. The administration of the Property shall be vested in the Board of Directors of the Association which shall consist of three (3) persons who shall be elected in the manner set forth in the By-Laws; provided, however, that, notwithstanding anything to the contrary set forth in this Declaration, during the period commencing on the date of the Declaration and ending upon the qualification of the directors elected at the initial meeting of the Voting Members, the Board shall consist of three (3) persons who shall be designated and selected by Developer and who need not be an Owner. Except for the directors so designated by the Developer:

(i) each member of the Board shall be one of the Owners and shall reside on the Property; provided, however, if an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any designated agent of such corporation, partnership, trust or other legal entity or any beneficiary of any such trust shall be eligible to serve as a member of the board so long as such agent or beneficiary resides on the Property, and

(ii) there shall be two (2) members of the Board from the Town Pointe Condominium Association and there shall be one (1) member of the Board from the Kirby Condominium Association, and

(iii) if a member of the Board fails to meet such qualifications during such member's term, such member shall thereupon cease to be a member of the Board and such member's place on the Board shall be deemed vacant.

D. Duties and Powers of the Association. The duties and powers of the Association and the Board shall be those set forth in the Articles of Incorporation of the Association, if any, and this Declaration (including the By-Laws).

E. Liability of the Board. Neither the members of the Board nor the officers of the Association shall be liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Board members and officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Owners or arising out of their status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of the Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any member of the Board or officers of the Association may be involved by virtue of such persons being or having been such member or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such member or officer.

**ARTICLE IV
MAINTENANCE AND REPAIR**

Maintenance and Repair. The Association shall be responsible for managing and monitoring the Wetland Detention Area to ensure its achievement of applicable performance standards and compliance with permit conditions for the first five years after its construction. Both for the that five-year management and monitoring period and thereafter, the Association shall be responsible for procuring liability insurance and for performing such other activities and making such other expenditures as may be necessary to comply with federal laws and regulations specifically pertaining to wetlands, as well as state and local laws, regulations and ordinances governing storm water management and drainage, in order to maintain the Wetland Detention Area in perpetuity for its intended purposes of open space, storm water detention and drainage, and wetland conservation in accordance with and as required by this Declaration. The costs for any and all of the foregoing are deemed to all be Wetland Detention Area Expenses.

**ARTICLE V
WETLAND DETENTION AREA EXPENSES**

A. Wetland Detention Area Expenses. Each Owner shall pay his share of the Wetland Detention Area Expenses. Payment thereof shall be in such amounts and at such times as determined in the manner provided in this Article and in the By-Laws. If any Owner shall fail or refuse to make any such payment of the Wetland Detention Area Expenses when due, the amount thereof, together with interest, late charges, reasonable attorney fees and costs of collection or the amount of any unpaid fine, shall constitute a lien on the subject Condo Unit.

B. Sharing of Wetland Detention Area Expenses. All of the Owners on the Property shall together be responsible for the payment of 100% of the Wetland Detention Area Expenses. The Wetland Detention Area Expenses shall be distributed and divided equally among the number of Condo Units (which have been created from time to time by the filing of a declaration of condominium ownership or amendment or add-on thereto).

ARTICLE VI BY-LAWS

The provisions of the following Articles shall constitute the By-Laws of the Association.

ARTICLE VII BOARD OF DIRECTORS

A. In General. The direction and administration of the Wetland Detention Area shall be vested in the Board of Directors of the Association which shall consist of three (3) persons who shall be elected in the manner set forth in the By-Laws; provided, however, that notwithstanding anything to the contrary set forth in these By-Laws, during the period commencing on the date of this Declaration and ending upon the qualification of the Directors elected at the initial meeting of the Voting Members, the Board shall consist of three (3) persons who shall be designated and selected by Developer and who need not be an Owner.

(i) each member of the Board shall be one of the Owners and shall reside on the Property; provided, however, if an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any designated agent of such corporation, partnership, trust or other legal entity or any beneficiary of such trust shall be eligible as a member of the Board so long as such agent or beneficiary resides on the Property, and

(ii) there shall be two (2) members of the Board from the Town Pointe Condominium Association, and there shall be one (1) member of the Board from the Kirby Condominium Association, and

(iii) if a member of the Board fails to meet such qualification during such member's term, such member shall thereupon cease to be a member of the Board and such member's place on the Board shall be deemed vacant.

B. Election of Board Members at the Initial Meeting. At the initial meeting of the Voting Members, the Voting Members shall elect the Board consisting of three (3) members. There must be at least two (2) candidates from Town Pointe Condominium Association and at least one (1) candidate from Kirby Condominium Association. In all elections for members of the Board, each Voting Member from the Town Pointe Property shall be entitled to vote on a non-cumulative voting basis for two (2) candidates from the Town Pointe Condominium Property and the two (2) candidates receiving the highest number of votes shall be deemed to be elected. In all elections for members of the Board, each Voting Member from the Kirby Condominium Property shall be entitled to vote on a non-cumulative voting basis for one (1) candidate from the Kirby Condominium Property and the one (1) candidate receiving the highest number of votes shall be deemed to be elected. In the event that, at the initial meeting or thereafter, the foregoing number of candidates from the various portions of the Property either do not exist or have not been nominated or elected, then the Developer shall appoint a person or persons (who need not be Owners) to the Board to fill such open positions on the Board. Members of the Board elected at the initial meeting of the Voting Members shall serve until the first annual meeting of the Voting Members. At the first annual meeting three (3) Board members shall be elected in the same manner described above for a term of two (2) years. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each. Members of the Board (including without limitation those members designated by the Developer) shall receive no compensation for their services. Vacancies in the Board shall be filled by a majority vote of the remaining Board members thereof, except that of a vacant position of the Board last filled by a person appointed by the Developer. Any director so elected or appointed to fill a vacancy shall hold office for a term equal to the unexpired term of the director he succeeds. Except as otherwise provided in this Declaration, the Wetland Detention Area shall be managed by the Board and the Board shall act by majority vote of those present at its meeting when a quorum exists. Meeting of the Board may be called,

held and conducted in accordance with such regulations as the Board may adopt provided, however, that (i) each Owner shall be entitled to notice in the same manner as provided in these By-Laws of any meeting of the Board called for the purpose of considering the adoption of the proposed annual budget or any increase or establishment of an assessment, and (ii) the Board shall meet no less than two (2) times a year. A majority of the total number of members on the Board shall constitute a quorum.

C. Officers. The Board shall elect from among its members for the term of one (1) year, (i) a President who shall preside over both its meeting and meeting of the Voting Members, and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments hereto on behalf of the Board or the Association as provided herein and in the Act, (ii) a Secretary who shall keep the minutes of all meetings of the Board and Meetings of the Voting Members and who shall in general, perform all the duties incident to the office of the Secretary, (iii) a Treasurer to keep the financial records and books of account, and (iv) such additional officers as the Board shall see fit to elect. Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of the Board. Any director elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by a vote of two thirds (2/3rds) of the total membership of the Board at a special meeting thereof

D. Removal. Except for directors designated by Developer any Board member may be removed from office, at any time after the affirmative Two-Thirds Vote, at any special meeting called for that purpose.

E. Notice to Members of Board Meeting. Written notice stating the place, date and hour of any meeting of the Board shall be delivered to each member of the Board not less than five (5) days prior to the date of such meeting. The purpose for which the meeting is called shall be stated in the notice. The Board shall meet at least two (2) times annually on dates determined at the initial and annual meetings of the Voting Members in the absence of such determination, then meetings of the Board shall be held on the second Monday of May and October, and at such other times as the Board deems necessary.

F. Notice to Owners. All meetings of the Board of Directors shall be open to any Owner, except for the portion of any meeting held (i) to discuss litigation when an action on or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board of Directors finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or an Owner's unpaid share of Wetland Detention Area Expenses; that any vote on these matters shall be taken at a meeting or portion thereof open to any Owner; that notice of such meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened; and that copies of notices of meetings of the Board of Directors shall be posted in entrance ways, or other conspicuous places on the Property at least 48 hours prior to the meeting of the Board of Directors.

G. Delivery of Documents by Developer. Within sixty (60) days following the election of the Board, the Developer shall deliver to the Board the following:

(i) All original documents as recorded or filed pertaining to the Wetland Detention Area, its administration, and the Association, such as the declaration, articles of incorporation, other instruments, annual reports, minutes, rules and regulations, and contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Developer, or an officer or agent of the Developer, as being a complete copy of the actual document recorded or filed.

(ii) A detailed accounting by the Developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Wetland

Detention Area, copies of all insurance policies, and a list of any loans or advances to the Association which are outstanding.

(iii) Association funds, which shall have been at all times segregated from any other moneys of the Developer.

(iv) A schedule of all real or personal property, equipment and fixtures belonging to the Association, including documents transferring the Wetland Detention Area, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.

(v) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken concerning the Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving Unit Owners, and originals of all documents relating to everything listed in the subparagraph.

H. General Powers of the Board. The powers and duties of the Board shall be as follows:

(i) Operation, care or keep, maintenance, replacement, and improvements of the Wetland Detention Area as the Board shall determine to be necessary and proper;

(ii) Preparation, adoption, and distribution of the annual budget for the Wetland Detention Area;

(iii) Levying of assessments;

(iv) Collection of assessments from Owners;

(v) Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Wetland Detention Area;

(vi) The Board or its agent shall have the authority to and shall obtain adequate and appropriate kinds of insurance;

(vii) Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Wetland Detention Area;

(viii) To pay the Wetland Detention Area expenses;

(ix) The Board's powers hereinabove enumerated and described in this Declaration shall be limited in that the Board shall have no authority to acquire and pay for any alterations, additions to, or improvements of the Wetland Detention Area requiring an expenditure in excess of five thousand (\$5,000.00) dollars without in each case the prior approval of a Two-Thirds Vote of the Owners;

(x) All agreements, contracts, deeds, leases, vouchers, for payment of expenditures and other instruments shall be signed by such officer or officers or agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board;

(xi) The Board may engage the services of an agent to manage the Wetland Detention Area to the extent deemed advisable by the Board and the Board may retain the services of an accountant and attorney of its choice;

(xii) Nothing hereinabove contained shall be construed to give the Board, the Association, or the Owners authority to conduct as active business for profit on behalf of all the Owners or any of them; and

(xiii) Upon authorization by a majority vote of the Board or by the affirmative vote of a Majority Vote of the Owners shall have the power to seek relief from or in connection with the assessment, or levy of any real property taxes or charges of the State of Illinois of any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as Wetland Retention Expenses.

**ARTICLE VIII
MEMBERS
(OWNERS)**

A. Voting Rights. There shall be one person with respect to each Condo Unit who shall be entitled to vote at any meeting of the Owners. Such Voting Member shall be the Owner or one of the Persons included in the Ownership or the beneficiary or one of the beneficiaries of a land trust which is an Owner or some Person (who need not be an Owner) designated by such Owner as beneficiary or beneficiaries to act as proxy on behalf of such Owner or beneficiary or beneficiaries. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator or by written notice to the Board by the Owner. Any or all of the Persons included as an Owner, and their designee, if any, may be present at any meeting of the Voting Members, but only the Voting Member of the Owner may vote or take any other action as a Voting Member either in person or by proxy. The Developer shall designate the Voting Member with respect to any Condo Unit owned by the Developer. The Association may, upon adoption of the appropriate rules by the Board of Managers, conduct elections by secret ballot.

B. Quorum. Meeting of the Voting Members shall be held at the Property or such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the Voting Members having twenty-five percent (25%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total votes represented at such meeting.

C. Initial and Annual Meeting. The initial meeting of the Voting Members hereunder shall be held not later than sixty (60) days after the conveyance by the Developer of seventy-five percent (75%) of the total number of Condo Units on the Property or three (3) years after the recording of this Declaration, whichever is earlier.

D. Special Meetings. Special meetings of the Voting Members may be called at any time for the purpose of considering matters, which by the terms of this Declaration, require the approval of all or some of the Voting Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by the President of the Board, a majority of the Board, or by the Voting Members having twenty percent (20%) of the total votes and delivered to the President or Secretary of the Board not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notice shall specify the date, time, and place of the meeting, and the matters to be considered. Matters to be submitted at special meetings of the Voting Members shall first be submitted to the Board, at least ten (10) days prior to the special meeting, who shall then submit the matters to the Voting Members.

E. Notice of Meetings. Notices of meetings required to be given under this Declaration may be delivered either personally or by mail to the person entitled to vote, addressed to each such person at the address given by such person to the Board for such purpose of service of such notice, or to the Condo Unit with respect to which such voting rights relates, if no address has been given to the Board, provided that any such notice shall be delivered no less than ten (10) days and no more than thirty (30) days prior to the date fixed for such meeting and such notice shall state the time, date, place and purpose of such meeting.

ARTICLE IX ASSESSMENTS-MAINTENANCE FUND

A. Estimated Annual Budget and Assessments. Each year, at least sixty (60) days prior to the Association's year end, the Board shall estimate the total amount necessary to pay the costs of all Wetland Detention Area Expenses which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies. The annual budget shall set forth with particularity all anticipated Wetland Expenses by category as well as all anticipated assessments and other income. The budget shall also set forth each Owner's proposed assessment. Each Owner shall receive at least thirty (30) days prior to the adoption thereof by the Board, a copy of the proposed annual budget. The "estimated annual budget" shall be assessed to the Owners and distributed and divided equally among the number of Condominium Units (which have been created from time to time by the filing of a declaration of condominium ownership or amendment or add-on thereto), as that number changes from time to time. Each Owner shall receive notice in the same manner as is provided in this Declaration for membership meetings of any meeting of the Board concerning the adoption of the proposed annual budget or any increase or establishment of an assessment and said meeting of the Board shall be open to all Owners. On or before January 1 of the ensuing year, and the first of each and every month of said year, each Owner described above jointly and severally shall be personally liable for and obligated to pay to the Board or as the Board may direct, the monthly assessment against such Condo Unit, made pursuant to this paragraph. On or before April of each calendar year following the year in which the initial meeting is held, the Board shall supply to all Owners as itemized accounting of the Wetland Detention Area Expenses for the preceding year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget or assessments, and showing the net excess or deficit of the amount required for actual expenses, plus reserves.

B. Reserves. The Board may establish and maintain a reasonable reserve for contingencies.

C. Initial Budget. The initial Board appointed by the Developer shall determine and adopt, prior to the conveyance of the first Condo Unit, the "estimated annual budget" for the initial period commencing with the first day of the month in which the sale of the first Condo Unit is closed and ending on December 31 of the calendar year in which such sale occurs and shall continue to determine the "estimated annual budget" for each succeeding calendar year until such time as the first Board elected hereunder takes office.

D. Failure to Prepare Estimates. The failure or delay of the Board to prepare or deliver the annual or adjusted estimate to the Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined. In the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until a new monthly maintenance payment is received.

E. Books and Records. The Board shall keep full and accurate books of accounts in chronological order of the receipts and expenditures affecting the Wetland Detention Area, specifying and itemizing all of the Wetland Detention Area Expenses. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or time during normal business hours as may be requested by the Owner. Upon ten (10) days notice to the Board and payment of a reasonable fee, any Owner shall

be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

F. Assessments. If an Owner is in default in the payment of the aforesaid charges or assessments for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all Owners, to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due to the costs of said suit and other fees and expenses together with interest and reasonable attorney's fees to be fixed by the Court. To the extent permitted by any decision or any statute or law now or hereafter in effect, the amount of any delinquent and unpaid charges or assessments, and interest, costs, and fees as above provided, shall be and become a lien or charge against the Condo Unit involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien on a Condo Unit shall take effect and be in force when and as provided in the Condominium Property Act; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan association, or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid Wetland Detention Area Expenses only to the lien of all Wetland Detention Area Expenses on the encumbered Unit Ownership which became due and payable subsequent to the date the encumbrancer either takes possession of the Condo Unit, accepts a conveyance of any interest in the Condo Unit (except as security) or has a receiver appointed in a suit to foreclose its lien. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as such otherwise be provided or permitted by law from time to time.

G. Payment by Condominium Association. The condominium associations for the Town Pointe Condominium Property and the Kirby Condominium Property shall be responsible for the monthly collection of assessments from each of their Condo Unit Owners, and such condominium association shall in turn be responsible for the monthly payment of all such assessments to this Association so as to make the collection of assessments by this Association more efficient. If any such condominium association fails to pay the full amount of monthly assessments on behalf of all of its Condo Unit Owners then, in addition to any other rights described above, the Board or its agents shall have the right to enforce such collection directly against such delinquent condominium association.

H. Annual Payment by Owners. Notwithstanding anything to the contrary contained herein, the Association shall require the Condo Owners and/or the underlying condominium association to pay their assessments on an annual, semi-annual or quarterly basis, as determined and approved by a majority vote of the Board. Such a requirement shall be stated in the estimated annual budget.

ARTICLE X REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

A. Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision contained in this Declaration shall give the Board the right, in addition to the rights set forth elsewhere in this Declaration: (i) to enter upon that part of the Property and Wetland Detention Area where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and the provisions hereof, and the Developer, or successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass, or (ii) to enjoin, abate, or remedy by appropriate legal proceeding, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions and proceedings, including court costs and attorneys' fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum until paid, shall be charged to and assessed against such defaulting Owner and upon that Owner's Condo Unit.

B. Restrictions. The Association shall be responsible for ensuring that the Owners of Condominium Property shall not engage in or allow any activities or alterations in the Wetland Detention Area which would interfere with or harm its water quality or its function as open space, storm water detention and drainage, and conservation of wetlands. The Association shall provide Owners with such notices as may be necessary to inform them of these restrictions. Prohibited activities and alterations include, without limitation, dredging and filling; the discharge of pollutants; mowing and landscaping; recreation, including but not limited to ball games, fishing, ice skating, and picnicking; stockpiling of dirt; storage or disposal of landscape debris; planting or removal of vegetation other than as necessary to maintain wetland vegetative cover; destroying or harming any goose or muskrat or other such enclosures required to protect wetland vegetation and hydrology; diversion of water to or from the Wetland Detention Area; feeding of wildlife, especially geese, construction or placement of any structures in the Wetland Detention Area or obstructions to drainage in or affecting the Wetland Detention Area; storage or parking of vehicles; destruction or modification of grades or slopes without prior approvals from federal and other jurisdictional authorities; use of pesticides, herbicides, or toxic substances or materials; storage of equipment or other materials; housing of pets or livestock; and the conduct of any offensive activities.

ARTICLE XI GENERAL PROVISIONS

A. Binding Effect. Each grantee of the Developer and each subsequent grantee by acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, and each tenant under a lease for a Condo Unit accepts the same subject to all restrictions, conditions, covenant, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any Person having at any time any interest or estate in the Property, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

B. Waiver. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

C. Amendment, Change, or Modification. No provision of this Declaration affecting or creating any of the rights, options, privileges or duties of the Developer may be amended, changed, modified or rescinded in any way without the prior written consent of the Developer. The provisions of this paragraph may only be amended, changed, modified or rescinded by an instrument in writing setting forth such amendment, change, modification or rescission and signed, acknowledged, and approved by the Board, the Developer and all of the Owners and all mortgagees having bona fide liens of record against any of the Condominium Property. Except for amendments made pursuant to the provisions of this Declaration, which amendments only require the signature of the Developer, and except for amendments made pursuant to the provisions of the following paragraph (which amendments shall only require the signature of the Developer) and except for amendments to this paragraph, and except as elsewhere provided in this Declaration, the provisions of this Declaration may only be amended, changed, modified or rescinded by an instrument in writing setting forth such amendment, change, modification or rescission and signed and acknowledged by the Board and approved by a Two-Thirds Vote of the Owners at a meeting called for that purpose and approved by any mortgagees required for approval and containing an affidavit by an officer of the Board certifying that a copy of such instrument (without such affidavit) has been mailed by certified mail to all mortgagees having bona fide liens of record against any Condo Unit not less than ten (10) days prior to the date of such affidavit. Each instrument of amendment, change, modification, or rescission made in accordance with this Declaration shall be effective upon the recording or registration of such instrument in the office of the Cook County Recorder of Deeds.

D. Special Amendments. Notwithstanding any other provision of this Declaration, the Developer singly reserves and shall have the right at any time and from time to time to make and record a Special Amendment to this Declaration (i) to comply with the requirements of the U.S. Army Corps of Engineers and the Environmental Protection Agency; (ii) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (iii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages, (iv) to bring this Declaration into compliance with any applicable laws, (v) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (vi) to complete the data on the Plat of Subdivision after improvements constructed at any time on the Property are completed by the Developer, or (vii) to comply with the requirements of the Assessor of Cook County, State of Illinois, in connection with an application for the reduction of the assessment on the Wetland Detention Area. In furtherance of the foregoing, each Owner and each holder of a mortgage, trust deed, or lien affecting any Property and each Person having any other interest in the Property hereby grant to the Developer an irrevocable power of attorney coupled with an interest on behalf of each Owner and each such holder or Person to make, sign and record on behalf of each Owner and each such holder and Person any amendment described in this paragraph. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting the Property and the acceptance of any such instrument shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the aforescribed power of attorney to the Developer, to make, sign and record on behalf of each of the Owners, holders and Persons described in this Paragraph any amendment described in this Paragraph. The power of attorney described in this Paragraph shall terminate five years from the recording date of this Declaration.

E. Invalidity. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

F. Perpetuities and Restraints. If any of the options, privileges, covenants, or rights created by this Declaration would otherwise be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rules restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last to die of the now living lawful descendants of Bill Clinton, President of the United States, and Richard M. Daley, Mayor of the City of Chicago, State of Illinois.

G. Release of Claims. Each Owner hereby waives and releases any and all claims which he may have against any other Owner, Occupant, the Association, its officers, members of the Board, the Declarant, the Developer, the managing agent, and their respective employees and agents, for damage to the Wetland Detention Area or the Property, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

H. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Wetland Detention Area.

I. Heading and Gender. The headings and captions contained in this Declaration are inserted for convenient reference only and shall not be deemed to construe or limit the Articles and Paragraphs to which they apply. The word "his" whenever used in this Declaration shall include masculine, feminine and neuter pronouns.

J. Ownership of Land Trust. In the event title to any Condo Unit is conveyed to a land title holder trust under the terms of which all powers of management, operation, and control remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be

responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation created under this Declaration and the Trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Condo Unit and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title of such Condo Unit.

**ARTICLE XII
EXCULPATORY CLAUSE**

This Declaration is executed and delivered by OLD KENT BANK, AS SUCCESSOR TO FIRST NATIONAL BANK OF EVERGREEN PARK, TRUSTEE, not in its individual capacity, but solely in the capacity herein described, for the purpose of binding the herein described property, and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the undertakings and agreements herein made, are made and intended not as personal undertakings and agreements of the Trustee, or for the purpose of binding the Trustee personally, but executed and delivered by the Trustee solely in the exercise of the powers conferred upon it as such Trustee, and no personal liability or personal responsibility is assumed by, or shall at any time be asserted or enforced against said trustee on account hereof or on account of any undertaking or agreement herein contained, either expressed or implied. All such personal liability, if any, being hereby expressly waived and released by all other parties hereto, and those claiming by, through or under them.

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the year and date first written above.

DECLARANT

OLD KENT BANK, AS SUCCESSOR TO FIRST NATIONAL BANK OF EVERGREEN PARK, not individually, but as Trustee under Trust No. 7573, dated November 1, 1987.

By: *William A. Morrison*
Vice President and Trust Officer

ATTEST:

Alberta A. Cartwright
Assistant Trust Officer

DEVELOPER

P.D. HARTZ CONSTRUCTION COMPANY, INC.

By: *Philip D. Hartz*
PHILLIP D. HARTZ, PRESIDENT

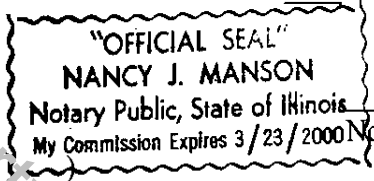
ATTEST:

Robert E. [Signature]

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that William Thomson and Roberta Cartwright the V.P. & T.O. and Asst. T.O. respectively, of OLD KENT BANK, AS SUCCESSOR TO FIRST NATIONAL BANK OF EVERGREEN PARK, as Trustee under Trust Agreement dated November 1, 1983, and known as Trust No 7573, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 31st day of March, 1999.



Nancy J. Manson
Notary Public

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Phillip D. Hartz and ROBERT C. TOPOR, respectively of P. D. Hartz Construction Company, Inc., personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Vice President, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 31st day of March, 1999.

Susan M. Krueger
Notary Public



EXHIBIT A
WETLAND DETENTION AREA LEGAL DESCRIPTION

Lot 401 in Town Pointe Multi-Family Unit 1, being a subdivision, as recorded per Document No. 98-194139, of part of the Southwest $\frac{1}{4}$ of Section 35, Township 36 North, Range 12 East of the Third Principal Meridian, Except that part thereof lying Southeasterly of the following described line; BEGINNING at the Southeast corner of Lot 4 in said Town Pointe Multi-Family Unit 1; thence Westerly 1495.75 feet along the arc of a circle of 973.00 feet radius convex Southeasterly, said arc intersecting the North line of said 183rd Street at a point which is 157.74 feet East of the Northwest corner of said 183rd Street as dedicated per said Document No. 98-194139; All in Cook County, Illinois.

Part of PIN 27-35-301 002-0000

Property of Cook County Clerk's Office