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**DECLARATION OF
PROTECTIVE COVENANTS AND
PROPERTY OWNERS' ASSOCIATION
FOR
THE COMMERCE CENTER**

January 17, 2003

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**DECLARATION OF PROTECTIVE COVENANTS AND
PROPERTY OWNERS' ASSOCIATION FOR THE COMMERCE CENTER**

This Master Declaration of Protective Covenants and Property Owners' Association for The Commerce Center is hereby declared on January 17, 2003, by the City of Murfreesboro ("City"), so that the covenants, conditions, restrictions, easements, reservations, rights-of-way, equitable servitudes and other provisions stated in this Declaration shall run with the land and shall be binding upon the real property in Rutherford County, Tennessee described in Exhibit A (hereinafter referred to as the "Master Association Area"), and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in such real property and parcels and their heirs, personal and legal representatives, successors and assigns. City hereby declares that all of such real property and parcels shall hereafter be held, sold, conveyed, encumbered, leased, rented, occupied and improved subject to the provisions of this Declaration.

This Declaration shall not be construed to supersede any zoning or subdivision regulation now or hereafter set forth by the City of Murfreesboro, Tennessee.

1. ARTICLE I - GENERAL

1.1. Project Area.

City is the owner of the property described in the attached Exhibit A.

1.2. Purpose of Declaration.

Property which becomes subject to this Declaration in the manner hereinafter provided shall be referred to as the "Master Association Area". This Declaration is executed (a) in furtherance of a common and general plan for the property described in the attached Exhibit A and for those other parcels of property which may hereafter become part of the Master Association Area; (b) to protect and enhance the quality, value, desirability and attractiveness of all property which becomes part of the Master Association Area; (c) to provide for a Master Association as a master property owners' association and vehicle to perform functions for the benefit of Owners of Sites within the Master Association Area; (d) to define the duties, powers and rights of the Master Association; and (e) to define certain duties, powers and rights of Owners of Sites within the Master Association Area.

1.3. General Statement.

City, for itself and its legal and personal representatives, successors and assigns, hereby declares that the property described in the attached Exhibit A and any parcels of property which may become subject to this Declaration in the manner hereinafter provided, and each part thereof, from the date any such property becomes subject hereto shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions, set forth in this Declaration, for the duration thereof, all of which are hereby declared to be part of, pursuant to and in furtherance of a common and general plan of development, improvement, enhancement and protection of the

Master Association Area. The provisions of this Declaration are intended to and shall run with the Master Association Area and until their expiration in accordance with the terms of this Declaration, shall bind, be a charge upon and inure to the mutual benefit of: (a) all of the property which becomes part of the Master Association Area and each part or parcel thereof; (b) City and its heirs, legal and personal representatives, successors and assigns; (c) the Master Association and its successors and assigns; and (d) all persons having or acquiring any right, title or interest in any property which is or may become a part of the Master Association Area, or any part or parcel thereof, or any improvement thereon, and their respective heirs, personal and legal representatives, successors and assigns. Unless otherwise expressly provided in this Declaration, words and phrases used herein shall have the meanings as defined in Article II hereof.

2. ARTICLE II - DEFINITIONS

2.1. Administrative Functions.

"Administrative Functions" shall mean all functions of, for and on behalf of the Master Association that are necessary or proper under this Declaration, and shall include, without limitation (a) providing management and administration of the Master Association; (b) providing development review, control and approval services under Article IX or any other portion hereof; (c) incurring reasonable attorneys' fees and accountants' fees; and (d) performing other reasonable and ordinary administrative tasks associated with the operation of the Master Association.

2.2. Applicant.

"Applicant" shall have the meaning described in Section 9.6.

2.3. Appointment Period.

"Appointment Period" shall mean the period of time commencing as of the date of the Recordation of this Declaration and continuing until the earlier of (a) the date which is the twentieth (20th) anniversary of the date of Recordation of this Declaration; or (b) the date of the Recording of City's relinquishment of its right to elect all Members of the Board of Directors of the Master Association.

2.4. Area

"Area" shall mean the total area of a Site, measured to the nearest one-hundredth of an acre, exclusive of any public road right-of-way, as reasonably determined by the Master Association.

2.5. Articles of Incorporation.

"Articles of Incorporation" shall mean the Charter of the Master Association, which have been or will be filed in the office of the Secretary of State of the State of Tennessee, as the same may be amended from time to time.

2.6. Board.

"Board" shall mean the Board of Directors of the Master Association.

2.7. *Bylaws.*

"Bylaws" shall mean the Bylaws of the Master Association, which have been or will be adopted by the Board, as such Bylaws may be amended from time to time.

2.8. *Class A Owner.*

"Class A Owner" shall have the meaning set forth in Section 4.4 hereof. The "Class A Membership" comprises all Class A Owners.

2.9. *Class B Owner.*

"Class B Owner" shall have the meaning set forth in Section 4.4 hereof.

2.10. *County Records.*

"County Records" shall mean the recorded real estate records in the office of the Register of Deeds for Rutherford County, Tennessee.

2.11. *City.*

"City" shall mean the City of Murfreesboro.

2.12. *Declaration.*

"Declaration" shall mean this Master Declaration of Protective Covenants and Property Owners' Association for The Commerce Center for the Master Association Area as it may be amended or expanded from time to time.

2.13. *Design Guidelines.*

"Design Guidelines" shall mean the standards adopted by the Board for development of the Master Association Area from time to time pursuant to the provisions of Section 5.4. Design Guidelines shall be distinct from Rules and Regulations which may be adopted by the Board.

2.14. *Development Review Committee.*

"Development Review Committee" shall mean the committee for which provision is made in Article IX of this Declaration. This committee shall hereafter be referred to as the "DRC."

2.15. *DRC Representative.*

"DRC Representative" shall have the meaning set forth in Section 9.25 hereof.

2.16. *First Mortgage.*

"First Mortgage" shall mean the unreleased Mortgage of Record encumbering a Site, which has the first and superior lien priority over all other unreleased Mortgages of Record encumbering such Site.

2.17. *First Mortgagee.*

"First Mortgagee" shall mean the Mortgagee under a First Mortgage.

2.18. *Foreclosure.*

"Foreclosure" shall mean, without limitation, (i) the judicial foreclosure of a Mortgage; (ii) the exercise of a power of sale contained in any Mortgage; (iii) the conveyance of the Property to the Mortgagee thereunder in lieu of foreclosure thereof; or (iv) any action commenced or taken by a lessor to regain possession or control of a Site leased to a lessee in a transaction commonly known as a "sale/leaseback".

2.19. *Improvement to Property.*

"Improvement to Property" shall mean any improvement, change, alteration or addition to any property within the Master Association Area, as more particularly defined in Section 9.2 hereof.

2.20. *Improvements.*

"Improvements" shall mean all structures and any appurtenances thereto of every type or kind, including but not limited to, buildings, outbuildings, garages, porches, sheds, swimming pools, patios, patio covers, awnings, painting or staining of any exterior surfaces of any visible structure, additions, walkways, bicycle trails, sprinkler systems or pipes, roads, curbing, paving, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar panels and equipment, exterior evaporative coolers, air conditioning and external water softener fixtures, wind mills, and exterior antennas, aerials and other equipment for the reception or transmission of radio, television, microwave or other similar communication systems. "Improvements" shall also include (i) any excavation, fill, ditch, diversion, dam, bern, or anything or any device that alters the natural flow of any water in any natural or artificial drainage channel from, or upon, any other Site; and (ii) any change in the grade of any Sites of more than six inches from that existing at the time of purchase by each Owner.

2.21. *Master Association.*

"Master Association" shall mean The Commerce Center Property Owners' Association, Inc., a Tennessee nonprofit corporation, its successors and assigns.

2.22. *Master Association Area.*

"Master Association Area" shall mean the property described on Exhibit A, together with all other real property, if any, which hereafter becomes subject to this Declaration pursuant to the provisions of Article III hereof but shall not include any City owned right of way for a public street.

2.23. *Mortgage.*

"Mortgage" shall mean any unreleased mortgage or deed to secure a debt or other similar instrument of record, given voluntarily by the Owner of a Site, encumbering all or any portion of the Site to secure the performance of an obligation or the payment of a debt and which is required to be cancelled upon performance of the obligation or

payment of the debt, or any lease of all or any portion of a Site in a transaction commonly known as a "sale/leaseback". "Mortgage" shall not include a judgment lien, mechanic's lien, tax lien or other similar lien or involuntary encumbrance upon a Site.

2.24. Mortgagee.

"Mortgagee" shall mean the person who is the holder of a Mortgage.

2.25. Mortgagor.

"Mortgagor" shall mean the person who grants an interest in such person's property to another under a Mortgage (i.e. the maker or grantor of a Mortgage).

2.26. Notice and Hearing.

"Notice and Hearing" shall mean a written notice and the reasonable opportunity for a public hearing before the Board or a tribunal appointed by the Board, in the manner provided in the Bylaws.

2.27. Notice of Completion.

"Notice of Completion" shall mean the written notice and architect's certification to the DRC concerning the completion of any improvement to Property pursuant to the provisions of Section 9.16 hereof.

2.28. Notice of Noncompliance.

"Notice of Noncompliance" shall have the meaning set forth in Section 9.18 hereof.

2.29. Owner.

"Owner" shall mean the person, or if more than one, all persons collectively, who hold fee simple title of Record to a Site, except that if any Site and any improvement thereon are owned by a separate person, then the Owner of the fee simple title to the building located on the Site shall be deemed the "Owner" of such Site. A person having an interest in any Site or any improvements located thereon merely as a security for the performance of obligations shall not be deemed an "Owner" unless such person is a Mortgagee in possession following a default under such security obligations or has acquired the fee simple title to the Site by Foreclosure. "Owner" shall also include City as long as City retains ownership of all or any portion of the Master Association Area.

2.30. Person.

"Person" shall mean a natural person, a corporation, a partnership, trust or other entity, or any combination thereof.

2.31. Record, Recorded or Recordation.

"Record", "Recorded" or "Recordation" shall interchangeably mean the filing for record of any document in the County Records.

2.32. Reimbursement Assessment.

"Reimbursement Assessment" shall mean a charge against a particular Owner and such Owner's Site for the purpose of reimbursing the Master Association for expenditures and other costs of the Master Association for correcting one or more of Owner's violations of this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations pursuant to the provisions of Section 7.3 hereof, together with late charges, interest and costs as provided for herein.

2.33. Related User.

"Related User" shall mean a Person who obtains all or certain rights of an Owner by reason of such Person validly claiming or being entitled to such rights by, through, or under such Owner. Without limiting the generality of the foregoing, "Related User" shall include any occupant, tenant, family member or contract purchaser of an Owner who occupies all or part of any Site of such Owner and any natural person who is a guest or invitee of such Owner or of such Person.

2.34. Rules and Regulations.

"Rules and Regulations" shall mean the rules and regulations adopted by the Board, from time to time, pursuant to the provisions of Section 5.5.

2.35. Site.

"Site" shall mean a parcel of land within the Master Association Area as divided and subdivided pursuant to Recorded subdivision maps, as they from time to time become current, or by deeds of conveyance.

2.36. Special Assessment.

"Special Assessment" shall mean a charge against the Owner and such Owner's Site representing a portion of the costs incurred by the Master Association for the purposes set forth in Section 7.2 hereof.

2.37. Voting Unit.

"Voting Unit" shall mean a unit of the voting rights of a Class A Owner appurtenant to its Site so that, in accordance with Section 4.5 and Section 4.6 hereof, each acre (rounded to the nearest whole number of acres) of each Site owned by one or more Class A Owners shall be deemed to have one (1) Voting Unit.

3. ARTICLE III - MASTER ASSOCIATION AREA

3.1. The Master Association Area Made Subject to Declaration.

City hereby declares that the Master Association Area described on the attached Exhibit A is hereby made subject to this Declaration.

3.2. Additional properties.

The City owns land contiguous to the Master Association Area which land was purchased by City at approximately the same time and for the same purpose, known as the Commerce Center Project, as the Master Association Area. City may choose to

subject any portion of this land, whether or not the portion is contiguous to the Master Association Area, to the provisions of this Declaration, provided that City may establish for any such portion of land different permitted uses or different prohibited uses than are specified in sections 8.10, 8.11 and 8.12 respectively and the Board may, but is not required to, adopt additional Design Guidelines for any such additional permitted use.

A Person who owns property may, with the written consent of the Board, subject such Person's property to the provisions of this Declaration of Protective Covenants and Property Owners' Association for The Commerce Center. Subjecting such property will be accomplished by such Person recording a document legally describing the property, which will become a part of the Master Association Area, and specifically subjecting the property to the terms and provisions of the Declaration. With respect to that property, such Person will become a Class A Owner with all rights, liabilities, limitations, restrictions, covenants, provisions, conditions and obligations as are set forth in the Declaration, with the same effect as if said property had been included in the original Master Association Area, and the Owner had purchased the property from the City.

4. ARTICLE IV - MASTER ASSOCIATION OPERATIONS

4.1. Master Association.

The Master Association has been or will be formed as a Tennessee corporation under the Tennessee Nonprofit Corporation Act. The Master Association shall have the duties, powers and rights set forth in this Declaration and in the Articles of Incorporation and Bylaws.

4.2. Board.

The affairs of the Master Association shall be managed by the Board, which shall consist of neither fewer than three nor more than five Directors. Notwithstanding any provision of this Declaration to the contrary, during the Appointment Period, the number of Directors shall be five and City shall have the right to appoint all five of such Directors. Two of the Directors shall represent Class A Owners and one of the two shall be a representative of Middle Tennessee Medical Center, Inc. or its successor or assign, should Middle Tennessee Medical Center, Inc. perform its Contract of Sale. Subject to the foregoing, the number, term, election and qualification of the Board shall be fixed in the Articles of Incorporation or the Bylaws or both. By resolution, the Board may delegate portions of its authority to an executive committee or to other committees, tribunals, officers of the Master Association or to agents and employees of the Master Association, but such delegation of authority shall not relieve the Board of the ultimate responsibility for management of the affairs of the Master Association. Action by or on behalf of the Master Association may be taken by the Board or any duly authorized executive committee, officer, agent or employee without a vote of Delegates, except as otherwise specifically provided in this Declaration.

4.3. Membership In Master Association.

Each Owner of a Site within the Master Association Area shall be a member of the Master Association. There shall be one membership in the Master Association for each Site within the Master Association Area. The Person or Persons who constitute the Owner of a Site shall automatically be the holder of the membership in the Master Association appurtenant to that Site, and such membership shall automatically pass with

the transfer of the fee simple title to the Site. Membership in the Master Association shall not be assignable separate and apart from fee simple title to a Site, except that an Owner may assign some or all of such Owner's right as an Owner to use improvements or otherwise to a Related User or Mortgagee, and may arrange for a Related User to perform some or all of such Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve itself of the responsibility for fulfillment of all of the obligations of an Owner under this Declaration.

4.4. Classes of Membership.

The Association shall have two classes of voting membership, Class A Owners and Class B Owners. Class A Owners shall include all Owners; provided, however, that so long as City is a Class B Owner, it shall not be entitled to Class A membership unless City owns a Site on which a building is being or has been constructed, and then City shall be entitled to Class A membership as to such Site. Class A Owners shall be entitled to vote their respective Voting Units. The Class B Owners shall be the City and the Class B membership shall exist until the earlier of (a) the date which is the twentieth (20th) anniversary of the date of Recordation of this Declaration; or (b) the date of the Recording of City's relinquishment of its rights to elect all members of the Board of the Master Association. Notwithstanding anything herein stated to the contrary, at such time as Class B membership ceases to exist, City shall become a Class A Owner with respect to the property in the Master Association Area it then owns, if any.

4.5. Voting Right of Owners.

Each Class A Owner shall be a member of the Master Association and shall have the right to cast Voting Units for the election of Board members to the Master Association. The Class B Owner shall be a member of the Association.

4.6. Voting Rights of Members.

Each Member shall be entitled to cast one vote for each Voting Unit appurtenant to each Site which is owned by a Class A Owner and which is subject to this Declaration, except that so long as the Class B membership exists, the Class B Owner shall be entitled to one more than the aggregate number of votes which all other Members are then entitled to cast, and shall elect all members of the Board of Directors of the Master Association.

5. ARTICLE V - DUTIES AND POWERS OF MASTER ASSOCIATION

5.1. General Duties and Powers of Master Association.

The Master Association has been formed to further the common interests of the Owners. The Master Association, through the Board or through persons to whom the Board has delegated any authorized powers of the Board, shall have the duties and powers hereinafter set forth and, in general, the powers to perform its duties described in this Declaration and, subject to any limitation set forth in this Declaration, the powers to do anything that may be necessary or desirable to further the common interests of the Owners, to improve and enhance the attractiveness, desirability and safety of the Master Association Area.

5.2. General Provisions Respecting Insurance and Bonds.

The Master Association shall have the power to obtain insurance and such fidelity, indemnity or other bonds as it shall deem necessary or desirable. Insurance obtained by the Master Association may contain such deductible provisions as good business practice may dictate. Insurance obtained by the Master Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Master Association and each Owner as against any officer, director, agent or employee of any of the foregoing. To the extent reasonably possible, and provided City reimburses the Master Association for any additional premium payable on account thereof, insurance obtained by the Master Association shall name City as an additional insured and contain a waiver of rights of subrogation as against City and any officer, director, agent or employee of City. Each Owner hereby irrevocably appoints the Master Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including (a) the collection and appropriate disposition of the proceeds thereof; (b) the negotiation of losses and execution of release of liability; (c) the execution of all documents; and (d) the performance of all other acts necessary to accomplish such purpose.

5.3. Duty to Levy and Collect Assessments.

The Master Association shall levy and collect Special and Reimbursement Assessments as elsewhere provided in this Declaration.

5.4. Power to Adopt Design Guidelines.

The Master Association, acting through its Board, shall adopt Design Guidelines. The Design Guidelines may, from time to time, be amended by the Board. The Board shall consider amendments to the Design Guidelines suggested by the DRC or by an Owner. The Design Guidelines shall relate to the standards, procedures, materials to be submitted, and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. By way of illustration and not limitation, such Design Guidelines or rules may amplify restrictions set forth in this Declaration and establish requirements for (a) site planning; (b) minimum numbers and dimensions of parking stalls; (c) the design of parking areas; (d) the design and location of loading and service areas; (e) site grading and drainage; (f) fences; (g) signage; (h) architectural design; (i) landscaping; (j) lighting; (k) minimum setback distances for buildings and other structures from public streets and adjoining Sites; (l) rooftop design and appearance; (m) acceptable and unacceptable building materials; and, (n) construction practices. Such Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part because strict application would be unreasonable or unduly harsh under the circumstances. Such Design Guidelines may waive the requirement for approval of any one or more Improvements to Property from the requirements for approval, if such approval is not reasonably required to carry out the purposes of this Declaration.

5.5. Power to Adopt Rules and Regulations.

The Master Association, acting through its Board, may from time to time adopt, amend, repeal and enforce Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and the

operation of the Master Association. Any such Rules and Regulations shall be responsible and uniformly applied. Each Owner shall comply with such Rules and Regulations. In the event of any conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

5.6. Power to Enforce Declaration, Design Guidelines and Rules and Regulations.

The Master Association shall have the power to enforce the provisions of this Declaration, the Design Guidelines, and the provisions of the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each Owner and each Related User. Without limiting the generality of the foregoing, the Master Association shall have the power to enforce the provisions of this Declaration, the Design Guidelines, and the Rules and Regulations by anyone or more of the following means: (a) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration, the Design Guidelines, or the Rules and Regulations, by mandatory injunction or otherwise; (b) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration, the Design Guidelines, or the Rules and Regulations; (c) by levying and collecting reasonable and uniformly applied fines and penalties established in advance in the Rules and Regulations from any Owner or Related User for breach of this Declaration, the Design Guidelines, or the Rules and Regulations by such Owner or such Related User, and (d) by exercising any remedy or remedies for nonpayment of Special and Reimbursement Assessments pursuant to Section 7.5 hereof.

5.7. Power to Employ Employees, Agents and Consultants.

The Master Association shall have the power to hire and discharge employees and agents and to retain and pay for legal, accounting and other services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Master Association.

5.8. General Corporate Powers.

The Master Association shall have all of the ordinary powers and rights of a Tennessee nonprofit corporation, including without limitation, the power and right to enter into partnerships and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or Bylaws. The Master Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration or under the Articles of Incorporation, Bylaws or Rules and Regulations, and to do and perform any and all acts which may be necessary or desirable for or incidental to the exercise of any of the express powers or rights of the Master Association under this Declaration or under the Articles of Incorporation, Bylaws or Rules and Regulations.

6. ARTICLE VI - CITY'S RIGHTS AND RESERVATIONS

6.1. Period of City's Rights and Reservations.

City shall have, and hereby retains and reserves, certain rights as set forth in this Declaration with respect to the Master Association. The rights and reservations of City set forth in this Declaration shall be deemed excepted and reserved in each conveyance

of property by City by which any property within the Master Association Area is conveyed, whether or not specifically stated therein. The rights, reservations and easements of City set forth in this Declaration shall be prior and superior to any other provisions of this Declaration and during the Appointment Period and may not, without City's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration, including any amendment of this Section. City's consent to any such amendment shall not be construed as consent to any other or subsequent amendment.

6.2. City's Rights, Powers and Duties which are Independent of The Commerce Center.

City reserves for itself and its legal and personal representatives, successors and assigns, all its rights, powers and responsibilities as a municipal corporation. Nothing in this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations shall limit the City's express or implied municipal powers. The City's ability to enact ordinances, construct public improvements, grant franchises, impose taxes, create tax financing districts, condemn land, exercise its police powers and in all respects to govern and regulate within the City is not limited, affected or impaired by reason of the City's ownership or sale of land within the Master Association Area which is the subject of this Declaration nor by its entry into the Declaration, Articles of Incorporation, Bylaws or Rules and Regulations. No act or omission of the Master Association, Board, DRC or any employee, agent or representative thereof shall be held or deemed to be the act or omission of the City in its governmental capacity nor that of a City official or employee in said individual's official capacity. No approval, modification or rejection of plans for an Improvement to Property by City shall constitute, or substitute for, an approval, disapproval or modification of said plans by the Master Association, Board, or DRC. Nor shall approval, disapproval or modification of an Applicant's plans for an Improvement to Property by the Master Association, Board or DRC constitute, or substitute for, an approval, disapproval or modification of said Plans by City. No decision by City or any of its boards, commissions, departments, officials or employees shall be subject to challenge or invalidation on the grounds of reasonableness, arbitrariness, capriciousness, or conflict of interest or otherwise on the basis that it, or any member or employee thereof, asserted or voted differently in its or their capacity as a member of the Board or DRC.

6.3. City's Rights to Grant and Create Easements.

City shall have and hereby reserves the right to grant or create temporary or permanent easements and rights-of-way for access, utilities, drainage, water and other purposes incident to development, construction or sale within the Sites owned by City; provided that such easements and rights-of-way do not unreasonably interfere with the rights of Owners.

7. ARTICLE VII ASSESSMENTS

7.1. Covenant to Pay.

Each Owner, by acceptance of a deed to Owner's Site, whether or not it shall be so expressed in such deed, is thereby deemed to covenant and agree to pay to the Association: (a) Special Assessments, (b) Reimbursement Assessments, and (c) fines which may be imposed against such Site in accordance with Section 10.6 hereof.

7.2. *Special Assessments.*

The Board may, subject to the provisions of this Section, levy one or more Special Assessments for the purpose of raising funds, to: (a) pay for necessary and direct costs incurred in performing Administrative Functions as authorized in this Declaration for which the amounts received in development review fees are insufficient; or (b) repay any loan made to the Master Association to enable it to perform any duty or function authorized in this Declaration. Such assessment shall be known as a "Special Assessment". The Master Association shall notify Owners in writing of the amount and purpose of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable, and the Owners shall pay any such Special Assessment in the manner so specified.

7.3. *Reimbursement Assessments.*

Subject to the provisions hereof, the Board may levy an Assessment, known as a "Reimbursement Assessment", against any Owner(s) to reimburse the Master Association for any loss sustained by reason of the willful or negligent failure of such Owner(s) to comply with this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations which shall have resulted in the expenditure of funds by the Master Association to remedy a problem or to cause such compliance. Any Reimbursement Assessment shall be levied only after Notice and Hearing. The amount of the Reimbursement Assessment shall be due and payable to the Master Association thirty (30) days after notice to the Owner(s) of the decision of the Board stating that the Reimbursement Assessment is owing and stating the amount thereof.

7.4. *Priority of Lien for Special or Reimbursement Assessments.*

All sums assessed against any Site pursuant to this Declaration, together with court costs, reasonable attorney fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Site in favor of the Master Association. Such lien shall be superior to all other liens and encumbrances on such Site except only for (a) liens of ad valorem taxes; and (b) a lien for all sums unpaid on a First Mortgage, on any secondary purchase money Mortgage, or on any Mortgage to City, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument; provided, however, that the subordination of the lien for Special or Reimbursement Assessments to the foregoing Mortgages shall apply only to Special or Reimbursement Assessments that shall have become due and payable prior to a sale or transfer of such Site pursuant to a Foreclosure. Such sale or transfer shall not relieve such Site from liability for any Special or Reimbursement Assessments accruing after such sale or transfer. All Persons acquiring other liens or encumbrances on any Site after the Recording of this Declaration shall be deemed to consent that such liens or encumbrances shall be inferior to such future equitable charges and liens for Special or Reimbursement Assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

7.5. *Effect of Nonpayment of Special or Reimbursement Assessment: Remedies of the Association.*

Any Special or Reimbursement Assessments or any portion thereof not paid when due shall be delinquent. Any Special or Reimbursement Assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as may be determined by the Board from time to time, shall bear interest from the date due at the rate of ten percent (10%) per annum until the date of payment, and the Board shall cause a notice of delinquency to be given to any Owner not paying within ten (10) days following the due date. If any installment of an Special or Reimbursement Assessment has not been paid within thirty (30) days of the due date thereof, the entire unpaid balance of the Special or Reimbursement Assessment may be accelerated at the option of the Board and, if so accelerated, shall thereupon become forthwith due and payable in full. The continuing lien and equitable charge of such Special or Reimbursement Assessment shall include the late charge established by the Board, interest on the principal amount due at the rate of ten percent (10%) per annum until paid, all costs of collection (including reasonable attorney fees and court costs), and any other amounts provided or permitted hereunder or by law. If the Special or Reimbursement Assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts or foreclose its lien or to do both. The equitable charge and lien provided for in this Section shall be in favor of the Master Association, and each Owner, by its acceptance of a deed to a Site, vests in the Master Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose the Master Association's lien. The Master Association shall have the power to bid on the Site at any such foreclosure sale and to acquire, hold, lease, mortgage, and convey the Site except that the amount the Master Association may bid at any such sale may not exceed the total amount owed to the Master Association by the delinquent Owner.

7.6. *Estoppel Certificate.*

Upon the payment of such reasonable fee as may be determined from time to time by the Board and upon the written request of any Owner, any Mortgagee or Person with, or intending to acquire, any right, title or interest in the Site of such Owner, the Master Association shall furnish a written statement setting forth the amount of any Special or Reimbursement Assessments or other amounts, if any, due and owing to the Master Association and then unpaid with respect to such Site and/or the Owner thereof and setting forth the amount of any Special or Reimbursement Assessment levied against such Site which is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, be conclusive against the Master Association to establish that for all purposes no greater or other amounts were then due or accrued and unpaid and that no other Special or Reimbursement Assessments were then levied and unpaid against such Site.

7.7. *No Offsets.*

All Special or Reimbursement Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reductions thereof shall be permitted for any reason, including without limitation, any claim that the Master Association or the DRC is not properly exercising its duties and powers under this Declaration.

8. ARTICLE VIII - GENERAL RESTRICTIONS APPLICABLE TO PROPERTY

8.1. Application of Restrictions.

All real property within the Master Association Area shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth in this Declaration. Reasonable variances from the strict application of the limitations and restrictions in this Article VIII in any specific case may be granted by the Board or the DRC in accordance with Section 9.23 hereof if such strict application would be unreasonable or unduly harsh under the circumstances; provided, however, that any such variance shall not materially injure any of the Master Association Areas. Any such variances must be in writing or be contained in written guidelines or rules promulgated by the DRC, and no such variance shall constitute a waiver or estoppel with respect to any future action by the DRC or the Board.

8.2. Maintenance of Property.

No property within the Master Association Area shall be permitted to fall into disrepair, and all property within the Master Association Area, including any improvements and landscaping thereon, shall be kept and maintained by the Owners thereof in a clean, safe, attractive and aesthetically pleasing condition, not visibly in disrepair or lacking exterior paint, with windows glazed and paving swept. Any building on any Site, which is vacant for any reason shall be kept locked and the windows shall be glazed in order to prevent entrance by vandals. All grounds shall be maintained in a safe, clean and neat condition free of rubbish and weeds. Land in its natural state on a Site which has not been the subject of an Improvement and which is not required to be landscaped under Section 8.27 hereof does not require maintenance hereunder. Lawns shall be kept in a mowed condition. Roads and pavements shall be kept reasonably true to line and grade in good repair. Drainage systems shall be kept clean and free of any obstacles. Parking areas, lighting and signage shall be kept clean and in good repair. To the extent reasonably possible, all plantings shall be maintained in a healthy condition, and fertilization, weeding and pruning of them shall be carried out on a regular basis. Dead or dying plants shall be removed as quickly as possible, and, subject, to seasonal limitations, replaced as quickly as possible, and in any event within thirty (30) days after notification from the DRC. Each Site will be sodded if necessary to maintain grass after construction is complete. Irrigation systems shall be kept in proper working condition with adjustment, repair, and cleaning being done on a regular basis. Maintenance, repair and upkeep of each Site and any unpaved portion of the right-of-way of a public street adjoining such Site shall be the responsibility of the Owner of such Site. Violation of any provision of this Article VIII or of this Declaration by an Owner or by a Related User of an Owner shall be grounds for the Master Association, through the Board or agents, after Notice and Hearing, to enter upon the Site of the Owner and cure the violation or cause compliance with the provision or provisions and, as provided in Section 7.3 hereof, to levy and collect a Reimbursement Assessment for the costs and expenses of the Master Association in so doing; provided, however that there shall be no entry into the interior of any building located on such Site without the consent of the Owner thereof unless an emergency exists.

8.3. Noxious or Offensive Activity.

No noxious or offensive activity shall be carried on upon any property within the Master Association Area, nor shall anything be done or placed thereon which is or may become

a nuisance or cause an unreasonable embarrassment, disturbance or annoyance to others.

8.4. Annoying Sounds or Odors.

No sound or odor shall be emitted from any property within the Master Association Area, which is noxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than devices used exclusively for security, fire prevention or fire control purposes, shall be located or used on any property except with the prior written approval of the DRC.

8.5. Hazardous Activities.

No activity shall be conducted on and no improvement shall be constructed on any property within the Master Association Area, which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no radiation or toxic substances shall be created on or emitted from any property other than from medical equipment, devices or procedures, no firearms shall be discharged upon any property, and no open fires shall be lighted or permitted on any property except within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

8.6. Garbage, Trash and Temporary Dumpsters.

No refuse, garbage trash or scrap lumber or metal and no grass, shrub or tree clippings, and no plant waste, compost, bulk materials or debris of any kind shall be kept stored or allowed to accumulate on any Site except within an enclosed structure or container approved by the DRC or unless appropriately screened from view, in a manner acceptable to the DRC, except that any refuse container containing such materials and approved by the DRC may be placed outside at such times as may be reasonably necessary to permit garbage or trash pickup. Temporary dumpsters or containers and the location thereof are subject to the approval of the DRC.

8.7. Temporary Structures.

No tent, shack, temporary structure or temporary building shall be placed upon any property within the Master Association Area except with the prior written consent of the DRC obtained in each instance, which consent cannot be unreasonably withheld or delayed.

8.8. Antennas, Aerials and Dishes.

Exterior radio antennas, aerial television antennas, cell towers, satellite dishes or similar communication facilities shall be allowed but only to the extent necessary for the operation of the Owner's or Related User's own business or enterprise or for the purpose of providing governmental services and such facilities shall not be installed to provide an unrelated source of revenue. No such object of any type shall be erected or maintained in the Master Association Area (specifically including any Site) without the prior written approval of the DRC of the location of and screening for any such object,.

8.9. *Signs and Advertising Devices.*

No sign poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Master Association Area so as to be evident to public view, except signs as may be approved in writing by the DRC in accordance with the Design Guidelines promulgated by the Master Association for the Master Association Area, which sets forth the standards relating to dimensions, color, number, graphics, style and location of signs provided (i) that the Design Guidelines shall not permit the erection or maintenance of any ground sign other than a monument ground sign and provided further that no ground sign shall be more than sixteen feet (16') in height and provided further (ii) that the land under Contract of Sale to Phoenix Associates L.L.C. as of the date of this Declaration shall only be subject to the signage requirements of the City of Murfreesboro, as they may be amended from time to time, provided that, in no event, shall an interstate on-site sign, as currently defined in said sign ordinance, or a ground sign in excess of sixteen feet (16') in height, or a sign facing or fronting Medical Center Parkway exceeding any limitation applicable to signs on land within the Battlefield Protection District as said limitations are currently defined, be allowed on said land. Subsection (ii) shall become null and void if Phoenix Associates L.L.C. or its successor or assignee does not purchase the land pursuant to said Contract of Sale.

8.10. *Permitted Uses*

The following uses, as defined and/or listed in the Zoning Ordinance of the City of Murfreesboro as it exists as of the date of this Declaration, are permitted in the Master Association Area shown on Exhibit A.

Dwellings

- Multiple Family

Other Housing

- Assisted-Care Living Facility
- Emergency Shelter
- Family Crisis Shelter
- Family Violence Shelter
- Class I, II and III Home for the Aged
- Hotel

Institutions

- Adult Day Care Home
- College, University
- Day Care Center
- Family Day Care Center
- Group Day Care Center
- Hospital
- Nursing Home
- Nursery School
- Park
- Philanthropic Institution
- Public Building
- Recreation Field

Commercial

- Antique Shop (<3,000 square feet)
- Apothecaries (pharmaceuticals only)
- Art or Photo Studio or Gallery
- Bakery, Retail
- Bank Office/Drive up Electronic Teller
- Barber or Beauty Shop
- Book or Card Shop
- Clothing Store
- Copy Center/Office Services
- Delicatessen
- Department Store
- Doughnut Shop
- Drug Store
- Dry Cleaning and Dry Cleaning Pick up station
- Financial Services
- Flower or Plant Store
- Garage, Parking
- Health Club
- Ice Cream Shop
- Interior Decorator
- Karate, Instruction
- Laboratories, Medical
- Laboratories, Testing
- Liquor Stores
- Offices
- Optical Dispensaries
- Photo Finishing and Photo Finishing Pick up Station
- Radio, TV or Recording Studio
- Reducing and Weight Control Service
- Restaurant and Carry Out restaurant
- Retail Shop, other than enumerated
- Specialty Shop
- Video Rental

Transportation and Public Utilities

- Post Office

Healthcare and related uses are permitted in the Master Association Area shown on Exhibit A although not specifically enumerated in the Zoning Ordinance of the City of Murfreesboro as it exists as of the date of the Declaration including but not limited to Wellness Centers, Women's Health Centers, Imaging Centers, and Medical Offices.

8.11. *Prohibited Uses.*

The following uses, as defined and/or listed in the Zoning Ordinance of the City of Murfreesboro as it exists as of the date of the Declaration, are prohibited in the Master Association Area shown on Exhibit A.

Other Housing

- Fraternity/Sorority
- Mobile Homes

Commercial

- Adult Cabaret
- Adult Entertainment Center
- Adult Motel
- Adults-only bookstore
- Adults-only motion picture theatre
- Amusements, commercial outdoor motorized
- Carnivals
- Convenience Storage
- Drive-in theatre
- Gas Stations/including Oil, Brake or similar automotive service center
- Lumber, Building material
- Mobile Home Sales
- Salvage and surplus merchandise

Industrial

- Manufacturing
- Mobile Home Manufacturing
- Warehousing
- Distribution
- Animal or poultry slaughter, stockyards, or rendering
- Automobile Dismantlers and recyclers
- Mobile home construction
- Paper mills
- Petroleum and coal products refining
- Primary metals distribution and storage
- Printer, Commercial
- Saw mills
- Scrap processing yard
- Scrap metal processors
- Scrap metal distribution and storage
- Secondary materials dealers
- Stone, Clay, Glass and Concrete Products

Transportation and other utilities

- Garbage or refuse collection service
- Refuse processing treatment and storage
- Landfill
- Taxicab dispatching station

Other

- Metal, sand, stone, gravel, clay, mining and related processing
- Temporary mobile recycling center

8.12. Specifically Prohibited Uses.

In the area within the Master Association Area shown on Exhibit B, which is generally defined as being within 300 feet external to the boundaries of the land under Contract of Sale to the Middle Tennessee Medical Center, Inc. as of the date of this Declaration, the following uses are prohibited without regard to existing definitions in the Murfreesboro Zoning Ordinance without the advance written consent of Middle Tennessee Medical Center, Inc.: establishments selling only or primarily alcohol and/or beer for off premises consumption; establishments selling alcohol and/or beer for on premises consumption, unless such sales are incidental to the sale of food; establishments providing sexually oriented adult entertainment which may include offering massage or sauna services; car and truck vehicle wash businesses; hospital facilities for acute inpatient care; and, outpatient or other ambulatory healthcare facilities currently requiring a license from the State of Tennessee. Should Middle Tennessee Medical Center, Inc. fail to purchase the land pursuant to said Contract of Sale this paragraph of the Declaration shall become null and void.

In the area within the Master Association Area shown on Exhibit C, which is generally defined as being within 300 feet external to the boundaries of the land under Contract of Sale to Phoenix Associates, L.L.C. as of the date of this Declaration and the area under Contract of Sale to the Middle Tennessee Medical Center, Inc. as of the date of this Declaration, the following use is prohibited for a period of three (3) years, without regard to existing definitions in the Murfreesboro Zoning Ordinance, a retail shopping center. Should Phoenix Associates, L.L.C., or its successor or assignee, fail to purchase the land pursuant to said Contract of Sale this paragraph of the Declaration shall become null and void.

8.13. Maintenance of Drainage.

The established drainage pattern over any property within the Master Association Area shall not be altered except as approved in writing by the DRC. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern, which exists at the time the overall grading of any property is completed, and shall include any established drainage pattern shown on any plans approved by the DRC. The established drainage pattern may include the drainage pattern from any Site over another Site. This Section shall not apply to City in connection with its development, construction and sale of property within the Master Association Area.

8.14. Storm Water Detention Requirements.

All storm water detention facilities or ponds, including run-off calculations and all connections thereto, shall be reviewed and approved by DRC before construction is begun. The owner of the Site where a private detention facility or pond is located shall be responsible for the maintenance of the facility.

8.15. Compliance with Laws.

Nothing shall be done or kept on any property within the Master Association Area in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction.

8.16. Water Systems.

No individual water supply system shall be installed or maintained for any property within the Master Association Area unless such system is approved in writing by the DRC and is designed, located, and constructed and equipped in accordance with the requirements, standards and recommendations of any applicable governmental authority having jurisdiction. Any well or ground water use for any reason such as irrigation, landscaping, heating and cooling, must be approved by the DRC.

8.17. Water Reuse

City intends to construct, maintain and operate a system for the application to land of repurified water in the Master Association Area. Owners of Sites in the Master Association Area shall use repurified water available for irrigation and may also contract to use it for cooling and other non-contact purposes.

8.18. Restoration in Event of Damage or Destruction.

In the event of the damage or destruction of any improvement on any Site, the Owner thereof shall, as soon as the extent of damage will permit (and, if reasonably possible, within thirty (30) days after notification by the DRC), cause the damaged or destroyed improvement to be replaced or restored to its original condition or such other condition as may be approved in writing by the DRC, or the Owner shall cause the damaged or destroyed improvement to be demolished and the Site to be suitably landscaped, subject to the approval of the DRC, so as to present a pleasing and attractive appearance.

8.19. Land Coverage.

The aggregate floor area of all buildings to be constructed on any nonresidential Site within the Master Association Area shall be limited in accordance with Design Guidelines applicable to such Site in order that the ratio of the floor area of all such buildings to the area of the Site on which they are constructed shall not exceed the maximum ratio of floor area to the Site area or the maximum lot coverage as set forth in any such Design Guidelines or the City of Murfreesboro, Tennessee standards, whichever is the more restrictive. Each nonresidential Site shall have a minimum of twenty percent (20%) space available for landscaping provided that this provision shall not be applicable to the Land under Contract of Sale to Phoenix Associates, L.L.C. as of the date of this Declaration.

8.20. Height of Roof Top Structures.

No structure or appurtenance, including but not limited to, water towers, standpipes, penthouses, elevators, elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, satellite dishes, or flagpoles shall exceed a height of ten (10) feet above the finished rooftop of any building, except as may be specifically approved in writing by the DRC or as has already been

approved by the Board of Zoning Appeals on October 14, 2002 for Middle Tennessee Medical Center, Inc. Screening of any such structure or appurtenance shall be as required by the DRC.

8.21. Parking and Circulation.

Vehicles shall be parked only in designated, paved parking spaces either on the Site served by such spaces or within 300 feet of such Site. Parking areas shall be separated from any street right-of-way line by a landscaped strip. Landscaped areas, islands and landscaped screening shall be provided in accordance with Design Guidelines. Parking areas shall be divided into sections with capacities as required by the Design Guidelines, and each section shall be separated by landscaped buffers to provide visual relief.

8.22. Curb Cuts.

Curb cuts for driveways may vary according to size of the property being accessed and the type of street on which the property fronts as specified in the Design Guidelines.

8.23. Pedestrian Circulation.

Buildings and parking areas shall be designed so that pedestrian access shall be provided from parking areas and public streets to public building entries and so that pedestrian circulation within the Master Association Area is safe and convenient. Sidewalks shall be a minimum of five feet in width unless the sidewalk is to be used exclusively by maintenance personnel to access non-public areas.

8.24. Loading and Servicing Areas.

Loading doors, docks, material hauling facilities, accessory structures and servicing areas shall be adequately screened with landscaping or walls or a combination thereof so as to minimize the effect of their appearance from neighboring Sites.

8.25. Storage Areas.

No materials, supplies, merchandise, equipment, company-owned vehicles or similar items shall be stored except in an enclosed, covered building or on a Site in a location which shall have been adequately screened from the view of the adjacent Sites, public streets and pedestrian walkways by either a fence, wall or landscaping screen approved in writing by the DRC. In addition, company-owned vehicles, trucks and equipment shall be stored only in areas so designated by the DRC and shall be stored in an enclosed area meeting the requirements of the first sentence in this Section.

8.26. Utilities.

Other than street light standards, all pipes, lines and other facilities for utilities and all lines and conduits of any type hereafter installed for the transmission of audio and visual signals or electricity shall be located beneath the ground or within an enclosed structure, except that certain overhead lighting and utility appurtenances (including telephone pedestals, utility motors, irrigation systems, cooling towers, back-flow preventors, generators, transformers and switching devices) may be located above the ground if they are adequately screened by landscaping so as not to be visible from other Sites, streets, and pedestrian walkways in accordance with plans approved in writing by the DRC. To the extent possible, transformers, utility meters and other utility appurtenances

shall be grouped together. The owner of a Site shall be obligated to repair any damage and restore the site where utility construction has taken place on their site if the utility company does not make such repairs and restoration.

8.27. Landscape development.

Every Site on which a building is constructed and any unpaved portion of the right-of-way of any public street adjoining any such Site shall be landscaped by the Owner or Related User in accordance with plans and specifications prepared by a registered landscape architect licensed in the State of Tennessee and submitted to and approved in writing by the DRC. Such approval is not in lieu of nor does it constitute an approval by the City of Murfreesboro Site Plan Review process. Furthermore, each Owner or Related User shall submit as-built drawings of all irrigation systems to the DRC upon completion of the installation of any such system. Landscaping in accordance with the improved plan must be installed before the occupancy of any building within the phase of development to which such landscape plan pertains, except when seasonal limitations prohibit, in which case the landscaping must be installed within thirty days from the time planting operations can be feasibly undertaken. Moreover, when seasonal limitations do not permit planting, necessary and appropriate erosion control measures must be implemented. The unpaved portion of the right-of-way of any public street and the designated buffers along the rights-of-way of each Site adjoining each such unpaved portion shall be fully landscaped, and parking areas shall be landscaped so that, where possible, berming shall be provided to screen parked cars from the view of adjoining Sites and public streets unless, as to landscaping between adjoining Sites, there is a prior written agreement to the contrary between the Owners of the adjoining Sites or, as to public streets, there is a minimum of two hundred and fifty feet between the parking area and the public street. Berms shall be a minimum of thirty inches tall and shall have a maximum slope of 2:1. Alternatively, evergreen vegetation and/or walls approved by the DRC shall be provided to screen views of parked cars. Landscaping must not be installed in locations adversely impacting traffic safety, ie. in "the sight triangle". All areas of a Site, which have been disturbed by land development activities and are not paved or covered with improvements or are not presently forested, must be landscaped with trees, shrubs, ground cover and irrigated turf. This requirement includes areas of large tracts which may be developed over time with outparcels being graded for building pads in advance of specific building plans. The DRC may waive the irrigation requirement for areas of future expansion of buildings and parking, after the DRC has reviewed relevant landscaping and architectural drawings. All landscaping must be in accordance with City of Murfreesboro standards. Large uninterrupted areas of gravel, pine straw, bark mulch or bare soil are prohibited. In the absence of unusual extenuating circumstances approved in writing by the DRC, all landscaped areas (including the unpaved portion of the right-of-way of any public street) shall be irrigated by underground, fully automated irrigation systems using repurified water. Permanent irrigation systems need not be provided for areas to be maintained as existing natural areas or areas to be restored as natural areas. However, temporary irrigation systems may be required by the DRC for the re-establishment of natural areas. Furthermore, undeveloped areas which are held in reserve for future buildings or pavement but which have been disturbed by land development activities need not be irrigated or fully landscaped as long as they are seeded with a turf mix to reduce weed growth and minimize erosion and as long as they are mowed and properly maintained. Nevertheless, all unpaved public rights-of-way abutting a Site must be landscaped prior to an Owner's occupying the Site, whether or not all phases of the development on such

Site are then complete, except that any such rights-of-way which shall have been irrigated and landscaped by City or another prior Owner shall be maintained as irrigated, landscaped areas by the Owners responsible for the maintenance of such rights-of-way.

8.28. Preservation of View sheds.

Improvements to Property shall be designed and constructed so as to create, preserve, protect, and improve view sheds from public streets, existing and proposed, within and without the Master Association Area to the extent practicable.

8.29. The Design Guidelines.

The Design Guidelines for the Master Association Area to be adopted by the Board are incorporated herein by this reference. The provisions of this Declaration shall control if inconsistent with the provisions of the Design Guidelines.

9. ARTICLE IX DEVELOPMENT APPROVAL

9.1. Approval of Improvements Required.

The approval of the DRC shall be required for any improvement to property (as defined in Section 9.2 hereof) on any Site, except as prior approval may be waived or certain improvements to Property may be exempted in writing or under written guidelines or rules promulgated by the Board or the DRC because approval in such case or cases is not reasonably required to carry out the purposes of this Declaration and except for plans submitted to City by Phoenix Associates, L.L.C., or its successor or assignee, and made exhibits to its Contract of Sale with City. The City may construct roads and other public infrastructure improvements, which are necessary for the overall development of the Master Association Area without the approval of the DRC.

9.2. Improvement to Property.

An "Improvement to Property" requiring approval of the DRC shall include, but shall not be limited to: (a) the construction, installation, erection or expansion of any building, structure or other improvement, including parking areas and utility facilities; (b) the voluntary demolition or destruction, of any building, structure or other improvement; (c) the grading, excavation, filling or similar substantial disturbance to the surface of the land, including without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) the landscaping, planting, clearing or removing of trees, shrubs, grass or plants; (e) the placing, installing, modifying or erecting of any solar panels or other solar equipment, or of any antennas, aerials, microwave dishes, wires or boxes, or of any evaporative, cooling, air conditioning or heating equipment, or of any other similar items of equipment on the roof or exterior of any improvements or on any other portion of a Site which is visible from any part of another Site or from any part of the Master Association Area; (f) the erection, construction, removal, modification, substitution or remodeling of signs, fences, walls, patios, decks, planters or other similar improvements; and (g) any material exterior change, remodeling or alteration of any previously approved Improvement to Property, including any change of exterior appearance, color or texture.

9.3. *Membership of Committee.*

The DRC shall consist of three members, and the Board shall have the right and duty to appoint such members. The members of the DRC appointed by the Board may be removed and replaced at any time by the Board and shall serve for such term as may be designated by the Board, or until their death or resignation, or until their removal by the Board. The Master Association may at any time, and from time to time, change the authorized number of members of the DRC, but the number of members shall always be an odd number and shall not be less than three.

9.4. *Address of Committee.*

Until changed by the DRC, the address of the DRC shall be City Hall, 111 West Vine Street, Murfreesboro, Tennessee 37130.

9.5. *Pre-design Conference.*

Prior to submitting preliminary plans for a proposed Improvement to Property, the Applicant and, if possible, the Applicant's architect and other consultant(s) shall meet with the DRC to review and clarify to the Applicant applicable Design Guidelines, their relation to the characteristics of the particular Site, and the technical issues related to review procedures.

9.6. *Submission of Plans.*

Subject to the provision of Section 9.1 hereof, prior to commencement of work to accomplish any proposed Improvement to Property, the Person (the "Applicant") proposing to make such Improvement to Property shall, in accordance with Section 9.6 through Section 9.8 hereof and the Design Guidelines and the policies promulgated by the DRC, submit to the DRC such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans and specifications, building permits and samples of materials and colors as the DRC shall reasonably request, showing the nature, kind, shape, height, width, color, materials, location and other essential features of the proposed improvements to Property. The DRC may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the DRC of all required materials in connection with each phase of the review and approval procedure of the DRC for the proposed Improvement to Property, the DRC may postpone review of any material submitted for approval. The DRC must review and approve of any such development plan before submittal to any governmental entity, including but not limited to the Murfreesboro Planning Commission.

9.7. *DRC Review.*

Following receipt of all required plans, the DRC shall approve or disapprove in writing all such plans within the applicable time period specified in the Design Guidelines.

9.8. *Changes After Final Review.*

During the construction of an Improvement to Property, if an Owner or Related User desires to make a change in previously approved plans which affects the exterior of such improvement or the Site on which it is being built and which deviates from the plans as approved by the DRC, the Owner or Related User must submit a written request to the

DRC along with a "red-lined" set of plans clearly delineating the proposed change. The DRC shall review and respond to such request within the applicable time period specified in the Design Guidelines. No changes from plans previously approved by the DRC may be made unless approved by the DRC.

9.9. Criteria for Approval.

The DRC shall approve any proposed Improvement to Property only if it deems, in its reasonable discretion, that (a) the proposed Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Master Association Area as a whole; (b) the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Master Association Area; (c) the proposed Improvement to Property will not detract from the beauty, wholesomeness or attractiveness of the Master Association Area or the enjoyment thereof by Owners; (d) the proposed Improvement to Property is in compliance with the provisions of this Declaration, the applicable Rules and Regulations and the applicable Guidelines and rules of the DRC; (e) the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Master Association; (f) the plans for the proposed Improvement to Property include such information as may have been reasonably requested by the DRC; (g) the exterior design, color scheme, finish, proportions, style of architecture, height, appearance and materials of the proposed Improvement to Property are not objectionable; (h) the grading plan for the proposed Improvement to Property is not objectionable; (i) the location and capacity of the parking areas within the proposed Improvement to Property are satisfactory; and (j) no perceived conflict exists between the proposed Improvement to Property and any applicable zoning, building, land use or other laws, ordinances, rules or regulations affecting the development, construction or use of the proposed Improvement to Property. The DRC may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the DRC may deem appropriate. Approval by the DRC shall not be deemed to constitute compliance with the requirements of any local building codes, and it shall be the responsibility of the Applicant to comply therewith. If the work contemplated by any such plans and specifications shall require a building permit or other permit under local building codes, then the Applicant shall submit a copy of any and all such permits to the DRC within ten days after the issuance of such permit.

9.10. DRC Policies.

From time to time the DRC may issue policies relating to its operations and its interpretations and applications of the Design Guidelines.

9.11. Development Review Fee.

In accordance with uniform and nondiscriminatory criteria established by the DRC, the DRC shall, in its policies, provide for the payment of a reasonable fee to accompany each request for approval of any proposed Improvement to Property. The DRC shall endeavor to set fees in such amounts as are adequate to pay all costs and expenses of the Association and thereby to avoid the necessity of Special Assessments. The DRC may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to Property or that the fee shall be determined in any other reasonable manner.

9.12. Decisions of DRC.

Decisions of the DRC shall be made by the affirmative vote of a majority of its members. Notice of any decision of the DRC shall be given to the Applicant pursuant to the provisions of the Design Guidelines. If the time period in which the DRC is to make its decision would expire on a Saturday, Sunday or legal holiday, then the DRC shall have until the next following business day which is not a Saturday, Sunday or legal holiday in which to make its decision and give notice thereof to the Applicant. The decision of the DRC shall be in writing. If the decision is not to approve a proposed Improvement to Property, the reason therefore shall be stated and, upon the request of the Applicant, the DRC shall suggest revisions that meet the DRC's requirement, and shall otherwise make reasonable efforts (at no cost to the Master Association) to aid the Applicant in preparing a proposal that would be acceptable to the DRC. Any subsequent submission by the Applicant shall be reviewed and acted upon by the DRC as provided herein for a new submission. The decision of the DRC shall be transmitted to the Applicant at the address furnished by the Applicant to the DRC.

9.13. Appeal to Board.

If the DRC denies, imposes conditions on, or refuses approval of a proposed Improvement to Property, the Applicant may appeal to the Board by giving written notice of such appeal to the Master Association and the DRC within thirty days after such denial, imposition of conditions, or refusal. The Board or a tribunal appointed pursuant to the Bylaws for Notice and Hearing, and the Board or such tribunal shall decide whether or not the proposed Improvement to Property or the conditions imposed by the DRC shall be approved, disapproved or modified.

9.14. Failure of Committee to Act on Plans.

Subject to the following sentence of this Section, any request for approval of a submission of plans and other materials for a proposed Improvement to Property shall be deemed denied unless notice of approval is given to the Applicant by the DRC within the applicable time period for response by the DRC as set forth in the Design Guidelines, unless such time period is extended by mutual agreement.

9.15. Prosecution of Work After Approval.

After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be commenced and completed as promptly and diligently as reasonably possible and in complete conformity with any materials submitted to the DRC in connection with the proposed Improvement to Property and any conditions imposed by the DRC. Failure to complete the proposed Improvement to Property within the time specified by the DRC for completion or the failure to complete the Improvement to Property in accordance with the description and materials furnished to, and the conditions imposed by, the DRC shall constitute noncompliance with the requirements for approval of the proposed Improvement to Property.

9.16. Notice of Completion.

Upon completion of the Improvement to Property, the Applicant shall give the DRC written notice of the completion of the Improvement to Property and a certificate from an architect or engineer licensed to practice in Tennessee stating that the Improvement to Property has been substantially completed in accordance with the description and

materials furnished to, and the conditions imposed by, the DRC (collectively the Notice of Completion). Until the date of receipt of the Notice of Completion, the DRC shall not be deemed to have notice of the completion of such Improvement to Property.

9.17. Observance of Work.

The DRC or its duly authorized representative shall have the right to observe any Improvement to Property at any reasonable time or times prior to or after completion, provided that this right shall terminate thirty days after the DRC shall have received a Notice of Completion from the Applicant or upon correction of any Noncompliance which has been the subject of a Notice of Noncompliance, whichever shall last occur. The right to observe is limited to observation necessary to ensure compliance with the Design Guidelines and approved plans.

9.18. Notice of Noncompliance.

If, as a result of inspections or otherwise, the DRC finds that any Improvement to Property has been made without obtaining the approval of the DRC or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the DRC, or was not completed within eighteen months after the date of approval by the DRC, the DRC shall notify the Applicant in writing of the noncompliance (the "Notice of Noncompliance"), which Notice of Noncompliance shall be given, if given at all, not later than thirty days after the DRC receives any applicable Notice of Completion from the Applicant. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance, including removal of any portion of the Improvement to Property, which is not in compliance.

9.19. Failure of Committee to Act After Completion.

If for any reason other than the Applicant's act or neglect, the DRC fails to notify the Applicant of any noncompliance within thirty days after receipt by the DRC of a Notice of Completion from the Applicant, the Improvement to Property shall be deemed in compliance if the Improvement to Property was, in fact completed in accordance with the approved plans as of the date of Notice of Completion.

9.20. Appeal to Board of Finding of Noncompliance.

If the DRC gives any Notice of Noncompliance, the Applicant may appeal to Board by giving written notice of such appeal to the Board and the DRC within thirty days after the notice of Noncompliance was given by the DRC to the Applicant. If, after a Notice of Noncompliance, the Applicant fails to commence action diligently to remedy such noncompliance, the DRC shall request a finding of noncompliance by the Board by giving written notice of such request to the Master Association and the Applicant. In either event, the Board or a tribunal appointed pursuant to the Bylaws shall hear the matter in accordance with the provisions of the Bylaws for Notice and Hearing, and the Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

9.21. Correction of noncompliance.

If the Board determines that a circumstance of noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five days from the date the Board gives the Applicant notice of such determination by the Board or applicable tribunal. If the Applicant does not comply with the ruling within such period, the Board may, at its option, record a final Notice of Noncompliance against the Site on which the noncomplying Improvement to Property exists, shall be entitled to remove such noncomplying Improvement to Property or otherwise to remedy the noncompliance such as by having construction enjoined or maintaining an action for the removal of such noncomplying Improvement to Property, and the Applicant shall reimburse the Master Association, upon demand, for all expenses incurred in collection therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Master Association, the Board may levy a Reimbursement Assessment against the Owner of the Site for such costs and expenses. The right of the Master Association to remedy or remove any noncomplying Improvement to Property shall be in addition to all other rights and remedies which the Master Association may have at law, in equity or under this Declaration.

9.22. No Implied Waiver or Estoppel.

No action or failure to act by the DRC or by the Board shall constitute a waiver or estoppel with respect to future action by the DRC or the Board with respect to any Improvement to Property. Specifically, the approval of the DRC of any Improvement to Property shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar or dissimilar Improvement to Property or any similar or dissimilar proposals, plans, specifications or other materials submitted with respect to any other Improvement to Property by the same or any other Applicant.

9.23. Committee Power to Grant Variances.

The DRC may authorize reasonable variances from strict compliance with any of the provisions of Article VIII and Article IX hereof, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, aesthetic or environmental consideration may require, or when strict application would be unreasonable or unduly harsh under the circumstances; provided, however, that no such variance shall materially adversely affect the value of any of the Master Association Area. The DRC shall adopt policies requiring the giving of written notice of all variance requests to all Owners and allowing an adequate period of time for any Owner to raise an objection to a requested variance before the DRC takes action upon the request. Such variances must be in writing or be contained in written policies promulgated by the DRC and shall become effective when signed by a majority of the members of the DRC. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular Site, the particular Improvement and the particular provision hereof covered by the variance. Nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including but not limited to, zoning ordinances and setback lines or other requirements imposed by any governmental authority having jurisdiction.

9.24. Compensation of Members.

If approved by the Board, members of the DRC shall be entitled to receive reasonable compensation from the Master Association for services performed as members of such committee and to be reimbursed for out-of-pocket expenses incurred by them in the performance of their duties hereunder. Such compensation shall be paid first out of Development review fees, and if funds from this source are insufficient, by the Master Association upon approval by the Board.

9.25. Committee Representative.

The DRC shall meet from time to time as necessary to perform its duties hereunder. The DRC may, from time to time, by a resolution in writing adopted by a majority of the members, designate any one or more Persons as the representative of the DRC (the "DRC Representative") to take any action or perform any duties for or on behalf of the DRC, except the granting of approval to any submission for an Improvement to Property and the granting of a variance. The DRC Representative may, but need not, be a member of the DRC. The action of the DRC Representative within the authority of such DRC Representative or with the written consent or the vote of a majority of the members of the DRC shall constitute action of the DRC.

9.26. Records of Actions.

The DRC shall report in writing to the Board all final actions of the DRC, and the Board shall keep a permanent record of such reported action.

9.27. Estoppel Certificates.

Upon the payment of such reasonable fee as may be determined from time to time by the Board and upon the reasonable request of any interested party, the Board shall, after confirming any necessary facts with the DRC, furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith. Any Person without actual notice to the contrary shall be entitled to rely on such certificate for all matters set forth therein.

9.28. Nonliability for Committee Action.

No liability shall be imposed on the DRC, any member of the DRC, any DRC Representative, the Master Association, any member of the Board, any tribunal thereof, or City, for any monetary damages for any loss, damage, injury arising out of or in any way connected with the performance of the duties of the DRC, any DRC Representative, the Board or such tribunal hereunder. Submittal of a plan to the DRC shall constitute waiver of any claim the Applicant might otherwise have or acquire for the recovery of economic or monetary damages. The Applicant shall be limited, in the event of a successful appeal in accordance with the provisions of section 9.30, to the award of declaratory and/or injunctive relief and court costs and to no other damages or costs. In reviewing any matter, the Board, the DRC, any DRC Representative and City shall not be responsible for reviewing, nor shall its approval of an Improvement to Property in accordance with this Declaration, be deemed to be approval of the Improvement to

Property from the standpoint of safety, whether structural, fire, security or otherwise, or as to conformance with building codes or other governmental laws or regulations.

9.29. Construction Period Exception.

During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the DRC shall temporarily suspend the provisions contained in the Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided that, during the course of any such Construction, nothing is done which will result in a violation of any of the provisions of this Declaration upon the completion of construction and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property in the Master Association Area.

9.30. Appeal to Court of Law.

No provision of this Article IX shall preclude the right of an aggrieved Applicant to appeal any decision of the DRC or the Board to a court of law for a final decision; provided, however, such aggrieved Applicant must first have exhausted all remedies and appeal procedures, if any, as are authorized under this Declaration.

10. ARTICLE X MISCELLANEOUS PROVISIONS

10.1. Duration.

The provisions of this Declaration shall run with and bind title to Sites in the Master Association Area, shall be binding upon and inure to the benefit of City, the Association, and all Owners and Mortgagees, and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect until the twentieth anniversary of the date of the recording of this Declaration, whereupon this Declaration shall expire automatically. It is the intent of City that upon the twentieth anniversary of the date of the recording of this Declaration, a new set of protective covenants shall be drafted, adopted, and recorded by the Owners and the Master Association and that the Master Association shall not dissolve or terminate upon such twentieth anniversary date.

10.2. Land Outside Master Association Area.

The restrictions created by this Declaration benefit and burden only the Master Association Area and no other land whatsoever. Notwithstanding any possible sharing of present or future facilities by other land, whether developed by City or others, the general plan created by the restrictions of this Declaration extends only to the Master Association Area, and such restrictions are not intended to benefit any Persons other than those having an interest in the Master Association Area. No Persons owning land or having an interest in land outside of the Master Association Area shall have any right whatsoever to enforce this Declaration for the benefit of such land.

10.3. Amendment to Declaration by the Association.

Amendments to this Declaration shall be proposed and adopted in the following manner. Notice of the subject matter of the proposed amendment shall be included in the notice

of the meeting of the members at which such proposed amendment is to be considered and shall be delivered in accordance with the Bylaws. At such meeting, a resolution for the adoption of a proposed amendment may be proposed by the Board. Such amendment must be approved by at least sixty percent of the total votes entitled to be cast thereon; provided, however, that any amendment that (a) limits or curtails any easement rights granted or reserved herein, (b) delays the levying of any Assessment, (c) changes the basis of calculation of any Assessment, or (d) modifies the priority of the Master Association's lien for Special or Reimbursement Assessments set forth in Section 7.4 hereof must be approved by the unanimous vote of all members and, provided further, that any amendment which alters the provision of this Declaration which are specific to Middle Tennessee Medical Center, Inc. must be approved by Middle Tennessee Medical Center, Inc. or its successor and that any amendment which alters the provisions of this Declaration specific to Phoenix Associates L.L.C. must be approved by Phoenix Associates L.L.C. or its successor. For purposes of the preceding sentence, the provisions of this Declaration which are specific to Middle Tennessee Medical Center, Inc., are included in Sections 4.2, 8.12, and 8.20 and those which are specific to Phoenix Associates L.L.C. are found in Sections 8.9, 8.12, 8.19 and 9.1. Furthermore, as long as City owns any land within the Master Association Area, and during the Appointment Period, no amendment to the Declaration may become effective without the approval of City. The agreement of the required percentage of the Owners and, when required, the City, and any Mortgagee, to any amendment to this Declaration shall be evidenced by their execution of said amendment, or in the alternative (as to all such Persons other than City), the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the written agreement of the required Persons was lawfully obtained. Any such amendment to this Declaration shall become effective only when recorded, or at such later date as may be specified in the amendment itself.

10.4. Association Right to Mortgage Information.

Each Owner hereby authorizes any Mortgagee holding a Mortgage on such Owner's Site to furnish information to the Master Association concerning the status of such Mortgage and the loan which it secures, to the extent such information is appropriate in order to assist the Master Association in determining if such loan is a valid First Mortgage or secondary purchase money Mortgage.

10.5. Notices.

Upon any Owner's acquisition of a Site, such Owner shall notify the Master Association of such Owner's address for purposes of the furnishing of notice in connection with this Declaration. Until notice to the contrary is given to all Owners by the Master Association, the address of the Master Association for the purposes of the furnishing of notice in connection with this Declaration shall be City's principal office in the State of Tennessee. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, telecopier, or telegraph. If served by mail, such notice shall be sent first-class, postage pre-paid, addressed to the Person entitled to receive such notice at the address given by such Persons to the Master Association (or, for the purposes of Article IX of this Declaration, to the address given by such Persons to the DRC) for the purpose of service of such notice, or to the Site of such Person if no address has been given to the Master Association, and shall be deemed

given, if not actually received earlier, at 5 :00 p.m. on the third day which is not a Sunday or legal holiday after it is deposited in a regular depository of the United States Postal Service. Such address may be changed by any such Person from time to time by notice in writing to the Master Association. Notice to one or more Owners of a Site shall constitute notice to all such Owners. It shall be the obligation of every Owner to notify the Secretary of the Master Association immediately in writing of any change in address. Any Person who becomes the Owner of a Site after the date on which notice is delivered personally or mailed shall be deemed to have received such notice if received by such Owner's predecessor in title to such Site.

10.6. Enforcement.

The Master Association, acting by the authority of the Board, and any Owner shall each have the right, acting alone or together, to enforce any or all of the covenants, conditions, restrictions, easements, reservations, rights-of-way, equitable servitudes and other provisions contained in this Declaration against any Site and the Owner thereof. The right of enforcement shall include the right to proceed, jointly or severally, at law or in equity to prevent any breach hereof and/or to recover damages for any breach of the terms of this Declaration, the Bylaws, or the Rules and Regulations. Such proceedings may include, without limitation, suits to restrain or enjoin such breaches, actions for damages resulting therefrom, and actions in equity against any particular Site to enforce any lien created by this Declaration. Damages shall not be deemed adequate compensation for any breach or violation of any provisions of this Declaration, the Bylaws, or the Rules and Regulations, and accordingly, the City, the Master Association, and each Owner shall be entitled to relief by way of injunction, as well as any other remedy either at law or in equity. In addition, upon the violation of this Declaration, the Bylaws or the Rules and Regulations, and after Notice of Hearing, the Board shall have the power and authority (a) to impose reasonable monetary fines which shall constitute a lien upon the Site of the Owner or Owners who are guilty of such violation; or (b) to suspend the right of such Owner(s) and Related User(s) who are guilty of such violation to vote in the Master Association; and the Board shall have the power to impose either or both of these sanctions. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty days.

10.7. No Obligation to Enforce Declaration.

Neither City nor the Master Association, or its directors, officers or committees, shall be under any obligation to take any action to enforce the terms of this Declaration, the Bylaws, or the Rules and Regulations.

10.8. Violations Constitute a Nuisance.

Any violation of any covenant, condition, restriction, easement, reservation, right-of-way, equitable servitude or other provision contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

10.9. Enforcement by Self-Help.

City or the Master Association, or any authorized agent of either of them, may use self-help to enforce any of the covenants, conditions, restrictions, easements, reservations,

rights-of-way, equitable servitudes, or other provisions contained in this Declaration, provided such self-help is preceded by Notice and Hearing set forth in the Bylaws, unless an emergency exists.

10.10. Violation of Law.

Any violation of any federal, state, municipal or local law, ordinance, rule or regulation pertaining to the ownership, occupation or use of any property within the Master Association Area is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

10.11. No Waiver.

No delay or failure on the part of the Association or any other aggrieved party to invoke any available right, power, or remedy in respect to a breach of this Declaration, the Bylaws, or the Rules and Regulations shall be held to be a waiver by that party of (or stop that party from asserting) any right, power, or remedy available to it upon the recurrence or continuance of such breach or the occurrence of a different breach.

10.12. Remedies Cumulative.

The rights, powers, and remedies provided in this Declaration shall be cumulative and not restrictive of other remedies at law or in equity, and the exercise by a Person of any particular right, power, or remedy shall not be deemed an election of remedies or to preclude such Person's resort to other rights, powers, or remedies available to it.

10.13. Captions for Convenience.

The table of contents, titles, headings and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions contained herein.

10.14. Interpretation.

The Board shall have the right, power, and authority to determine all questions arising under or in connection with this Declaration and to construe and interpret its provisions, and any determination, construction, or interpretation made in good faith by the Board shall be binding on all Owners. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board, will best effect the understanding of the intent of the general purposes of this Declaration. The provisions hereof shall be liberally interpreted to effectuate the purposes set forth herein, and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

10.15. Conflicts in Legal Documents.

In case of conflicts between the provisions in this Declaration and the Articles of Incorporation, the Bylaws or the Rules and Regulations, this Declaration shall control. In case of conflict in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

10.16. Number, Gender and Grammar.

Unless the context requires a contrary construction, the singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make title revisions hereof apply either to corporations or other entities or to individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

10.17. Severability.

Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the valid provision or application, and to this end the provisions of this Declaration are declared to be severable.

10.18. Notice of Sale, Lease or Mortgage.

If an Owner sells, leases, grants a Mortgage on, or otherwise disposes of all or substantially all of a Site or the improvements thereon, such Owner must promptly furnish to the Master Association, in writing, the name and address of such Owner's purchaser, lessee, Mortgagee, or transferee. Nevertheless, no such notice shall be required for leases of space or individual units in a multi-tenant facility on a Site.

10.19. No Reverter.

No covenant or restriction herein is intended to be or shall be construed as a condition subsequently intended to be or shall be construed as a condition subsequent or conditional limitation, or as creating a possibility of reverter.

10.20. Effective Date of Declaration.

The effective date of this Declaration shall be the date of its recording.

APPROVED by the Murfreesboro City Council on December 19, 2002.

ATTEST:

CITY OF MURFREESBORO

BY:

James B. Penner
City Recorder

Tommy Bragg
Mayor

Approved as to form:

By:

Susan Emery McGannon
City Attorney

STATE OF TENNESSEE)
 : ss
COUNTY OF RUTHERFORD)

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared TOMMY BRAGG and JAMES B. PENNER, with whom I am personally acquainted or who proved to me on the basis of satisfactory evidence, and who, upon their oath acknowledged themselves to be respectively the Mayor and City Recorder of the City of Murfreesboro, and that they as such Mayor and City Recorder, being authorized to do so, executed the within and foregoing instrument for the purposes therein contained, by signing thereto the name of said City, and by attesting said instrument, by themselves as such Mayor and City Recorder, respectively.

WITNESS MY HAND and seal this 17th day of January, 2003.

My Commission Expires:_____

Notary Public
(seal)