

Allegheny County
Valerie McDonald Roberts
Recorder of Deeds
Pittsburgh, PA 15219



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Instrument Number: 2004-7136

As

Recorded On: March 10, 2004

Deed Agreement

Parties: CHAPEL HARBORS AT THE WATER ASSOCIATES L P

To CHAPEL HARBOR AT THE WATER PLAN LOTS REV

Number of Pages: 20

Comment: DECL COVENANTS CONDITIONS

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PITTSBURGH PA 15219



Valerie McDonald-Roberts Recorder of Deeds

RETURN RECORDED DOCUMENT TO:
COMMONWEALTH LAND TITLE INS. CO.
300 BILMAR DRIVE, SUITE 150
PITTSBURGH, PA 15205
ATTENTION: JANET THOMAS
C206440

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**CHAPEL HARBOR AT THE WATER
RIVERFRONT UNIT DEVELOPMENT**

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

CHAPEL HARBORS AT THE WATER ASSOCIATES, LP, a Pennsylvania Limited partnership, currently maintaining its principal place of business address at 260 Alpha Drive, Township of O'Hara, Allegheny County, Commonwealth of Pennsylvania 15238 ("Declarant") hereby makes this Declaration of Covenants, Conditions and Restrictions (the "Declaration") with respect to the real estate described herein.

PREAMBLE

WHEREAS, Declarant is the owner of the real property located in O'Hara Township, Allegheny County, Pennsylvania, and known as the Chapel Harbor at the Water Plan of Lots (Revision No. 2), as recorded on October 3, 2003, at Plan Book Volume 243, Page 161 in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania (the "Plan"), which real property is more particularly described in Exhibit A attached hereto (the "Property"); and

WHEREAS, Declarant intends to develop the Property as follows, in accordance with the Final Development Plans (as set forth in the Development Agreement for the Chapel Harbor Development between Declarant and O'Hara Township) and resolutions as approved by O'Hara Township and on file with O'Hara Township (the "Drawings"):

Phase I

1. Independent Living Facility on Parcel D of the Plan (the "Independent Living Facility")
2. Office Building on Parcel B of the Plan (the "Office Building")
3. Residential – 74 Units (18 Single Family and 56 Townhomes) - on Lots 101-118 and Parcels E and J of the Plan (the "Phase I Residential Development")

Phase II

1. Residential – 91 Units (34 Single Family and 57 Townhomes) – on Parcel C of the Plan (the "Phase II Residential Development")

Phase III

1. Midrise Condominiums – 52 Units – on Parcel A of the Plan (the "Condominium Development")

WHEREAS, in connection with the development of the Property, certain improvements will be made by Declarant with respect to those portions of the Property described as open space

parcels on the Plan (specifically, Parcels OS1, OS2, OS3, OS4, and OS5), Parcel F of the Plan, and other portions of the Property, which improvements include the following, all as more fully described in the Drawings:

1. Entry at Old Freeport Road – sidewalks, signage and planting at tunnel openings
2. Public Streets – treelined, with sidewalks separated by a tree lawn, and lighted with historic style lights and fixtures
3. Linear Park – all along the top of the river and harbor slopes are walkways that connect east to west for the entire length of the Property (including the portions of such park located on Parcel D), with amenities along the way including:
 - a. Wetland Trail – a trailhead structure leads to stone steps, then to a limestone trail which leads to the water’s edge (including the portions of such trail located on Parcel D)
 - b. The Pier – including benches, a trellis, and planting
 - c. Paseo Park – including arbors and benches
4. The Green – including a pavilion, walkways and landscaping – located on Parcel OS4
5. Buffer Planting – planting screen and screening wall along the northern boundary of the Property
6. Stone Entry Sign – located on Parcel OS1

WHEREAS, Declarant hereby declares that the Property shall be held, improved, maintained, sold and conveyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of the Property; which shall run as a covenant with the land as to all Property subject to this Declaration; which shall be binding on all parties having any right, title, or interest in the Property or any part thereof, and their heirs, successors, and assigns; and which shall inure to the benefit of each Owner (as hereinafter defined) and O’Hara Township.

NOW THEREFORE, Declarant hereby declares the following covenants, conditions and restrictions affecting the Property, with the intent to be legally bound hereby.

ARTICLE I **SUBMISSION**

Declarant hereby makes the Property subject to the following covenants, conditions, reservations and restrictions. It is the intent of the Declarant that the Property subject to this Declaration shall constitute a “planned community,” as that term is defined in the Pennsylvania

Uniform Planned Community Act, 68 Pa.C.S. §§ 5101, et seq. (the “Act”); however, only those portions of the Act that are specified in 68 Pa.C.S §5102(a)(2) shall apply to this planned community.

ARTICLE II
DEFINITIONS

As used in this Declaration, the following terms shall have the meaning designated:

2.1 “Association” shall mean the Chapel Harbors Property Owners Association, Inc., a Pennsylvania non-profit corporation, formed solely to own and operate the Common Elements of the Plan.

2.2 “Common Elements” shall mean all real and personal property located within the Plan to be owned and maintained by the Association for the common use and enjoyment of all members of the Association, including Parcels OS1, OS2, OS3, OS4, OS5 and Parcel F, together with the Entry at Old Freeport Road, the Linear Park, the Green, the Buffer Planting, and the Stone Entry Sign, all as described in the third Preamble, together with the portion of Parcel D located between the Linear Park and the Allegheny River, and together with all storm water drainage facilities serving the Property and the Public Streets (until such time as the storm water drainage facilities and the Public Streets have been accepted by O’Hara Township). A copy of the Open Space Plan (LaQuatraBonci Associates Drawing Number OS, dated 03-04-04 Revised) depicting Common Elements is attached hereto as Exhibit B.

2.3 “Declarant” shall mean Chapel Harbors at the Water Associates, LP, and its successors and assigns.

2.4 “Declaration” shall mean this Declaration of Covenants, Conditions and Restrictions.

2.5 “Development Parcels” shall mean each of the following five portions of the Property: (a) the Independent Living Facility Parcel (Parcel D of the Plan); (b) the Office Parcel (Parcel B of the Plan); (c) the Phase I Residential Development Parcel (Lots 101 to 118 and Parcels E and J of the Plan, collectively); (d) the Phase II Residential Development Parcel (Parcel C of the Plan); and (e) the Condominium Development Parcel (Parcel A of the Plan).

2.6 “Member” shall have the meaning described in Section 5.1.

2.7 “Mortgage” shall mean and refer to a permanent or construction mortgage, including any collateral security documents executed in connection therewith, secured by a mortgage on the Property or any part thereof.

2.8 “Mortgagees” shall mean and refer to a beneficiary or holder of a Mortgage.

2.9 “Mortgagor” shall mean and refer to any person or entity who gives a Mortgage.

2.10 "Owner" shall mean and refer to any owner of a portion of the Property, but shall not include any governmental body that accepts dedication of any portion of the Property.

2.11 "Plan" shall mean and refer to the Chapel Harbor at the Water Plan of Lots (Revision No. 2), as recorded on October 3, 2003, at Plan Book Volume 243, Page 161 in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, as the same may be amended from time to time.

2.12 "Property" shall mean and refer to the entire parcel of ground as set forth in the Plan and as described in Exhibit A attached hereto.

ARTICLE III
EASEMENTS

3.1 Utility Easements. The Property shall be, and hereby is, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Section 3.1 shall include, without limitation, rights of governmental agencies or authorities to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electric wires, conduits, equipment, ducts and vents, over, under, through, along and on the Property. Notwithstanding the foregoing provision of this Section 3.1, unless approved in writing by the Owners affected thereby, any such easement shall be located in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the subject Property by the Declarant, or as shown on the Plans, or so as not to materially interfere with the use or occupancy of the Property by its occupants.

No storm sewers, sanitary sewers, electrical lines, water lines, or other utilities may be installed or relocated in the Plan, except as may be approved by the Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Declarant shall have the right to grant such easement over the Plan without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Plan.

The Declarant shall have the power to dedicate portions of the Common Elements to the Township of O'Hara, or to any other local, state or federal governmental entity and/or any utility supplier at any time.

3.2 Easement for Access to Property. Declarant reserves a non-exclusive perpetual right of access and easement on, over and under those portions of the Common Elements for the purpose of pedestrian and vehicular ingress, egress and regress to all or any part of the Property, including the right to modify the location of improvements to the Common Elements to facilitate

such ingress, egress and regress, including without limitation the removal of obstructions to the exercise of such rights of ingress, egress and regress, and the grading or regarding of landscaped areas of the Common Elements.

3.3 Declarant's Easement to Correct Drainage. Declarant reserves an easement on, over and under those portions of the Common Elements for the purpose of maintaining and correcting drainage of surface water in order to maintain a reasonable standard of health, safety and appearance. The easement created by this Section 3.3 expressly includes the right to cut any trees, bushes or shrubbery, to grade the soil, or to take any other action reasonably necessary to achieve this purpose, following which the Declarant shall restore the affected property as closely to its original condition as possible.

3.4 Declarant's Easement for Development of Property. Declarant reserves an easement on, over and under those portions of the Common Elements for all purposes relating to the construction, development, leasing and sale of improvements on the Property. This easement shall include, without limitation, the right of vehicular and pedestrian ingress and egress, the right to park motor vehicles and to engage in construction and marketing activities of any nature whatsoever, including the movement and storage of building materials and equipment, the conduct of sales, leasing and management activities, the maintenance of models and offices and the erection and maintenance of directions and promotional signs.

3.5 Easement for Use of Common Elements.

(a) Grant of Easement. Each Owner and each person lawfully on the Property is hereby granted a non-exclusive perpetual right and easement of access to and enjoyment in common with others of the Common Elements.

(b) Extent of Easement. The rights and easements of access and enjoyment created hereby shall be subject to the right of the Association to adopt rules and regulations governing the use of the Common Elements.

3.6 Easement for Reconstruction, Improvement, Repair or Maintenance of Common Elements. Easements to permit the doing of every necessary and proper act by the Declarant and/or the Association to properly maintain the Common Elements are hereby granted and established. These acts shall include, but not be limited to, entry upon, over and under the Property or any part thereof, the right to use all necessary and usual equipment for the performance of such acts, the usual and common noise level associated with the use of such equipment, together with all the other common and usual activity associated with such activities.

ARTICLE IV MAINTENANCE AND RELATED EXPENSES RESPONSIBILITY

4.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Elements. Such maintenance of the Common Elements shall include maintenance, repair and replacement of all landscaping and other flora, structures, and

improvements situated upon such Common Elements. Without limiting the foregoing, the Association shall be responsible for (a) snow and ice removal from all sidewalks adjacent to all Public Streets within the Property, (b) maintenance of all trees and light standards along the Public Streets, and (c) payment of all utility charges and fees for such street lighting. The maintenance standard shall include keeping all architectural and structural features in a safe condition, and maintaining substantially the appearance of all architectural, structural and landscaping features in the Plan, open space, facilities and amenities as originally approved by O'Hara Township. Failure to meet this maintenance standard shall, in accordance with a condition to the approval of the Plan, entitle O'Hara Township to, in addition to any other remedies available at law or in equity, (a) commence and prosecute an enforcement proceeding against the Association as set forth in the Municipalities Planning Code at 53 P.S. §§ 10616.1, 10617, 10617.1 and 10617.2 and/or (b) perform the necessary maintenance, and then collect its entire cost and expenses (including reasonable charges for the time of municipal employees) as provided in the Municipal Claim and Tax Lien Law of 1923 (53 P.S. § 7101 et seq.). The Declarant and the Association specifically recognize that this will give O'Hara Township the right to lien the Property for the amounts involved. The Declarant and the Association acknowledge that in any such action O'Hara Township may also recover legal fees and costs associated with or arising out of the collection of O'Hara Township's costs and expenses incurred in maintaining the Common Elements. Each Member shall indemnify and hold harmless the Association and each other Member from and against any claim made by O'Hara Township against the Association or any other Member, or the property of the Association or any other Member, arising out of the failure of such indemnifying Member to maintain its Development Parcel in accordance with the foregoing maintenance standard.

ARTICLE V
CHAPEL HARBORS PROPERTY OWNERS ASSOCIATION, INC.

5.1 Membership. For the purpose of ownership and maintenance of the Common Elements and all common community services of every kind and nature required or desired within the Property for the general use and benefit of all Owners, each and every Owner, in accepting a deed or contract for any part of the Property, agrees to and shall be subject to the obligations and duly enacted Bylaws and rules and regulations of the Chapel Harbors Property Owners Association, Inc., a nonprofit corporation. The Members of the Association shall be (a) the Declarant; (b) the Owner of the Independent Living Facility Parcel; (c) the Owner of the Office Building Parcel; (d) the Owner of the Phase I Residential Development Parcel (or a property owners' association created by the developer thereof and succeeding to the rights and obligations of such developer hereunder); (e) the Owner of the Phase II Residential Development Parcel (or a property owners' association created by the developer thereof and succeeding to the rights and obligations of such developer hereunder); and (f) the Owner of the Condominium Development Parcel (or a property owners' association created by the developer thereof and succeeding to the rights and obligations of such developer hereunder). With respect to the affairs of the Association, upon the transfer of Declarant's control of the Association in accordance with Section 9.2(a), each Development Parcel shall have one vote.

5.2 Succession. Upon the transfer of Declarant's control of the Association in accordance with Section 9.2(a), the Association shall succeed to the position of the Declarant

with respect to the provisions of these covenants, conditions, reservations and restrictions, and the term "Declarant" herein shall then mean the "Association".

5.3 Powers of the Association. The Association shall have the following powers:

- (a) To adopt and amend bylaws and rules and regulations.
- (b) To adopt and amend budgets for revenues, expenditures and reserves and collect assessments for Common Expenses from the Members.
- (c) To hire and terminate managing agents and other employees, agents and independent contractors.
- (d) To institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Members on matters affecting the Association or the Property.
- (e) To make contracts or incur liabilities.
- (f) To regulate the use, maintenance, repair, replacement and modification of the Common Elements.
- (g) To cause additional improvements to be made to the Common Elements.
- (h) To acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but the Common Elements may be conveyed or subjected to a security interest only in accordance with the provisions of §5318 of the Act.
- (i) To grant easements, leases, licenses and concessions through or over the Common Elements; provided, however, that any exercise of such power which would materially impair the quiet enjoyment of a Member shall require the prior written approval of the affected Member.
- (j) To impose and receive payments, fees or charges for the use, rental or operation of the Common Elements.
- (k) To impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration and the bylaws and rules and regulations of the Association.
- (l) To impose reasonable charges for the preparation and recording of amendments to this Declaration, and for resale certificates required by the Act.
- (m) To provide for the indemnification of its officers and executive board and to maintain directors' and officers' liability insurance.
- (n) To exercise any other powers conferred by the Act, this Declaration or the bylaws of the Association.
- (o) To exercise all other powers that may be exercised in the Commonwealth of Pennsylvania by legal entities of the same type as the Association.
- (p) To exercise any other powers necessary and proper for the governance and operation of the Association.

5.4 Board of Directors. Not later than the termination of any period of Declarant control in accordance with Section 9.2(a), the Members shall elect a Board of Directors of at least three (3) members. The Board of Directors shall elect the officers of the Association. The members of the Board of Directors and the officers shall take office upon election. The Board of Directors shall not have power to determine the qualifications, powers and duties or terms of office of the members of the Board of Directors, but it may fill vacancies in its membership for the unexpired portion of any term. The Members, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

5.5 Bylaws. The bylaws of the Association shall provide for all of the following:

- (a) The number of members of the Board of Directors and the titles of the officers of the Association.
- (b) Election by the Board of Directors of a president, treasurer, secretary and any other officers of the Association the bylaws specify.
- (c) The qualifications, powers and duties, terms of office and manner of electing and removing members of the Board of Directors and officers and filling vacancies.
- (d) Which, if any, of its powers the Board of Directors or officers may delegate to other persons or to a managing agent.
- (e) Which of its officers may prepare, execute, certify and record amendments to this Declaration on behalf of the Association.
- (f) The method of amending the bylaws.

Subject to the provisions of this Declaration and the Act, the bylaws may provide for any other matters that the Association deems necessary and appropriate.

ARTICLE VI

BUDGETS; COMMON EXPENSES; ASSESSMENTS AND ENFORCEMENT

6.1 Budgets; Capital Expenditures. The Board of Directors shall adopt a budget for revenues, expenditures and reserves at least annually. The Board of Directors shall deliver to all Members copies of each budget approved by the Board of Directors and notice of any capital expenditure approved by the Board of Directors promptly after such approval. The Members, by affirmative vote of sixty percent (60%) of all Members, pursuant to procedures applicable to voting by members of the Association as set forth in the bylaws of the Association, may reject any budget or capital expenditure approved by the Board of Directors within thirty (30) days after approval.

6.2 Quarterly Assessments. All Common Expense assessments made in order to meet the requirements of the Association's annual budget shall be deemed to be adopted and assessed on a quarterly basis (rather than on an annual basis payable in quarterly installments) and shall be due and payable in advance on the first day of the quarter. Special assessments shall be due and

payable in one or more quarterly payments, in advance, on the first day of each quarter, as determined by the Board of Directors. The Association shall have a lien against the Development Parcel of a Member for any Common Expense assessments levied against that Member or fines imposed against that Member from the time the assessment or fine becomes due. Fees, charges, late charges, fines and interest charged under Sections 5.3(j), 5.3(k) and 5.3(l) and reasonable costs and expenses of the Association, including legal fees, incurred in connection with collection of any sums due to the Association by a Member or enforcement of the provisions of this Declaration or the bylaws, rules or regulations of the Association against a Member are enforceable as assessments under this Section 6.2.

6.3 Limitation on Expenditures. All expenses, charges and costs of the maintenance, repair or replacement of the Common Elements, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Board of Directors, and a written memorandum thereof prepared and signed by the Treasurer of the Association. There shall be no structural alterations, capital additions to, or capital improvements on the Common Elements (other than for purposes of repairing, replacing and restoring portions of the Common Elements) requiring an expenditure in excess of Ten Thousand Dollars (\$10,000) without the prior approval of sixty percent (60%) of the Members.

6.4 Reserve. Each annual budget for quarterly assessments of Common Expenses shall include an amount reasonably considered by the Board of Directors to be sufficient as a reserve for replacements and contingencies. Extraordinary expenditures not originally included in the annual budget that may become necessary during the year may be charged first against such reserve, as the Board of Directors shall determine. In addition, the Association shall have the right to segregate all or any portion of the reserve for any specific replacement or contingency upon such conditions as the Board of Directors deems appropriate.

6.5 Association Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with §5407 of the Act. All financial and other records shall be made reasonably available for examination by any Member and authorized agents. Within one hundred and eighty (180) days after the close of its fiscal year, the Association shall prepare annual financial statements consisting of at least a balance sheet and a statement of revenues and expenses for the Association. The cost of preparing the financial statements shall be a Common Expense. Each Member shall be entitled to receive from the Association, within thirty (30) days after submitting a written request to the Association, a copy of the annual financial statements and, if such financial statements are audited, reviewed or compiled by an independent certified public accountant or independent public accountant, a copy of the independent accountant's report on the financial statements. The Association may charge a fee not to exceed the cost of producing copies of records other than the financial statement.

6.6 Further Assessments. If any annual budget proves inadequate for any reason, including nonpayment of any Member's quarterly assessments, or any nonrecurring Common Expense or any Common Expense not set forth in the annual budget as adopted, the Board of Directors may at any time levy further quarterly assessments. Such further quarterly assessments shall be payable over such period of time as the Board of Directors may determine. The Board of Directors shall serve notice of such further assessments on all Members by a statement in

writing giving the amount and reasons therefor, and such further quarterly assessments shall become effective as determined by the Board of Directors.

6.7 Surplus. Any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements in excess of the amount required for actual Common Expenses and reserves for future Common Expenses shall be credited to each Member in proportion to the share of Common Expenses payable by each such Member. These credits shall be applied to the next quarterly assessments of Common Expenses due from each Member under the current fiscal year's budget, and thereafter, until exhausted.

6.8 Acceleration. If a Member is in default in the payment of the aforesaid charges or quarterly assessments for sixty (60) days, the Board of Directors may, in addition to all other remedies set forth in this Declaration, accelerate all other quarterly assessments to become due for the fiscal year in which such default occurs.

6.9 Allocation. All Common Expense assessments, special assessments and further assessments shall be pro rated among the Members by dividing the amount of such assessments by the acreage of the Development Parcel owned or represented by such Member as shown on the Plan.

6.10 Interest and Charges. All sums assessed by the Association against any Member that remain unpaid shall bear interest thereon at the then maximum legal rate (but not more than fifteen (15%) percent per annum) from the thirtieth (30th) day following the due date for payment. Any delinquent Member shall also be obligated to reimburse (i) all expenses of the Association, including reasonable attorney's fees, incurred in the collection of the delinquent assessments by legal proceedings or otherwise; (ii) any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessments and shall be collectible as such, subject to Section 6.2 above.

6.11 Independent Covenant. The obligation to pay assessments is a separate and independent covenant on the part of each Member. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or the Board of Directors to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements or from any other action it takes.

6.12 Implementation. The Association shall adopt in its bylaws such additional or other procedures and requirements as it deems necessary and desirable to implement the provisions of this Article 6, and to otherwise provide for the efficient fiscal operation and management of the Common Elements.

6.13 Violations and Assessments. If a Member violates any of the terms of this Declaration, the Declarant and/or the Association shall have the right to undertake correction of the violation and the costs incurred by Declarant and/or the Association in correcting such violation so shall be immediately due and payable by the Member in the form of an assessment

6.14 Subordination to the Lien of Mortgages. The lien of the assessment, provided for herein, shall be subordinate to any first lien mortgage placed upon the Property or any part thereof. The sale or transfer of the Property or any part thereof pursuant to or in lieu of mortgage foreclosure shall extinguish the lien of such assessment as to payment which became due prior to such sale or transfer. No such sale or transfer shall relieve such Property from the obligation or liability for any assessments thereafter becoming due or from the lien on any such subsequent assessments.

ARTICLE VII INSURANCE OF COMMON ELEMENTS

7.1 Coverages. The Association's duly authorized agent, shall have the authority to and shall obtain, blanket, all-risk, casualty insurance, if reasonably available, for all insurable improvements comprising the Common Elements. If blanket all risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Association shall also obtain a public liability policy covering the Common Elements and the Members for all damage or injury caused by the negligence of Association, or any of the Members or their agents. The public liability policy shall have at least a One Million and No/100 Dollars (\$1,000,000.00) minimum property damage limit.

7.2 Premiums. Premiums for all insurance on the Common Elements shall be paid by the Association. Such policies may contain a reasonable deductible, and in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the Association.

7.3 Contracts. All insurance coverage obtained by the Association shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in subsection B below. Such insurance shall be governed by the provisions hereinafter set forth:

- A. All policies on the Common Elements shall be for the benefit of the Declarant, the Association, the Members, and Mortgagees, as their interest may appear, providing financing on the Common Elements.
- B. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- C. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by the Members, occupants, or their Mortgagees.

7.4 Workers Compensation. In addition to the other insurance required by this Article, the Association shall obtain worker's compensation insurance, if and to the extent required by law.

ARTICLE VIII GENERAL PROVISIONS

8.1 Amendments. Prior to the transfer of Declarant control pursuant to Section 9.2(a), Declarant may amend this Declaration so long as the amendment, in the reasonable discretion of the Declarant, has no material adverse effect upon the development of the Property and is undertaken with all required approvals of O'Hara Township. No amendment required by any state or local government authority or agency will be deemed material. After the transfer of Declarant control, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of eighty percent (80%) of the Members. Any amendment to be effective must be recorded in the public records of Allegheny County, Pennsylvania. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

8.2 Limitation of Liability. The Declarant, its heirs, successors, administrators, executors, assigns, members, officers and employees [(i) through (iv) below shall be effective only from and after the Declarant's transfer of control of the Association in accordance with Section 9.2]:

- (i) Shall not be liable for the failure of any service obtained or the failure to so obtain any service needed or for any injury or damage to persons or property, however and wheresoever caused, except for any injury or damage caused by the willful misconduct or gross negligence of the Declarant, its members, officers or employees;
- (ii) Shall not be liable as a result of the performance of the Declarant for any mistake of judgment, negligence or otherwise except for the Declarant's willful misconduct or gross negligence;
- (iii) Shall have no personal liability to any person for any loss or damage caused by theft of or damage to personal property in or on the Common Elements or other places within the Plan and shall have no liability arising out of the use, misuse, or condition of the Common Elements, except for the Declarant's willful misconduct.
- (iv) The Declarant and its principals and officers shall be indemnified by the Association against all expenses and liabilities, including attorney's fees incurred by or imposed in connection with any proceedings, except for

liability arising out of the willful misconduct or gross negligence of the Declarant;

- (v) The Declarant may obtain such insurance as it deems appropriate, where available and in such amounts and on such terms as the Declarant deems advisable, to satisfy the liability requirements of this Declaration.

8.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

8.4 Perpetuities. If any of these covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only twenty-one (21) years after the death or the last survivor of the now living descendants of Eugene D. Zambrano, III.

8.5 Use of the Words "Chapel Harbor", "Chapel Harbor at the Water" or "Chapel Harbors at the Water Associates." No person shall use the words "Chapel Harbor", "Chapel Harbor at the Water" or "Chapel Harbors at the Water Associates" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Members may use the terms "Chapel Harbor", "Chapel Harbor at the Water" or "Chapel Harbors at the Water Associates" in printed or promotional matter where such term is used solely to specify particular property located within the Plan.

8.6 Incorporation of Recitals. The recitals set forth in the Preamble section of this document are hereby incorporated herein as if fully set forth and repeated herein.

8.7 Conflicts with Township of O'Hara Ordinances. In the event that any of the provisions, terms, conditions or covenants contained in this Declaration conflict with any provisions of the Ordinances of the Township of O'Hara, the applicable provisions, terms and conditions of the appropriate Ordinances for the Township of O'Hara shall prevail for all matters involved in any conflicts.

8.8 Conflicts with the Uniform Planned Community Act. In the event that any of the provisions, terms, conditions or covenants contained in this Declaration conflict with any provisions of the Uniform Planned Community Act, the applicable provisions, terms, conditions and provisions of the Uniform Planned Community Act shall prevail.

ARTICLE IX
DECLARANT'S RIGHTS

9.1 Any or all of the special rights and obligations of the Declarant may be transferred by the Declarant to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be

effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of Allegheny County, Commonwealth of Pennsylvania.

9.2 Control.

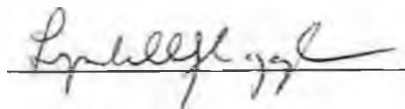
(a) Subject to Section 9.2(b), for a period of five (5) years from the date of the first conveyance by the Declarant of any Development Parcel to a Member, the Declarant shall have sole power and authority to appoint and remove the officers and members of the Board of Directors of the Association, unless the Declarant earlier voluntarily surrenders the right to appoint and remove the officers and members of the Board of Directors. Notwithstanding the foregoing sentence, the period of Declarant control of the Association shall terminate no later than the earlier of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Development Parcels to Members, or (ii) two (2) years after the Declarant has ceased to offer Development Parcels for sale in the ordinary course of business.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Development Parcels to Members, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by the Members. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Development Parcels to Members, not less than thirty-three percent (33%) of the members of the Board of Directors shall be elected by the Members.

9.3 Conveyance of Common Elements to Association. Upon transfer of Declarant's control of the Association in accordance with Section 9.2(a), the Declarant shall grant and convey to the Association title to the Common Elements by special warranty deed. All costs of deed preparation and recording shall be borne by the Declarant. Notwithstanding the foregoing, Declarant shall not convey the Common Elements to the Association until all improvements to the Common Elements as may be required by O'Hara Township pursuant to any development approvals have been completed by Declarant. This obligation to convey title to the Common Elements shall be binding upon any successor in interest to the rights of the Declarant hereunder.

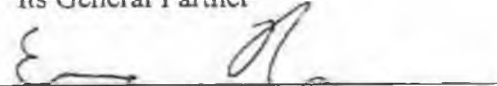
IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of this 8th day of March, 2004.

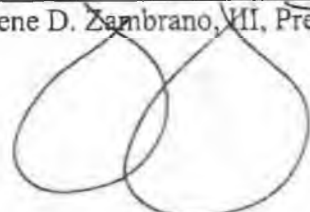
ATTEST:



(SEAL)

Chapel Harbors at the Water Associates, LP
By: Chapel Harbors at the Water, LLC,
its General Partner

By: 
Eugene D. Zambrano, III, President



**EXHIBIT A
LEGAL DESCRIPTION**

ALL those certain parcels of land situate in the Township of O'Hara, County of Allegheny and Commonwealth of Pennsylvania, being Parcels A, B, C, D, E-1, E-2, F, G (along the river) and H in the Chapel Harbor at the Water Plan of Lots Revision No. 1 recorded on October 3, 2003 in the Recorder's Office of Allegheny County, Pennsylvania, at Plan Book Volume 243, page 160, together bounded and described as follows:

TRACT 1:

BEGINNING at a point on the Southerly line of lands now or formerly of Consolidated Rail Corporation at the dividing line between the West line of property now or formerly of Peter J. Braun and the East line of lands of John F. Casey Company; thence along said dividing line, South 0 degrees 35' 30" East, 978.21 feet to a point on the low water line of Allegheny River; thence along said low water line, North 86 degrees 17' West, 1,193.31 feet to a point; thence along the same, South 89 degrees 45' West, 285.80 feet to a point; thence along the same, North 83 degrees, 10' 30" West, 896.70 feet to a point; thence along the same, North 83 degrees 11' West, 570.90 feet to a point on the dividing line between the City of Pittsburgh and O'Hara Township; thence along said dividing line, North 0 degrees 40' West, 469.03 feet to a point on the South line of lands of Consolidated Rail Corporation; thence along said line, the following courses and distances: (1) North 85 degrees 45' 10" East, 234.80 feet; (2) North 0 degrees 51' 18" West 2.96 feet; (3) by a curve to the left having an arc radius of 4690.27 feet and an arc length of 376.37 feet (chord bearing North 86 degrees 50' 51" East); (4) North 84 degrees 32' 55" East, 239.59 feet; (5) North 84 degrees 37' 04" East, 135.37 feet to a line of lands now or formerly of Allegheny County Industrial Development Authority; thence along lands of Allegheny County Industrial Development Authority, the following courses and distances: (1) South 5 degrees 59' 22" East 74.34 feet; (2) South 78 degrees 41' 45" East, 358.08 feet to a point; (3) South 41 degrees 56' 44" East, 100.18 feet to a point; (4) South 85 degrees 20' 15" East, 236.26 feet to a point; (5) North 84 degrees 07' 45" East, 663.41 feet to a point; (6) North 0 degrees 35' 30" West 303.03 feet to a point on the Southerly line of lands of Consolidated Rail Corporation; thence along said line North 84 degrees 13' 50" East, 208.17 feet; thence South 89 degrees 38' 26" East, 117.58 feet; thence North 84 degrees 32' 10" East 304.63 feet to a point, the point and place of beginning.

Containing approximately 48.6 acres, more or less.

BEING the same premises conveyed by Riverside Associates, Inc., to Chapel Harbors at the Water Associates, LP, by deed recorded on September 26, 2000 in the Recorder's Office of Allegheny County, Pennsylvania, in Deed Book Volume 10873, page 403; and conveyed by O'Hara Hospitality Park, LP to Chapel Harbors at the Water Associates, LP by deed dated October 31, 2003 and recorded on October 3, 2003 in the Recorder's Office of Allegheny County, Pennsylvania, in Deed Book Volume 243, page 160.

Identified by the following Tax Parcel Numbers:

0171-L-00050-0000-00
0171-M-00100-0000-00
0228-J-00120-0000-00
0228-J-00150-0000-00
0228-J-00200-0000-00

TRACT 2:

BEGINNING at a set monument on the Southerly line of Old Freeport Road, said monument being at the Northwest corner of land now or formerly of Timothy E. Shaffer and Mark S. Shaffer, thence South 14 degrees 28' West, 31.16 feet; thence South 81 degrees 45' West, 110.30 feet; thence North 18 degrees 42' 27" West, 5.37 feet to a set monument; thence by a curve to the left having an arc radius of 615.50 feet and an arc length of 64.83 feet (chord bearing North 73 degrees 16' 03" East); thence North 68 degrees 32' East, 80.83 feet to the point and place of beginning.

Containing approximately 0.039 acres, more or less.

BEING the property conveyed by Timothy E. Shaffer and Mark S. Shaffer to Chapel Harbors at the Water Associates, L.P. by deed dated April 7, 2003 and recorded on April 10, 2003 in the Allegheny Recorder of Deeds Office at Deed Book Volume 11618, page 593.

Part of Tax Parcel No. 0228-F-00102-0000-00

**EXHIBIT B
OPEN SPACE PLAN**

