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LAURA H. RODDICK
REGISTER OF DEEDS
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE INMAN PARK COMMUNITY ASSOCIATION, INC.

CONTENTS

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE INMAN PARK COMMUNITY ASSOCIATION, INC.

THIS DECLARATION is made on the date hereinafter set forth by **GELL, INC.**, a North Carolina corporation (hereinafter referred to as "Declarant") and **LEADMINE ASSOCIATES II, LLC**, a North Carolina Limited Liability Company (hereinafter referred to as "Leadmine Associates"):

W I T N E S S E T H:

WHEREAS, Declarant and Leadmine Associates are the owners of approximately 105.67 acres of land located in the City of Raleigh, House Creek Township, Wake County, North Carolina, as shown on the deed recorded in Book 8069, Page 701, Wake County Registry, and on the deed recorded in Book 8126, Page 1825, Wake County Registry;

WHEREAS, Declarant desires to create on such property an exclusive residential community of single-family and multifamily dwellings to be known as INMAN PARK (hereinafter sometimes referred to as the "Subdivision");

WHEREAS, Declarant desires to provide for the maintenance and upkeep of certain common area within the Subdivision, to provide for enforcement of covenants and restrictions applicable to the Subdivision and to provide a vehicle for ensuring that the storm water drainage systems and facilities for the Subdivision and certain water and sanitary sewer facilities within the Subdivision are properly maintained, and, to that end, desires to subject all of the property within the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer certain common area, to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a non-profit corporation, the INMAN PARK COMMUNITY ASSOCIATION, INC., for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant and Leadmine Associates hereby declare that the real property described in **EXHIBIT A** attached hereto and made a part hereof and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to the **INMAN PARK COMMUNITY ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee, by easement or otherwise, for the common use and enjoyment by the Owners of Lots within the Properties, and including, but not limited to, open space, landscaped street islands, the Recreational Amenities (as hereinafter defined), any other recreational facilities located on Common Area, pedestrian access easements, and the area within any storm water easements and the facilities constructed therein, which easements and facilities serve more than one Lot or Unit and are not located within a public street right-of-way, but excluding any areas identified as Limited Common Area. Common Area also includes water and sewer lines which serve more than one Lot or Unit and are not located within a City of Raleigh utility easement or a public street right-of-way. The Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein.

For purposes of assessments and voting, Common Area shall be subdivided into two classes, the Recreational Amenities (as hereinafter defined) and all other Common Area. The Recreational Area is reserved for use by the Class A Members only; the Class C Members shall not have the right to use the Recreational Amenities, shall not be assessed for any costs associated with the ownership and maintenance of same, and shall have no right to vote in any matters pertaining to same.

Section 3. "Declarant" shall mean and refer to **GELL, INC.**, a North Carolina corporation. It shall also mean and refer to any person, company or entity to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the Wake County Registry.

Section 4. "Limited Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by a Subassociation (as hereinafter defined), whether in fee, by easement or otherwise, for the common use and enjoyment by the Owners of Lots and Units subject to assessment by such Subassociation, including, but not limited to, open space, private streets, recreational facilities, pedestrian access easements, and the area within any storm water easements identified as Limited Common Area and the facilities constructed therein, which easements and facilities serve more than one Lot or Unit and are not located within a public street right-of-way. Limited Common Area also includes water and sewer lines which serve more than one Lot or Unit and are not located within a City of Raleigh utility easement or a public street right-of-way. The Limited Common Area shall be maintained by the Subassociation or its successors in interest unless dedicated to public use as set forth herein.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of Common Area owned in fee by the Association, Limited Common Area owned in fee by a Subassociation, and any public street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision plats, any newly-platted lot shall thereafter constitute a Lot.

Section 6. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 7. "Multifamily Dwelling Unit" shall mean and refer to a Unit within a building containing more than one Unit, including a condominium Unit and an apartment Unit. Attached townhome Units are not Multifamily Dwelling Units.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or Multifamily Dwelling Unit which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 9. "Properties" shall mean and refer to the "Existing Property" described in Exhibit A to this Declaration and any additional property annexed pursuant to Article II of this Declaration.

Section 10. "Recreational Amenities". Certain of the Common Area will be developed into recreational amenities, including, for example, a pool and tennis courts, to the exclusive use of the Class A Members. Although such Recreational Amenities will be Common Area owned and maintained by the Association (and not by a

Subassociation), the Class C Member(s) will not contribute to the cost of ownership and maintenance of and will not be entitled to use such Amenities, and shall not be entitled to vote on any matters pertaining to same.

Section 11. "Subassociation" shall mean and refer to any homeowners association formed for the purpose of owning and maintaining real property and improvements thereon reserved for the exclusive use and benefit of Owners of Lots or Units within a specific phase or section of the Properties.

Section 12. "Unit" or "Dwelling" shall mean and refer to any building or portion thereof within the Properties which is designated and intended for use an occupancy as a residence by a single family, whether by the Owner(s) of such Unit or by tenants or lessees of the Owner(s) thereof.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE INMAN PARK COMMUNITY ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to this Declaration, and which is within the jurisdiction of the Association, is described on Exhibit A attached hereto.

Section 2. Annexation of Additional Property. At any time prior to December 31, 2007, additional land within the property described in Exhibit B to this Declaration (hereinafter the "Exhibit B Property") may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed, provided, however, that such property must be contiguous to property already subject to this Declaration and must be approved by the City of Raleigh and, if appropriate, by the Federal Housing Administration and/or Veterans Administration. The supplementary declaration shall be approved by the Raleigh City Attorney or his/her deputy prior to its recordation. Any or all of the Exhibit B Property may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots and Multifamily Dwelling Units within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members.

Section 3. Conveyance of Common Area in Annexed Property. Prior to the conveyance of the first Lot or Multifamily Dwelling Unit within any newly annexed property to an Owner, the owner of the annexed property shall convey to the Association all Common Area located within the newly annexed property. Title to such Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Declaration.

Section 4. Density; Land Area. Inman Park contains both R-4 and R-6 zoning. The maximum number of units that can be constructed within the Properties, without rezoning of same, is 549. The maximum density permitted is 14.5 Units per acre. The maximum number of acres that can be included within the Subdivision is 106.47.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot and every Owner of a Multifamily Dwelling Unit which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Multifamily Dwelling Unit which is subject to assessment.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots and Units and may not be separated from ownership of any Lot or Unit.

There shall be three classes of membership with respect to voting rights:

(a) Class A Members. Class A Members shall be the Owners of all Lots except those owned by the Class B Member and the Class C Member(s)(as hereinafter defined). When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Lot. Class A Members shall be entitled to one (1) vote for each Lot owned.

(b) Class B Member. The Class B Member shall be the Declarant. Subject to the provisions of this subsection, Declarant shall be entitled to three (3) votes for each Lot and each Multifamily Dwelling Unit that it owns.

Class B Membership shall cease to exist and shall be converted to Class A or Class C membership, as appropriate, upon the earlier of the following to occur:

(1) When the total number of votes held by the Class A and Class C Members equals the total number of votes held by the Class B Member; provided, however, that, if Class B Membership is terminated pursuant to this subsection, Declarant may acquire additional votes and thereby be reinstated with all rights, privileges and responsibilities of Class B Membership if additional Lots or Multifamily Dwelling Units within the Properties are formed by the subjection to this Declaration of new Lots and/or Multifamily Dwelling Units as set forth in Article II hereof, thus making Declarant the Owner, by virtue of its ownership of the newly-annexed Lots and/or Multifamily Dwelling Units and of other Lots and Multifamily Dwelling Units owned by Declarant, of a sufficient number of votes (at the 3-to-1 ratio) to cast a majority of votes (it being hereby stipulated that the termination and rejuvenation of Class B Membership shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2007.

When Class B Membership ceases to exist, Declarant shall have the same voting rights as other Owners of Class A Lots or Multifamily Dwelling Units.

(c) Class C Members. Class C Members shall be all Owners of Multifamily Dwelling Units, except the Class B Member. Class C Members shall be entitled to one (1) vote for each Class C Unit owned. The Class C Members shall not be entitled to any vote on any matter pertaining exclusively to the Recreational Amenities.

Section 3. Leased Units. Notwithstanding the foregoing, if any Dwelling within the Properties is leased or rented to tenants, the vote as expressed by the Owners of such rented Units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

An Owner may lease or sublet his/her Unit; however, any lease or sublease must be for at least six (6) months, in writing and contain the following provision:

> "Tenant shall obey, adhere to and be bound by all provisions of the Declaration Of Covenants, Conditions And Restrictions For The Inman Park Community Association, Inc., recorded in the Wake County Registry. Tenant acknowledges that he/she/they has/have received of a copy such Declaration and the rules and regulations of the Association and is familiar with the provisions of same."

If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease. Owner shall furnish the Association a copy of any leases or subleases of his/her Unit.

ARTICLE IV
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 1 and by the rules and regulations adopted by the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) subject to the provisions of the Raleigh City Code, the right of the Association to charge reasonable admission and other fees for the use of any recreational facilities hereafter situated or constructed on the Common Area and to limit the use of such facilities to Owners who occupy a residence on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each Class of Lots agree to such dedication, sale or transfer and signify their agreement by a signed and recorded document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewage, utility (including CATV) or drainage facilities upon, over, under and across the Common Area without the assent of the Members when such easements, in the opinion of said Board, are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Common Area shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City of Raleigh or to another non-profit corporation for the aforementioned purposes.

(d) the right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots, to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners and the Association as set forth herein.

(e) the right of the Association, as provided by and consistent with the provisions of Section 10-3073(a)(2) of the Raleigh City Code as same may be amended from time to time, exchange all or part of the Common Area for other property and consideration of like value and utility, which exchange shall be approved by the City of Raleigh Planning Director.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

(d) Suspension of Rights. The rights of any delegate of an Owner shall be suspended by, upon and during suspension of such Owner's rights as provided in Article IV, Section 1(b) and in Article IX, Section 9 of this Declaration.

Section 3. Conveyance of Title To The Association. Declarant covenants, for itself, its successors and assigns, that it will convey title to the Common Area and the Limited Common Area, if any, within each phase or section of the Subdivision to the Association or a Subassociation, as appropriate, prior to the conveyance of the first Lot within such phase or section to an Owner. So long as it owns a Lot or Unit within the Properties, Declarant reserves an easement over and across the Common Area and the Limited Common Area for the purpose of constructing any improvements on the Common Area or Limited Common Area as it deems necessary or advisable, provided that any such improvements must comply with the requirements of the Raleigh City Code and that, upon completion of such improvements, Declarant will restore the disturbed Common Area and Limited Common to the condition that existed prior to such improvements. Except as otherwise stated herein, all conveyances by Declarant to the Association shall be free and clear of all encumbrances and liens, except greenway, utility, and drainage easements of record or shown on the recorded plats of the Subdivision. Any improvements placed on the Common Area by Declarant shall become the property of the Association or Subassociation upon completion of such

improvements, and any improvements placed on Limited Common Area by the Declaration shall become the property of the appropriate Subassociation upon completion of such improvements.

Section 4. Regulation and Maintenance of Common Area and Common Area Easements. It is the intent of the Declarant that the Common Area be preserved to the perpetual benefit of the Owners within the Subdivision. Additionally, Declarant will, in some instances, reserve on a recorded plat or grant to the Association an easement over and across that portion of any Lot on which a Common Area easement lies.

(a) Rights and Responsibilities of the Lot Owners as to Common Area Easements. Each Owner of a Lot upon which a Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove any trees or vegetation within a Common Area easement; (2) erect gates, fences, or other structures on a Common Area easement; (3) place any garbage receptacles on or in a Common Area easement; (4) fill or excavate a Common Area easement or any part thereof; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of a Common Area easement.

(b) Rights and Responsibilities of the Association as to Common Area. The Association shall have the right and obligation to ensure that the Common Area is preserved to the perpetual benefit of the Owners within the Subdivision, to that end, shall: (i) maintain the Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners within the Subdivision; (ii) procure and maintain adequate liability insurance, in an amount not less than $1,000,000.00, covering the Association and its Members, Directors and officers, against any loss or damage suffered by any person, including the Owner of the Lot upon which Common Area lies, resulting from use of the Common Area; and (iii) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.

(c) Association's Right of Entry. The Association and the employees, agents, contractors and subcontractors, shall have a non-exclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Common Area easement for the purposes of: (i) installing and maintaining entrance signage and other signage, any and all of which shall have been approved by the City of Raleigh prior to installation; (ii) making such improvements to the Common Area easement as have been approved by the Association and, if required, by the City of Raleigh; and (iii) maintaining the Common Area easement in its natural or improved state, including,

without limitation, removal of fallen trees and other debris and, in general, keeping the easement area free from obstructions and impediments to its use.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot that it owns within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments and special assessments, such assessments to be established and collected as hereinafter provided. All assessments which are unpaid when due, together interest and late charges set forth in Section 8 of this Article V and all costs of collection, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection, including reasonable attorney's fees, shall also be the personal or corporate obligation of the person(s), firm(s) or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

It is the intent of the Declarant that any monetary fines imposed against an Owner pursuant to Section III of Article VII of the Bylaws Of The Inman Park Community Association, Inc., shall constitute a lien against the Lot of such Owner to the same extent as if such fine were an assessment against such Lot.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) repair and reconstruction of improvements on the Common Area, including storm water infiltration devices and other storm water drainage facilities constructed on or serving the Properties (but excluding those located solely on Limited Common Area and/or serving only Multifamily Dwelling Units), including, without limitation, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) maintenance of landscaped street islands; (iv) payment of taxes and public assessments levied against the Common Area owned by the Association in fee; (v) procurement and maintenance of insurance in accordance with the Section 4(b)

of Article IV and Section 8 of Article IX of this Declaration; (vi) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vii) payment of principal and interest on funds borrowed for Association purposes; and (viii) such other needs as may arise.

It is a policy of the City of Raleigh that any storm water detention pond serving the Subdivision be maintained as a storm water control structure. The only storm water detention pond within the Properties serves only the Multifamily Units and shall be owned and maintained by the Class C Members. The Class C Members shall prepare a maintenance manual to provide for the maintenance of the storm water detention pond and the Multifamily Association's budget shall include a sum for annual maintenance of the pond, a reserve for periodic sediment and silt removal, and a reserve for structural replacement and major repairs to and reconstruction of the pond, all of which shall be approved by the City of Raleigh prior to recordation or implementation thereof.

Section 3. Maximum Annual Assessment. Until January 1, 2000, the maximum annual assessment shall be $360.00 for each Class A Lot (of which $240.00 is attributable to the ownership and maintenance of the Recreational Amenities) and $120.00 for each Class C Unit. Subject to the provisions of Sections 3(c) and 3(d), below, the annual assessment for a Class B Lot or Unit shall be one-fourth (1/4) of the Class A or Class C assessment for that Lot or Unit, as appropriate.

(a) Beginning on January 1, 2000, the Maximum Annual Assessments may be increased by the Board of Directors, effective January 1 of each year, without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the maximum assessment for the previous year unless such increase is approved as set forth in Section 3(b), below.

(b) The Maximum Annual Assessments for the Class A Members may be increased without limitation if such increase is approved by not less than two-thirds of the Class B Members and not less than two-thirds (2/3) of the votes cast by the Class A or C Members, in person or by proxy, at a meeting duly called for that purpose. The Maximum Annual Assessments for the Class C Members may be increased without limitation if such increase is approved by not less than two-thirds of the Class B Members and not less than two-thirds (2/3) of the votes cast by the Class A and C Members, in person or by proxy, at a meeting duly called for that purpose.

(c) The Board of Directors may fix the annual assessment for Class A Lots and Class C Units at any amount not in excess of the maximum for the class; provided, however, that, except as otherwise provided in this subparagraph (c), the

assessment established for each Class B Lot or Unit shall always be one-fourth (1/4) of the assessment for a Class A Lot or Class C Unit, as appropriate.

In the event that Class B Lots or Units are converted to Class A or Class C, or Class A Lots or Units are reconverted to a Class B, the assessment with respect to such Lots and Units shall be prorated and charged according to their class as of the date of each conversion and reconversion.

A Declarant-owned Lot or Unit that contains a dwelling used as a model or sales center and not as a residence shall be assessed at the Class B rate. All other Class B Lots and Units shall be assessed at the Class B rate until the first day following the date that is one year after issuance of the certificate of occupancy for any dwelling constructed on that Lot, after which time it shall be assessed at the Class A or Class C rate, as applicable, but such Lot or Unit shall remain a Class B Lot for all other purposes.

(d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by the Board.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article and shall be in the ratios provided in this Section 3 of this Article.

Section 5. Assessment Rate; Collection Period. Annual and special assessments for expenses pertaining to the ownership, use and maintenance of the Recreational Amenities shall be fixed at a uniform rate for all Class A Lots. Annual and special assessments for expenses pertaining to remaining Common Area shall be fixed at a uniform rate for all Class A Lots and Class C Units. Assessments may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of Members or of proxies entitled to cast sixty (60%) percent of the votes of each Class of Lots shall constitute a quorum. If the required quorum is not present,

another meeting may be called subject to the same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots and Units in any phase on the first day of the month following the conveyance to the Association of all or any part of the Common Area within that phase. Unless a lower amount is set by the Board of Directors, the first annual assessment shall be the "maximum annual assessment" set forth in Section 3 of this Article and shall be prorated according to the number of months remaining in the calendar year.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot and Unit. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 8. Effect of Nonpayment of Assessments; Remedies. An assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of fourteen percent (14%) per annum or the highest rate allowed by law, whichever is less. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot or Unit for which such assessment is due. Interest, late payment charges, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot or Unit.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot or Unit. Sale or transfer of any Lot or Unit shall not affect any assessment lien; however, the sale or transfer of a Lot or Unit pursuant to foreclosure of a first mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessments which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot or Unit from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 10. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Working Capital Fund. At the time of closing of the initial sale of each dwelling constructed on each Lot, or at the time of closing of the initial sale of each Multifamily Dwelling Unit or, as appropriate, at the time of the initial occupancy of each Multifamily Dwelling Unit by a tenant, a sum equal to one-sixth (1/6) of the annual assessment for the appropriate Class A Lot or Class C Unit in effect at the time of such sale or occupancy shall be collected from the purchaser or Owner of such Lot or Unit and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid to pursuant to this Section shall not be considered as an advance payment of any regular assessment.

ARTICLE VI
RIGHTS OF LENDERS

Section 1. Books and Records. Any owner or holder of a first deed of trust on any Lot or Unit, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, By-laws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the owner or holder of a first deed of trust on any Lot or Unit shall be entitled to timely written notice of:

(a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.

(b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

Section 3. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the owners and holders of the first deeds of trust on Lots and Units located within the Properties have given their prior written approval, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Notwithstanding anything herein to the contrary, the property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the City of Raleigh or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association, with the consent of the City of Raleigh, to exchange Common Area for other real property as provided in the Raleigh City Code, or to require the approval of such exchange by the holders of first deeds of trust on the Lots and Units.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

(c) Fail to maintain hazard insurance on insurable improvements on the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

Section 4. Payment of Taxes and Insurance Premiums. The owners or holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned

by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

ARTICLE VII
EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Easements for Governmental Access. An easement is hereby established over the Common Area, the Limited Common Area, and every Lot within the Properties for the benefit of applicable governmental agencies for: installing, removing, and reading water meters; maintaining and replacing water and sewer facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 3. Owner's Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any Dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of such Dwelling. Such work shall be done expeditiously and, upon completion of the

work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. No fence, wall, storage shed or any other obstruction shall be erected within such area adjoining a Dwelling. *See* Raleigh City Code, Sec. 10-3073(b)(8).

Section 4. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over the each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association.

Section 5. Easement Over Common Area. A perpetual, non-exclusive easement over the Common Area (including Common Area Easements)is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to and from the Common Area and for the use thereof.

Section 6. Pedestrian Access Easements. The easement granted by the foregoing section shall, as to that portion of the Common Area (including Common Area Easements) shown on the recorded maps of the Properties as being reserved for pedestrian access, also runs to the benefit of the City of Raleigh and its employees, and the public in general for the purpose of pedestrian traffic through the easement area to and from the City of Raleigh greenways. As provided in Section 4(c) of Article IV of this Declaration, the Association is responsible for ensuring that the pedestrian access easements remain free and clear of all obstructions, including fallen trees, so that there is no impediment to access to the adjoining greenway.

Section 7. Easement For Encroachments. In the event that any structure erected on a Lot encroaches upon any other Lot or the Common Area or Limited Common Area, and such encroachment was not caused by the purposeful act or omission of the Owner of such Lot, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Area or other Lot for so long as such encroachment shall naturally exist. In the event that any structure erected principally on the Common Area encroaches upon any Lot, then an easement shall exist for the continuance of such encroachment of such structure onto such Lot for so long as such encroachment shall naturally exist. The foregoing shall not be construed so as to allow any extension or enlargement of any existing encroachment or to permit the rebuilding of the encroaching structure, if destroyed, in a manner so as to continue such encroachment.

ARTICLE VIII
ARCHITECTURAL CONTROL

No building, fence, sign (including unit identification signs), wall or other structure (including, without limitation, replacement of any previously existing improvement) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, changing materials or color of any exterior portion of any such improvement), nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements"), nor shall any planting or landscaping required by the Master Landscape Plan (as defined in Section 12 of Article IX of this Declaration) be removed or altered, until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If the Declarant fails to approve or disapprove such proposed Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. The Declarant shall have the right to charge a reasonable fee, not to exceed $75.00, for receiving and processing each application. The Declarant shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. The Declarant shall not approve any Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision.

Declarant may, at any time, delegate the review and approval authority contained in this Article VIII to the Board of Directors of the Association or to an Architectural Committee composed of three or more persons appointed by the Board. Such delegation shall be made by the Declarant by recording in the Wake County Registry an Assignment Of Declarant's Rights. Declarant shall delegate such authority no later of the date upon which Declarant no longer owns any Lots within the Properties or December 31, 2007, whichever is earlier. Any use of the term "Declarant" in this Article VIII shall be deemed to apply to Declarant and, when appropriate, to the Board of Directors or the Architectural Committee. Nothing herein shall be construed to permit interference with the development of the Lots by Declarant in accordance with its general plan of development.

All signs erected or placed on the Properties shall comply with the Unified Sign Criteria on file with the City of Raleigh Inspections Department.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, rules, regulations, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of the Owners as set forth below. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots, and thereafter by an instrument signed by the Owners of not less than sixty percent (60%) of the Lots. No amendment shall be effective unless it has first been approved by the Raleigh City Attorney or his deputy, and, if required by Section 4 of this Article IX, by the Federal Housing Administration or Veterans Administration, and is recorded in the office of the Register of Deeds of Wake County.

Section 4. FHA/VA Approval. In the event that Declarant has arranged for and provided purchasers of Lots with FHA-insured or VA-guaranteed mortgage loans, then, as long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the

Veterans Administration: annexation of additional properties, mortgaging of real property owned by the Association, deeding of such real property to persons other than the Association, and amendment of this Declaration.

Section 5. Non-Liability of Governmental Entities. The City of Raleigh shall not be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties, any Lot, or any Owner or occupant when such failure is due to the lack of access to the Properties or any Lot thereof due to inadequate design or construction of such access, blocking of access routes, or any other factor within the control of the Declarant, the Association, an Owner, or an occupant of any Lot.

Neither the City of Raleigh nor the State of North Carolina shall be responsible for maintenance of any private street, which shall be maintained by the Association or, as appropriate, a Subassociation.

Section 6. Subdivision of Lots. Inman Park has been approved by the City of Raleigh as a cluster unit development, as that term is defined in the City's Zoning Ordinance. Therefore, although a Lot within the Subdivision may appear to contain enough land area to permit construction of additional dwelling units, prior approved density transfers may, in fact, preclude City approval of additional dwellings. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded plats of the Subdivision, except by and with the consent of the Declarant and, while there is Class B Membership, by the City of Raleigh.

Section 7. Declarant's Right To Change Development. With the approval of the City of Raleigh, and subject to such terms and conditions as the City or Raleigh may impose, Declarant shall have the right, without consent or approval of the Owners, to create dwelling units, add Common Area, and reallocate units within, and withdraw real property from the development.

Section 8. Insurance. The Association shall procure and maintain adequate liability insurance covering the Association, in an amount not less than $1,000,000.00. The Association shall also procure and maintain full replacement value hazard insurance on real and personal property owned by the Association, and shall procure and maintain officers', directors' and employees' liability insurance. The premiums for such insurance shall be a common expense paid from the annual assessments provided in Article V of this Declaration.

Section 9. Rules and Regulations. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Common Area and the Lots within the Subdivision and shall furnish a written copy of said rules

and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective. Any violation of such rules shall be punishable by fine and/or suspension of voting rights as provided in this Declaration.

In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the Bylaws of the Association, the rules and regulations adopted Association, or the Restrictive Covenants applicable to the Properties, in accordance with procedures set forth in the Bylaws, which sanctions may include, but are not limited to, reasonable monetary fines, as set forth in the Bylaws of the Association, and which fines shall constitute a lien upon the Lot of the violator, and suspension of the right to vote and the right to use any recreational facilities within the Common Area, provided, however, that the Association shall not have the right to suspend the right to use private streets.

In addition, pursuant to procedures provided in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any open space and recreational facility within the Properties if the Owner is more than 30 days delinquent in paying any assessment or other charge due to the Association.

The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the architectural guidelines applicable to the Properties. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

Section 10. Greenway - City of Raleigh Approval. Notwithstanding any other provision of this Declaration, the Association, Owners, Members, tenants of Members and their respective families, guests and invitees, shall not, within any portion of the Common Area which is greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh:

(a) grant any easement of any nature whatsoever;
(b) remove any tree or vegetation;
(c) erect any gate, fence or other structure or improvement;
(d) place any garbage receptacle;
(e) fill or excavate;

(f) plant vegetation of any type or otherwise restrict or interfere with the use, maintenance and preservation of the greenway in its natural or improved state, including, without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

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

Section 11. Landscape Street Islands. The Association shall be responsible for maintenance of landscaping of islands within the rights-of-way of public streets as if such islands were Common Area. The Association shall keep the landscaped street islands in a neat, clean and safe condition. Neither the City of Raleigh nor the State of North Carolina shall have any liability for any damage or loss suffered by any person or entity caused by encroachment of any plants or other improvements located on a landscaped street island onto the public street right-of-way, and the Association shall indemnify and hold the City and State harmless from any such liability.

Section 12. Required Street Yard Landscaping. It is a requirement of the City of Raleigh that Inman Park have a master landscaping plan for public street rights-of-way. Consequently, Declarant has proposed, and the City has approved, the "Master Landscape Plan - Inman Park", prepared by Elam, Todd & D'Ambrosi, P.A., dated 10/28/98, revised 11/3/98 (the "Master Landscape Plan"), a copy of which is on file with the City. Declarant shall cause all plantings and landscaping required by the Master Landscape Plan to be installed and shall identify on each recorded plat any portion of a Lot which is governed by the Master Landscape Plan. The Association shall be responsible for maintaining all plantings and landscaping required by the Master Landscape Plan, whether located on Common Area or a Lot. No Owner or other person shall remove or damage any required planting or landscaping. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over the each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association as provided in this Section 12.

Section 13. Limitation on Subdivision of Lots. Inman Park was approved by the City of Raleigh as a cluster unit development, in which density transfers are permitted. Therefore, although some Lots may appear to contain enough land are to permit construction of additional Units or to create additional Lots, prior density transfers approved within the Subdivision may, in fact, preclude City approval of additional Units or further subdivision of Lots.

IN WITNESS WHEREOF, Declarant and Leadmine Associates have caused this instrument to be executed under seal as of the 18th day of March, 1999.

DECLARANT:

GELL, INC.

By: _____
Vice President

(Corporate Seal)

ATTEST:

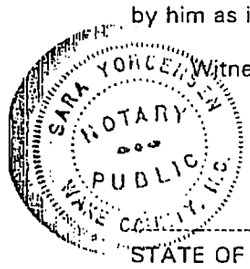
_____
Assistant Secretary

LEADMINE ASSOCIATES, LLC, (Seal)
a North Carolina Limited Liability Company

By: _____ (Seal)
John R. Lancaster, Member-Manager

STATE OF NORTH CAROLINA - WAKE COUNTY

I, Sara Yorgensen, a Notary Public for Wake County, North Carolina, certify that Richard W. Moore personally came before me and acknowledged that he is an Assistant Secretary of **GELL, INC.**, a North Carolina corporation, and that, by authority duly given and as the act and deed of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by him as its Secretary.

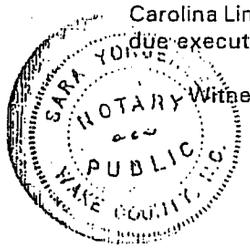


Witness my hand and official stamp and seal, this the 18th day of March, 1999.

Sara Yorgensen
Notary Public
My commission expires: 10-23-2001

STATE OF NORTH CAROLINA - WAKE COUNTY

I, Sara Yorgensen, a Notary Public for Wake County, North Carolina, certify that JOHN R. LANCASTER, a Member-Manager of **LEADMINE ASSOCIATES, LLC**, a North Carolina Limited Liability Company, personally came before me and acknowledged the due execution of the foregoing instrument for and on behalf of said Company.



Witness my hand and official stamp and seal, this the 18th day of March, 1999.

Sara Yorgensen
Notary Public
My commission expires: 10-23-2001

STATE OF NORTH CAROLINA - WAKE COUNTY

The foregoing certificates of SARA YORGENSEN, Notary Public, are certified to be correct. This instrument and these certificates are duly registered at the date and time and in the Book and Page shown on the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By: Mita W Hanna
Deputy/~~Assistant~~ Register of Deeds

EXHIBIT A

INMAN PARK
Phase I

Lying and being in the City of Raleigh, House Creek Township, Wake County, North Carolina, and being more particularly described as follows:

Tract 1: All of the real property, containing 17.25 acres, more or less, shown on the plats entitled "Final Plat, INMAN PARK, PHASE I", recorded in Book of Maps 1999, Pages 493-498, inclusive, in the Wake County Registry, to which plats reference is hereby made for a more particular description, and which includes, without limitation, Lots 14-17, 39-43, 49-53 and 64-68 (BOM 1999, PG 493), Lots 44-48 (BOM 1999, PG 494), Lots 69, 82-93, 102-117 (BOM 1999, PG 495), and Lots 118-128 (BOM 1999, PG 496), inclusive, in Inman Park, Phase I, as shown on the aforesaid recorded plats.

Tract 2: Open Space No. 1. All of the real property, containing 0.81 acres, more or less, shown and described as "OPEN SPACE NO. 1", on the plat recorded in Book of Maps 1999, Page 493, Wake County Registry, to which plat reference is hereby made for a more particular description.

Tract 3: Open Space No. 2. All of the real property, containing 1.53 acres, more or less, shown and described as "OPEN SPACE NO. 2", on the plat recorded in Book of Maps 1999, Page 497, Wake County Registry, to which plat reference is hereby made for a more particular description.

Tract 4: Open Space No. 3. All of the real property, containing 0.79 acres, more or less, shown and described as "OPEN SPACE NO. 3", on the plat recorded in Book of Maps 1999, Page 497, Wake County Registry, to which plat reference is hereby made for a more particular description.

Tract 5: Open Space No. 4. All of the real property, containing 0.55 acres, more or less, shown and described as "OPEN SPACE NO. 4", on the plat recorded in Book of Maps 1999, Page 498, Wake County Registry, to which plat reference is hereby made for a more particular description.

Tract 6: Open Space No. 4. All of the real property, containing 1.78 acres, more or less, shown and described as "GELL, INC. RECREATION AMENITY OPEN SPACE", on the plat recorded in Book of Maps 1999, Page 498, Wake County Registry, to which plat reference is hereby made for a more particular description.

EXHIBIT B

Lying and being in the City of Raleigh, House Creek Township, Wake County, North Carolina, and being all of the property, containing 105.67 acres (exclusive of right-of-way dedication), more or less, shown on the deed recorded in Book 8069, Page 701, Wake County Registry, and on the deed recorded in Book 8126, Page 1825, Wake County Registry, SAVING AND EXCEPTING THEREFROM that portion of the Properties described on EXHIBIT A to this Declaration.

Wake County,NC 452
Laura M Riddick, Register Of Deeds

Presented & Recorded 08/23/1999 10:24:01

Book : 008396 Page : 00505 - 00525

Drawn by & HOLD FOR:
PERRY, PATRICK, FARMER & MICHAUX, P.A. (rm)

STATE OF NORTH CAROLINA

COUNTY OF WAKE

RESTRICTIVE COVENANTS FOR INMAN PARK Phase 1

GELL, INC. (the "Declarant"), **Benchmark Homes Co., Buildmaster, Inc., Clearwater Group, Ltd., Thomas Gipson Homes, Inc., Impact Design-Build, Inc., J. Satterwhite Bldr., Inc., Lokey Building Concepts, L.L.C., Phillip R. Barker Builders, Inc., Skywater, Inc., Spectrum Homes, Inc.** (the "Builders"), and **Myron W. Braun** and **Karen C. Grenier** (the "Owners") hereby declare that the property described on **Exhibit A** attached hereto and made a part hereof (hereinafter the "Subdivision") is and shall hereafter be held, transferred, sold and conveyed subject to the following restrictive covenants, which shall be appurtenant to and run with the land, by whomsoever owned, to wit:

1. LAND USE AND BUILDING TYPE. All Lots shall be used for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling, not to exceed three stories in height, a private garage for not more than three (3) cars, and other outbuildings incidental to residential use of the Lot. Nothing herein shall be deemed to prohibit conversion of a Lot to a street.

2. DWELLING SIZE. The minimum heated square footage of a dwelling constructed on a small Lot, i.e., a Lot approximately 65 feet wide, may not be less than 1,800 square feet for a one-story dwelling or 1,200 square feet on the first floor of a multistory dwelling (900 square feet for Lots 14, 15, 16 and 17). The minimum heated square footage of a dwelling constructed on a large Lot, i.e., a Lot approximately 90 feet wide, may not be less than 2,500 square feet for a one-story dwelling or 1,500 square feet on the first floor of a multistory dwelling. Declarant reserves the right to grant variances in the foregoing square footage requirements, provided, however, that any variance must be in writing and recorded in the Wake County Registry.

3. BUILDING SETBACKS; HOUSE LOCATION. No dwelling shall be erected or maintained on any Lot outside of the building envelope shown on the recorded plat of the Subdivision or as otherwise required or permitted by the zoning ordinance of the City of Raleigh (the "Zoning Ordinance"), but architectural standards adopted by the Declarant or the Inman Park Community Association Inc. (the "Association") may require setbacks greater than permitted under the Zoning Ordinance may. Decks, porches, patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall not be considered to be part of the dwelling unless they are considered part of the dwelling under the Zoning Ordinance as it exists as of the date

of issuance of a certificate of occupancy. Any dwelling erected on a Lot other than a corner lot shall face the street on which the Lot abuts. On corner lots, a dwelling may be erected so as to face the intersection of the two streets on which the Lot abuts.

4. FENCES. Any fence or wall installed within the Subdivision must meet all requirements of the Zoning Ordinance and must be approved as provided in Paragraph 18 of these Covenants. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots nor to any fence installed by the Declarant at any entrance to or along any street within the Subdivision.

5. TEMPORARY STRUCTURES. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

6. PARKING; DRIVEWAYS AND PARKING PADS; ABANDONED VEHICLES. Each dwelling constructed within the Subdivision shall have a garage large enough to contain at least two vehicles. No unenclosed parking shall be constructed or maintained on any Lot except a concrete driveway and an attached concrete parking pad, which pad shall be designed for the parking of not more than two (2) vehicles. The location of and materials used for construction of any driveway or parking pad upon any Lot shall be approved as provided in Paragraph 18 hereof.

No boat, boat trailer, mobile house trailer (whether on or off wheels), vehicle or enclosed body of the type which may be placed on or attached to a vehicle (known generally as a "camper"), recreational vehicle ("RV"), tractor trailer truck or cab, or commercial vehicle of any kind shall be parked on any street or any Lot within the Subdivision. No vehicle of any type which is abandoned or inoperative shall be stored or kept on any Lot, except in an enclosed garage.

7. ANIMALS. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling, except that dogs, cats, or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes and further provided that they do not become a nuisance or annoyance to owners of other Lots within the Subdivision.

8. NUISANCES; BUSINESS ACTIVITY. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No business trade or activity may be conducted on any Lot unless permitted by the Raleigh Board of Adjustments.

9. SIGNS. Except as otherwise required by the City of Raleigh, no sign of any kind shall be displayed to the public view on any Lot except signs used to advertise Lots for sale during the construction and sales period, one sign of not more than ten (10) square feet advertising the

property for sale or rent, and signs of not more than ten (10) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election.

10. ANTENNAS; SATELLITE DISHES OR DISCS. No radio or television transmission or reception towers or antennas shall be erected on a Lot other than a customary television or radio reception antenna, which shall not extend more than ten (10) feet above the top roof ridge of the house. However, a satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or disc is not larger than 30" in diameter; (ii) the receiver or disc is located on the side of the house away from the street and within the building set back lines applicable to that Lot; and (iii) the receiver or disc is located or screened in such a way that it cannot be seen from any street within the subdivision. Any such screening must be approved as provided in Paragraph 18 of these Covenants. In no event shall any free-standing transmission or receiving tower be permitted on any Lot.

11. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the Subdivision, except that small, inflatable wading pools shall be permitted.

12. MAILBOXES. It is the intent of the Declarant to identify a standard mailbox to be installed by the builder of each home within the Subdivision. No mailbox shall be placed or maintained on any Lot unless the same has been approved in accordance with the provisions of Paragraph 18 of these Covenants.

13. MAINTENANCE OF LOT; CONSTRUCTION. Each owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair. In the event that any residence or structure on any Lot is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or thing, the owner of such Lot shall repair the damage and reconstruct the improvement within twelve (12) months after such damage or destruction; provided, however, that if the structure damaged is not part of or attached to the residence constructed on such Lot, the owner may, at his option, either completely remove the damaged structure and landscape area on which the structure stood or repair or reconstruct the structure.

All construction, landscaping or other work which has been commenced on any Lot shall be continued with reasonable diligence to completion and no partially completed house or other improvement shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The owner of each Lot shall at all times keep contiguous public streets free from any dirt, mud, garbage, trash or other debris resulting from any such construction on his Lot.

14. CLOTHESLINES. No clothesline may be erected or maintained on any Lot.

15. GARBAGE; UNSIGHTLY STORAGE. All trash and rubbish shall be kept in garbage cans stored behind the house in such a manner as not to be visible from the street upon which the house fronts. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to approved enclosure the night of the scheduled pickup.

16. SEPTIC TANKS; WELLS. No septic tank or well shall be installed, used or maintained on any Lot.

17. REMOVAL OF TREES. Except in the case of an emergency situation that does not permit any delay, no living tree larger than 6" in diameter at a point measured 3' off the ground shall be removed from any Lot without the approval of the Declarant. The foregoing provision shall apply only to Lots which have been occupied as a residence pursuant to a certificate of occupancy issued by the City of Raleigh.

18. ARCHITECTURAL CONTROL. No building, fence, wall, driveway, parking pad or any other structure or any type shall be commenced, erected or maintained within the Subdivision, nor shall any exterior addition to or change or alteration therein be made, nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made, unless and until the provisions of Article VIII of the Declaration Of Covenants, Conditions And Restrictions For The Inman Park Community Association, Inc., as recorded in Book 8273, Page 388, Wake County Registry (hereinafter the "Declaration") have been fully satisfied.

19. EXTERIOR MAINTENANCE. The owner of each Lot shall maintain the grounds and improvements on his Lot, including, but not limited to, lawns, plantings, landscaping, swales and drainage ditches, at all times in a neat and attractive manner.

20. EASEMENTS.

(a) Easements on Recorded Maps. Declarant, for itself, its successors and assigns (including, without limitation, governmental entities and the Association, hereby reserves easements in the locations and for the purposes shown and indicated on the recorded maps of the Subdivision, including, without limitation, the right to construct, alter, operate, repair, replace, remove and maintain all improvements located within and associated with such easements. Within such easements, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change the direction of flow or otherwise impede or retard the flow of water through the drainage channels within such

easements. Any easements located on a Lot shall be maintained continuously by the owner of such Lot, except for any such improvements for which a public authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or rights-of-way over any unsold Lot or Lots by the recording of appropriate instruments in the Wake County Registry, and such instruments shall not be construed to invalidate any of these covenants.

(b) Easement to Correct Defects and Damage. For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right (but does not assume any obligation) of ingress, egress and regress on, over and under the Lot and the Common Area within the Subdivision to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Subject to the ordinances of the City of Raleigh, such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed unless otherwise required by the ordinances of the City of Raleigh. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

(c) Easement for Future Utilities. Declarant also reserves an easement in and right at any time in the future to grant a ten-foot (10') right-of-way over, under and along the rear line of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities, including water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five-foot (5') right-of-way over, under and along the side lines of each Lot for the aforementioned purposes.

(d) Easements on Specific Lots. An easement is also reserved for the benefit of the Declarant and the Association, and their successors and assigns, over, across and under those portions of Lots 43, 44, 48, 49, 64 and 68 shown and designated as "5' Private Maintenance Easement Per Master Landscape Plan" on the map recorded in Book of Maps 1999, Pages 493 and 494, Wake County Registry, for the purpose of installing and maintaining a fences and landscaping within the easement area as required by the Master Landscape Plan described in Section 12 of Article IX of the Declaration. No Owner or other person shall remove or damage any required planting or landscaping. The Association shall be responsible for ensuring that all plantings and landscaping required by the Master Landscape Plan are properly maintained.

(e) Right of Access. The Declarant, the Association and their respective successors and assigns shall at all times have the right of access upon such easements for the purpose of landscaping, planting, mowing, maintaining, repairing or replacing the easement area and the improvements thereon or for removing any object placed in the easement area in violation of the provisions of this Paragraph 20.

(f) Easements for Encroachments and Construction. Each Lot and the Common Area is hereby subjected to: (i) a perpetual, nonexclusive easement for the benefit of an adjoining Lot for the encroachment onto such Lot or the Common Area of improvements constructed at the time of the initial improvements on such adjoining Lot, to the extent that such improvements actually encroach; and (ii) a temporary construction easement (not to exceed 10 feet in width from the common properly line between the encumbered and benefitted properties) as is reasonably necessary to construct the improvements on such adjoining Lot (including, without limitation, construction of the dwelling and installation of utilities in connection therewith) or to repair, maintain, replace or remove such improvements, provided, however, that the Owner of the adjoining Lot shall: (i) utilize such easement and exercise such right at such times and in such manner as will result in the least interference with the use and enjoyment of and the least damage to the Lot or Common Area on which such easement is located; (ii) as soon as reasonably practicable after each use or exercise, restore the Lot or Common Area on which the easement exists and all improvements thereon to substantially the same condition as existed immediately before such exercise or use; and (iii) in connection with each use or exercise, indemnify and hold harmless the Association and/or the Owner of the Lot on which such easement exists from and against all claims and caused of action for damages to person or property, including all costs of defending such claims and causes of action (including reasonable attorneys' fees) arising out of or resulting from such exercise or use.

21. SUBDIVISION OF LOTS. No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded map or plat, except by and with the written consent of the Declarant.

22. UNINTENTIONAL VIOLATIONS. Declarant, or the persons or firms to whom the architectural review and approval authority has been delegated pursuant to Paragraph 18 of these Covenants, may, but shall not be obligated to, waive any violation of the designated and approved building setback lines on any Lot, provided that, no waiver may be granted for a violation in excess of 10% of the applicable requirements. No such waiver shall be effective unless the Lot and all structures thereon are in full compliance with the applicable provisions of the Zoning Ordinance or a variance has been obtained for such violation. Waivers shall be effective upon recording of same in the Wake County Registry.

23. STREET LIGHTING. Declarant reserves the right to subject the Subdivision to a contract with Carolina Power & Light Company ("CP&L") for installation of street lighting, which requires a continuing monthly payment to CP&L by each residential customer.

24. ENFORCEMENT. The Association or any Owner (as defined in the Declaration) shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, rules, regulations, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictive Covenants. In any action to enforce these Covenants, the Association or Owner bringing such action shall be entitled to recover all costs and expenses incurred in bringing such action, including, without limitation, court costs and reasonable attorneys fees.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

25. RULES AND REGULATIONS. The Declarant and, after the Declarant no longer has voting control of the Association, the Association, may adopt and promulgate additional rules and regulations pursuant to the provisions of Section 9 of Article IX of the Declaration, interpreting, implementing, supplementing or modifying these Restrictive Covenants,

26. SEVERABILITY. Invalidation of any one or more of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

27. TERM. These covenants shall run and bind the land and all owners thereof for a period of 25 years from the date they are recorded, after which time, they shall be automatically extended for successive periods of ten (10) years unless altered or amended as set forth below. These covenants may be amended during the first twenty-five year period by an instrument signed by the then-owners of not less than eighty percent (80%) of the Lots, and thereafter an instrument signed by then-owners of not less than seventy percent (70%) of the Lots.

28. THE INMAN PARK COMMUNITY ASSOCIATION, INC. The owners of Lots within the Subdivision are Members of The Inman Park Community Association, Inc., and are subject to and bound by the Declaration, which provides additional restrictions on such Lots.

29. DECLARANT. Nothing contained in these Covenants shall be construed to permit interference with the development of the Lots by Declarant so long as said development follows the general plan of development previously approved by the City of Raleigh. The restrictions contained herein shall not be deemed to apply to any sales office, construction trailer, model home, or other temporary improvement installed by or with the approval of Declarant.

Declarant reserves the right, at any time and from time to time, to assign, in whole or in part, temporarily or permanently, its rights, privileges and powers contained in these Restrictive Covenants (including, but not limited to, the right and power to waive violations and/or grant variances of the square footage requirements and building setback requirements).

Any use of the term "Declarant" in these Restrictive Covenants shall be deemed to apply to Declarant and, as appropriate, to the Association or to any other person(s) or firm(s) to whom or

which Declarant's rights have been delegated as provided in Paragraph 18 hereof. Upon assignment by the Declarant of Declarant's rights hereunder, the assignee shall have all of the rights and obligations of the Declarant set forth herein, and Declarant shall have no further rights or obligations hereunder.

IN WITNESS WHEREOF, Declarant and the Builders have each caused this instrument to be executed under seal, as of the date set forth in its respective notary acknowledgments set forth below.

DECLARANT:

GELL, INC. (Corporate Seal)

By: _____
John R. Lancaster, Vice President

ATTEST: _____
Assistant Secretary

STATE OF NORTH CAROLINA - WAKE COUNTY

I, SARA YORGENSEN, a Notary Public for Wake County, North Carolina, certify that Richard W. Moore personally came before me this day and acknowledged that he is an Assistant Secretary of **GELL, INC.**, a North Carolina corporation, and that, by authority duly given and as the act and deed of the corporation, the foregoing instrument was signed by its Vice President, sealed with its corporate seal, and attested by him as its Assistant Secretary.

Witness my hand and official stamp or seal, this the 23rd day of ~~May~~ August, 1999.

_____
Notary Public
My commission expires: 10-23-01

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EXHIBIT A

INMAN PARK
Phase 1

Lying and being in the City of Raleigh, House Creek Township, Wake County, North Carolina, and being more particularly described as follows:

All of the real property, containing 17.25 acres, more or less, shown on the plats entitled "Final Plat, INMAN PARK, PHASE I", recorded in **Book of Maps 1999, Pages 493-498**, inclusive, in the Wake County Registry, to which plats reference is hereby made for a more particular description, and which includes, without limitation, **Lots 14-17, 39-43, 49-53** and **64-68** (BOM 1999, PG 493), **Lots 44-48** (BOM 1999, PG 494), **Lots 69, 82-93, 102-117** (BOM 1999, PG 495), and **Lots 118-128** (BOM 1999, PG 496), inclusive, in Inman Park, Phase I, as shown on the aforesaid recorded plats.