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PREPARED BY AND RETURN TO:
WILLIAM B. CAGLE – PO Box 1530, Asheville, NC 28802

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

DECLARATION OF TERMS, CONDITIONS, RESTRICTIONS AND PROTECTIVE COVENANTS FOR DAVIS PARK SUBDIVISION

This Declaration of Terms, Conditions, Restrictions and Protective Covenants for Davis Park Subdivision made and entered into this 5th day of December, 2006, by JME, Inc., a North Carolina Corporation hereinafter referred to as “Declarant” or “Developer” and all Future Owners of Lots in Davis Park Subdivision (hereinafter referred to as “Subdivision”).

WITNESSETH:

THAT WHEREAS, Developer is the owner of all of the real property as described in a deed recorded in the Office of Register of Deeds for Henderson County, North Carolina in Deed Book 1289 at Page 313.

WHEREAS, the Developer desires for the protection and benefit of all persons who may hereafter become owners of said lots located within the Subdivision that the Property be developed with limitations, restrictions and uses. These covenants are to run with the land and be binding upon all parties purchasing Lots and all persons claiming by, through or under Developer until January 31, 2020 at which time said covenants shall be automatically extended for successive periods often (10) years unless by vote of majority of persons then owning lots within the Subdivision it is agreed to change these covenants in whole or in part.

AGREEMENT:

NOW THEREFORE, the Developer does hereby make the following declaration as to limitations, restrictions and uses to which the above-described lots and Property now comprising Davis Park Subdivision shall be and are hereby subjected:

ARTICLE I Definitions

1. “Act” shall mean and refer to the North Carolina Planned Community Act as set forth and contained in Chapter 47F of the North Carolina General Statutes.
2. “Association” shall mean and refer to Davis Park Property Owners’ Association, Inc., a nonprofit corporation organized under the laws of the State of North Carolina, it successors and assigns.
3. “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.
4. “Bylaws” shall mean and refer to the Bylaws of the Association which shall be adopted at a later date.

5. "Common Elements" shall mean and refer to i) private roads designated on the Plat Slide 6358 or any other subdivision Plat recorded by Declarant, as well as any other private road constructed by the Developer serving the Subdivision or any property adjoining the Subdivision; ii) the entrance area as shown on the Plat; iii) any other property designated as such by the Developer; and iv) any real estate owned by the Association, other than a Lot.
6. "Developer and/or Declarant" shall mean JME, Inc. A North Carolina Corporation, its successors and/or assigns, including any person which succeeds to any Special Declarant Rights as set forth herein and in the Act.
7. "Directors" shall mean and refer to the members of the Board of Directors of the Association.
8. "Limited Common Elements" shall mean and refer to those portions of the Subdivision designated as being either for i) the exclusive use by one or more but fewer than all of the Lot Owners, or ii) designated by Developer, in its sole and absolute discretion, as benefiting, either directly or indirectly, one or more but fewer than all of the Lot Owners.
9. "Lot" shall mean and refer to any parcel of land within the Subdivision as shown on the Plat designated for separate ownership or occupancy by a lot owner.
10. "Lot Owner" and/or "Owner" shall mean and refer to the Declarant or other person who owns fee simple title to any Lot which is part of the Subdivision: but does not include a person having an interest in a lot solely as security for an obligation.
11. "Member" shall mean and refer to each owner or owners of a lot within the Subdivision who shall also then be a member of the Association for such period of ownership. If a lot is owned by more than one person, then such persons collectively shall be the member and shall be entitled to only one vote.
12. "Restrictions" shall mean and refer to this Declaration of Terms, Conditions, Restrictions and Protective Covenants for Davis Park Subdivision, as the same may be released, amended or changed; either in whole or part, as provided for herein.
13. "Special Declarant Rights" shall mean and refer to those rights defined in Chapter 47F-1-103(28) of the Act as the same are reserved herein and in the Bylaws for the benefit of Declarant.
14. "Subdivision" and/or "Property" shall mean and refer only to the above referred to deed and as shown on any plat which may be recorded hereafter which will add lots to the Subdivision.. The Declarant shall not be deemed to have subjected any other property which the Declarant may now or hereafter own or acquire to the restrictions set forth herein until such time as a recorded instrument specifically subjecting such property is recorded in the local Register of Deeds Office. The Declarant specifically reserves the right to subject any other property which the Declarant may now own or which Declarant may hereafter acquire to the restrictions set forth herein.

ARTICLE II

Submission of Property to the Act and Creation of a Planned Community

1. Submission of the Property and Creation of the Subdivision: Pursuant and subject to the terms and provisions of the Act, Developer hereby creates a planned community subdivision initially comprised of the Property as described in the above referred to deed. Developer hereby submits all of such Property to the Act and the terms of this agreement.
2. Name: The name of the subdivision created hereunder is Davis Park Subdivision.
3. Designation of Lots and Common Elements: The Developer does hereby designate that real property as shown on the Plat as separate Lots and Common Elements.
4. Reservation of Special Declarant or Developer Rights: Developer hereby reserves unto itself and its successors in interest as Special Declarant or Developer Rights, the following:
 - (a) Those Special Declarant or Developer Rights as set forth in the Act;
 - (b) The right, during the Developer's Control Period, to modify, amend, change, vary or release all or any part of these Restrictions; and
 - (c) The right to redesignate a previously designated Lot as an easement or right of way for access to adjoining property whether now or hereafter owned by Developer.

ARTICLE III**Terms, Conditions, Restrictions, Protective Covenants and Other Matters**

1. Uses. All lots in the Subdivision shall be used solely for single family residential purposes and no business or commercial activity will be permitted on or upon a Lot and no commercial structure or activity of any type shall be placed on any Lot or allowed within the Subdivision. This restriction shall not be construed so as to disallow private home offices. Home offices for private use are allowed so long as the use of such office is preapproved by the Association and does not generate pedestrian or vehicular traffic in conjunction with such office use.

2. Architectural Control. Prior to commencement of construction of any improvements, all plans, including elevations, specifications and landscape plans, shall be submitted as an application to the Developer, its agent or its successors or assigns, for approval as to quality of materials, harmony of external design with existing structures and as to location with respect to topography and finish grade elevation. The Developer reserves the right, in its sole and absolute discretion to either approve or not approve of any plans and specifications for any reason whatsoever. The Developer shall have the right to charge a reasonable fee for receiving each application for approval of plans and specifications in an original amount of fifty and no/100 Dollars (\$50.00). The Developer reserves the right to modify, waive or increase such application fee. Construction shall thereafter be completed in strict conformity with such approved plans and specifications and the Developer shall be entitled to stop any construction which is in violation of these restrictions. Improvements shall be constructed only by a builder which has been approved by the Developer. The Developer reserves the right to approve the builder and to from time to time compile a list of approved builders. A builder shall be approved or not approved in the Developer's sole and absolute discretion. Either during or after the Control Period, the Developer reserves the right to establish an Architectural Review Committee to succeed to the rights reserved herein to Developer. Such Committee shall be part of the Association and shall be appointed by the Board of Directors.

3. Prohibited Structures. No trailer, basement, tent, shack, garage or other outbuilding on these residential lots shall be, at any time, used as a residence, either temporarily or permanently, nor shall any residence be moved onto a building lot within the Subdivision. Specifically, no mobile homes, trailers, manufactured homes, modular homes or structures of similar construction shall be placed on or allowed to remain on any residential lot. There shall be no prefabricated buildings placed upon any Lot or other property within the Subdivision, except prefabricated components such as window and door units, roof trusses, or other such components which shall be permitted and approved by Developer. However, nothing herein shall be construed so as to prevent or restrict Developer from consenting to the placement of a modular or panelized home upon a Lot which in Developer's sole and absolute discretion is in keeping with the architectural style, quality and harmony of the Subdivision. If in the Developer's sole and absolute discretion, the placement of a modular or panelized constructed home is in keeping with the architectural style, quality and harmony of the Subdivision, then upon the written consent of the Developer, such approved modular or panelized building may be placed on or constructed upon a Lot. All foundations shall be of block, stone, stucco, concrete or other masonry product as approved by Developer. No vinyl siding shall be attached to the exterior of any structure erected or placed on any lot within the subdivision.

4. Dwelling Size and Accessory Buildings.

(a) Dwelling Size. Except as set forth in paragraph (b) below with regard to accessory buildings, no building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residential dwelling with a two-car attached garage not to exceed thirty (30) feet (excluding walk-out basements) in height measured from the first floor. No one story main residential dwelling shall be permitted on any Lot unless it contains at least one thousand eight hundred (1800) square feet of ground floor heated and/or air conditioned floor space, exclusive of any heated and/or air conditioned basement. No two story residential dwelling shall be permitted on any Lot unless it contains at least two thousand (2000) square feet overall of heated and/or air conditioned floor space. The Developer may, in its sole and absolute discretion, allow variances with respect to the limitations imposed by this paragraph as it may deem appropriate.

(b) Accessory Buildings. Only one (1) accessory building may be constructed on a Lot as an accessory and appurtenant structure to the main residential dwelling. Such accessory building is subject to architectural control as set forth in Paragraph 2. Such accessory building must be accessory to residential uses and shall not be rented or occupied. In no event may an accessory building be constructed upon a Lot until the construction of the main dwelling has commenced and until a separate building permit has been issued. The accessory building shall have the same style and color roof shingle, and the same color, style and material for exterior siding, as the

main dwelling on the Lot. The dimensional requirements for all accessory buildings shall be as follows:

- i) **Private Garages.** A garage, whether attached or detached from the main dwelling, must be located on the Lot in compliance with the minimum yard setbacks set forth herein. Each residence shall be required to have at least a two-car garage attached to the main dwelling, but may also, with Developer approval, have one additional garage detached from the main dwelling. Detached garage accessory buildings shall not exceed fifteen (15) feet in height.
- ii) **Non-Garage Accessory Building.** Non-Garage accessory buildings shall be located on the lot in compliance with the minimum yard setbacks set forth herein. Such non-garage accessory buildings shall not exceed one hundred (100) square feet in size and the roof shall not project more than two (2) feet beyond the line of any side wall. The building may adjoin or be separated from the main dwelling. Non-Garage accessory buildings shall not exceed ten (10) feet in height.

5. No building shall be located on any Lot nearer than i) 35 feet from the margin of a road right of way which establishes a lot line of each lot; ii) 25 feet from a back lot line; and iii) 25 feet from a side lot line. Developer reserves the right to grant variances from these building setback requirements and restrictions to the extent necessary to alleviate undue hardship of a lot owner.

6. Cutting of Trees. No living tree greater than twelve inches (12") in diameter shall be cut or trimmed without the express written permission of the Developer. This covenant shall not apply to the cutting of trees or limbs where such cuffing is necessary for the safe installation and maintenance of any dwelling, driveway, or parking areas constructed upon any Lot in conformity with landscape plans approved by Developer.

7. Commencement and Completion of Construction. Once begun construction and clean-up of debris shall be completed within one (1) year from commencement of construction. A dwelling shall not be occupied until completed. A dwelling shall be deemed completed upon final inspection and approval by the applicable governmental inspector. The Developer reserves the express right to modify or amend the periods for commencement and completion of construction as Developer in its sole and absolute discretion may determine.

8. Nuisances and other Prohibitions.

- (a) No noxious or offensive activity shall be allowed upon or carried on any Lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No disabled, abandoned or unlicensed vehicles shall be permitted on any Lot, nor shall any vehicle be stored thereon, nor shall any repairs be permitted upon any vehicle parked upon any Lot.
- (b) All fuel tanks or other similar storage receptacles, motor homes, boats or other recreational vehicles, machines, equipment or any and all other articles or conditions deemed unsightly by the Declarant shall be screened, in a manner approved by Developer, from view from any and all roadways and adjoining lots. In no event shall any pickup truck with a capacity to carry in excess of (1) one ton be kept on any Lot. No trucks other than pickup trucks of less than one (1) tonnage shall be kept on any Lot.
- (c) No hunting or discharge of firearms of any kind shall be allowed within the Subdivision. No motorcycles, minibikes or motorized two-wheel vehicles shall be allowed, other than licensed vehicles which are used exclusively for transportation purposes, and then only if properly managed, with it being further stipulated that such motorcycles, minibikes or motorized two-wheel vehicles which are licensed and used exclusively for transportation purposes shall be allowed to operate within the Subdivision only upon the regularly platted roads thereof. All vehicles kept and operated within the Subdivision shall have properly working mufflers.
- (d) No fence, hedge or wall shall be erected on any Lot which shall be unsightly in the opinion of the Developer or which shall in any way interfere with the vision of road and driveways so as to endanger the safety of pedestrians or drivers of vehicles.
- (e) No window type heating or air conditioning units shall be installed without the approval of Developer or which shall be visible from the street.
- (f) No clothing lines for drying or hanging of clothes shall be erected or used on any Lot.
- (g) No swimming pool may be erected without the prior approval of Developer; or in any event, in front of a residence or closer than twenty-five (25) feet of any side or rear Lot line. Any swimming pool placed upon any Lot shall be properly fenced in or enclosed in such a manner as approved by Developer so as not to be unsightly or constitute a hazard.

9. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and such shall not be kept outside except in sanitary containers kept from view. Such sanitary containers shall be placed at the curb only on the day garbage is to be collected.

10. Storing and Parking. No trade materials or inventories may be stored upon the premises and no trucks, boats, trailers, buses, self-motorized camping vehicles, tractors or similar vehicles may be stored or regularly parked on a Lot except in a garage or well-screened enclosure approved by Developer.

11. Sight Disturbance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the road right of way shall be placed or permitted to remain on any corner Lot. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

12. Driveways. All driveways shall be constructed of concrete or asphalt. All driveways requiring culverts at the intersection to street as determined by the Developer or any government agency, shall be installed to the specifications of the North Carolina Department of Transportation and to the grade of the drainage ditch.

13. Signs. No sign of any kind shall be displayed to the public view on any Lot; except one sign of not more than ten (10) square feet advertising the property for sale during construction or any sales period. The top of any such sign may not be more than five (5) feet above ground level. All such signs must be installed parallel to and within twenty (20) feet of the street right of way serving the Lot, but not within five (5) feet of such right of way. Such signs are permitted only until the Lot is sold. Signs utilized by the Developer or Developer's agent shall be of such size and placement as determined by Developer in Developer's sole and absolute discretion.

14. Livestock, Poultry and Other Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that animals commonly known as household pets may be kept on a Lot provided that they are not kept, bred, or maintained for any purposes other than as household pets. Kennel operations shall not be permitted. A kennel is defined as housing for more than two (2) animals. Pets must be kept in an approved house, lot, or leashed at all times. Dogs or other animals are not permitted to run unleashed through the Subdivision.

15. Off-Street Parking Requirements. Each dwelling constructed on a Lot shall have at least two (2) parking spaces, or more if necessary and approved by the Developer to accommodate all vehicles owned or regularly used by any dwelling occupant.

16. Satellite Dish and Antennas. No satellite dish or antenna shall be located in the front or side yard of any Lot. Such dish or antenna may be placed only in the rear yard of the Lot in compliance with setback requirements. A satellite dish shall not exceed 18" in diameter. An antenna shall not exceed the roof line of the dwelling. Placement of such satellite dish antenna shall be governed by the setback requirements set forth herein and as specifically approved by Developer. In any event, no erection of any satellite dish, antenna or tower shall be allowed without the prior reasonable written approval of Developer.

17. Limitation of Access. No part of a Lot shall be used for any access to any property which lies outside of the Subdivision. No other easements, rights of ways or rights of access shall be deeded, granted, or in any way given by any lot owner to any other person through or over any Lot so as to permit any portion of a Lot or subdivision property to be used for access to or from any adjoining property. This paragraph shall not be construed so as to prevent the Developer from having the special right to redesignate a previously designated Lot as an easement or right of way for access to adjoining property whether now or hereafter owned by Developer. The Developer specifically reserves the right to establish such easements or rights of way as Developer deems necessary or desirable for access to adjoining property whether now or hereafter owned by Developer, its successors or assigns; and such rights of way within the Subdivision shall then be considered appurtenant to such adjoining property and such adjoining property shall thereafter be deemed to be benefited by road rights of way within the Subdivision.

18. Maintenance of Lot. The owners of any lot shall keep all grass cut and along the area of the Lot adjacent to the private roads. In the event a Lot owner fails to keep this area maintained as required, the Association may have the required work done. The expenses incurred for such work by the Association shall be added to any annual assessment provided for herein.

19. Fences, mailboxes and other outdoor appurtenances. Without the permission of Developer, no fence shall be erected closer to the front yard than the rear corner of the residence as located on a Lot. There shall be no fence, mailbox or other outdoor appurtenance erected except such fence, mailbox or other outdoor appurtenance which is approved by Developer in accordance with the Architectural Control as set forth in Paragraph 2 of Article III. In no event shall any fence, mailbox or other outdoor appurtenance be erected without the prior written approval of Developer as to location, height and materials. The Developer reserves the right to set such requirements or to modify the above requirements as to location, height and materials as Developer deems appropriate. Each lot owner shall erect and maintain a lamp post near the starting point of the lot's driveway. All lamp posts shall be those designated by the developer.

20. Rear Yard Lights. No yard lights shall be placed upon a Lot without the prior written consent of the Developer.

21. Subdivision of Lot. No Lot in the Subdivision shall be re-subdivided so as to create an additional building Lot.

22. Developer Control. It is understood and agreed and subsequent grantees expressly agree by acceptance of a deed conveying title to any lot within the Subdivision, that any portion of these Restrictions may be released, changed, modified, amended or varied without the consent or joinder of any Lot owner solely by i) the Developer if prior to January 1, 2020 or upon the sale of the last lot owned by Developer (other than to a related entity) as shown on the Plat or any subsequently recorded plat adding property as an additional lot or phase to the Subdivision; whichever shall first occur (herein the "Control Period") or ii) if after expiration of the Control Period, then by a favorable vote by at least sixty-seven percent (67%) of the then lot owners of the Subdivision in accordance with the Act. After expiration of the Control Period, each lot owner shall have one vote for each and every lot then owned by that lot owner in the Subdivision. The written and recorded modification of these restrictions, signed by either the Developer or after the Control Period by at least the required percentage of the lot owners in the Subdivision as the case may be, shall be sufficient to constitute an amendment to these Restrictions without further notification to any person or persons.

ARTICLE IV

Easements, Rights of Ways, Utilities

1. Utilities. The Developer reserves the right to subject the Property to a contract with Duke Power Company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Duke Power Company by either some or all of the owners of lots within the Subdivision. This right shall also apply to the suppliers of other utility services including telephone and, if available, gas and cable television hook-ups. All utility services from a lot line to the residence shall be installed underground.

2. Road Rights of Way. The Subdivision property is serviced by Davis Mountain Road (SR 1188) and a fifty (50) foot right of way private road located within the subdivision and as shown on Plat Slide 6358 and as will be shown on plats to be recorded in the future by Developer. Developer does hereby dedicate said rights of way as shown on the Plat as private roadways. As such, and pursuant to NCGS § 136-102.6, all future lot owners acknowledge that the rights of way as shown on the Plat are private road rights of way and will not be developed to North Carolina Department of Transportation specifications. As such, all future lot owners, and their heirs, successors and assigns, covenant and agree that they shall be jointly responsible for the maintenance, upkeep, repair and service of such road rights of way (until such time as the Department of Transportation assumes the obligation for the maintenance of said road right of way; if ever). Each lot owner shall be subject to only his prorata share of annual maintenance which shall be determined by taking the total cost of annual maintenance, upkeep and repair and dividing said figure by the number of lots located within the Subdivision. This covenant of maintenance shall be a covenant running with the Subdivision forever and may be enforceable as a lien against a defaulting lot owner as if said lien were a Statutory Lien enforceable in accordance with Article 2, of Chapter 44-A of the North Carolina General Statutes. Furthermore, a lot owner shall be responsible for all damage and repairs to the right of way which results from construction trucks or equipment utilized for construction upon that lot owner's property. The Developer specifically reserves the right to extend such rights of way beyond the boundary of the Subdivision as shown on the Plat for the benefit of the Developer's adjoining remaining property; whether now or hereafter acquired. All lots or parcels of property which shall use such right of way because of such an extension shall be obligated to contribute a pro rata share towards the maintenance of said right of way as set forth above. During the Control Period, the Developer shall not be obligated to contribute towards the maintenance or upkeep of such rights of way.

3. Sewage Disposal Systems. As of the date of this document, no lots in the subdivision are serviced by public sewer services. All property owners shall be responsible for obtaining their own sewage disposal system and maintenance thereof for the benefit of their respective lots. Said systems shall be designed and constructed in accordance with the requirements, standards and recommendations of the Henderson County Health Department and be approved by said Department.

4. Private Well Water Services. It is anticipated that Lots shall be serviced by private water wells for residential water purposes. In any event, all property owners shall be ultimately responsible for obtaining their own water source for the benefit of a Lot. Furthermore, no individual water well shall be permitted on a Lot unless the well is designed in accordance with the requirements, standards and recommendations of the County Health Department. Approval of such system as installed shall be obtained from such governmental authority.

5. Utility Reservation. Unless otherwise noted on any recorded plat, easements of ten (10) feet in width are reserved on either side of the centerline of all front, side and rear lot lines for installation, maintenance and repair of any utility services and drainage facilities. Easement of twenty (20) feet in width is also reserved along the exterior property line of the original boundary line of the property which comprises the Subdivision for installation, maintenance and repair of any utility services and drainage facilities. Easements are also reserved within the road rights of way for installation, maintenance and repair of any utility services.

ARTICLE V Davis Park Property Owners' Association

The Developer will establish a non-profit corporation which shall be known as the Davis Park Property Owners' Association (herein "Association"). The purpose of the Association shall be to provide for the orderly enforcement of these covenants, including, but not limited to, the maintenance, upkeep and repair of the joint rights of way within the Subdivision and any common elements or any other matter or area determined by the Association to be a common or other area of common interest.

ARTICLE VI General Matters

1. Adjoining Properties. All purchasers of Lots do hereby acknowledge that Developer has made no representations as to uses of adjoining properties and such purchasers have been advised to investigate on their own accord any particular uses of adjoining properties and acknowledge that they have assumed such responsibility. By acceptance of a deed conveying title to any Lot within the Subdivision, such Purchasers do hereby covenant and agree to hold Developer harmless from any and all claims, damages and costs in any way relating to or arising out of any use of any property adjoining the Subdivision. The purchaser of any Lot acknowledges that they have investigated on their own accord how such uses may affect the Subdivision and are satisfied that they do not materially or substantially affect the value, enjoyment of any Lot.

2. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in Article 2 of Chapter 44A of the North Carolina General Statutes, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. The remedies granted and reserved herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of other property owners to exercise any or all of the other remedies or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear on or affect its enforcement. Any person entitled to file a legal action for violation of these covenants shall be entitled as part of any judgment in favor of the filing party to recover a reasonable attorney's fees as a part of such action.

3. Amendment and Modification. The Developer does hereby declare the advantages accruing to the Property from these covenants and restrictions hereinabove set forth. All covenants, restrictions and affirmative obligations set forth herein shall run with the Property and shall be binding on all parties and persons claiming under them. After the Control Period, an amendment to these Restrictions shall be made and approved in the manner whereby at an annual meeting or specially called meeting of the members, sixty-seven per cent (67%) of the members vote in favor of such amendment and once made,

shall become effective when recorded in the Henderson County, NC Register's Office. Whenever herein the Developer has reserved a right or the discretion to decide a matter, then the exercise of such right and the decision of such matter shall be in the sole and absolute discretion of the Developer. Nothing herein shall require or shall be construed so as to require the Developer or its related persons or entitles to subject all or any part of its remaining adjoining property to these Restrictions.

4. Invalidation. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, then such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

5. Conflict. In the event of a conflict or ambiguity between these Restrictions and the Act, then these restrictions shall be deemed to govern. The Act is incorporated herein by reference to the extent not inconsistent with the specific terms of these Restrictions or in the absence of a specific term or provision in these Restrictions.

6. Homeowner Association Dues. Upon the closing of the sale of each lot deeded by Developer, each Buyer shall pay to Developer the sum of \$250.00 per lot if the closing occurs before June 30 of the year of closing, or the sum of \$125.00 per lot if the closing occurs between July 1 to December 31 of the year of closing. Such sums paid shall be held by Developer in a trust account for the benefit of the Association and expended for Association expenses deemed appropriate by Developer in its sole discretion.

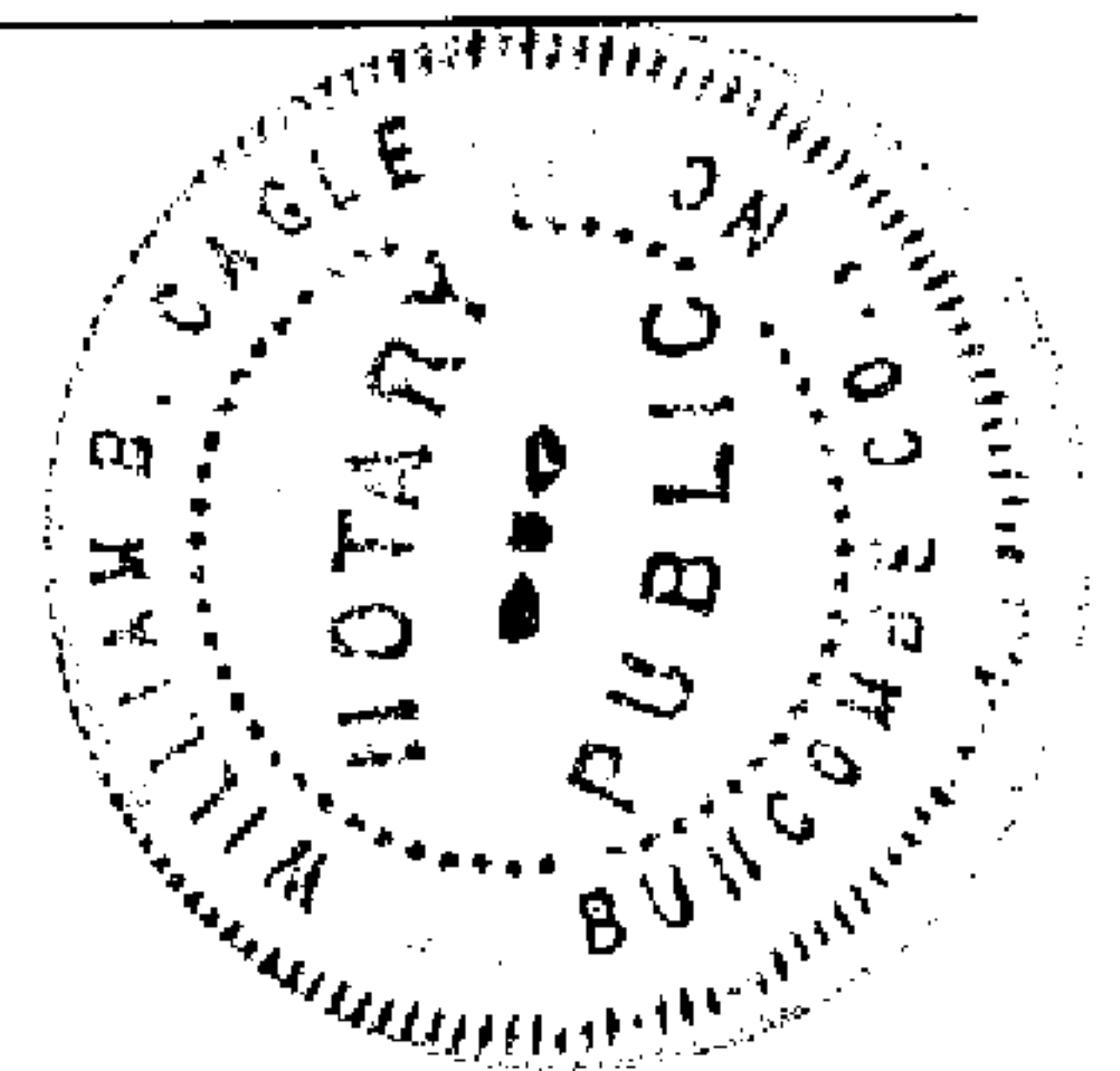
7. Fines for Violations of the Restrictions and Covenants. Developer on behalf of the Association during the Control Period or thereafter by the Association, shall be permitted to levy fines for violations of the Restrictions and Covenants against a Property Owner in the amount of \$50.00 per occurrence or \$50.00 per day if a violation is a daily occurrence.

8. The Restrictions as set forth in Article III 4(a) and (b), 12, and the requirement for a lamp post in Article III 19, shall not apply to Lot 6 as shown on Plat Slide 6358 so long as the present one story brick house remains on said Lot 6 without any addition thereto or totally replacing the present one story brick house.

IN WITNESS WHEREOF, the Developer has caused this instrument to be signed in its corporate name by its duly authorized officer as of the day and year first above written.

DEVELOPER
JME, Inc.

BY: 
MICHEAL S. ROBINSON
President

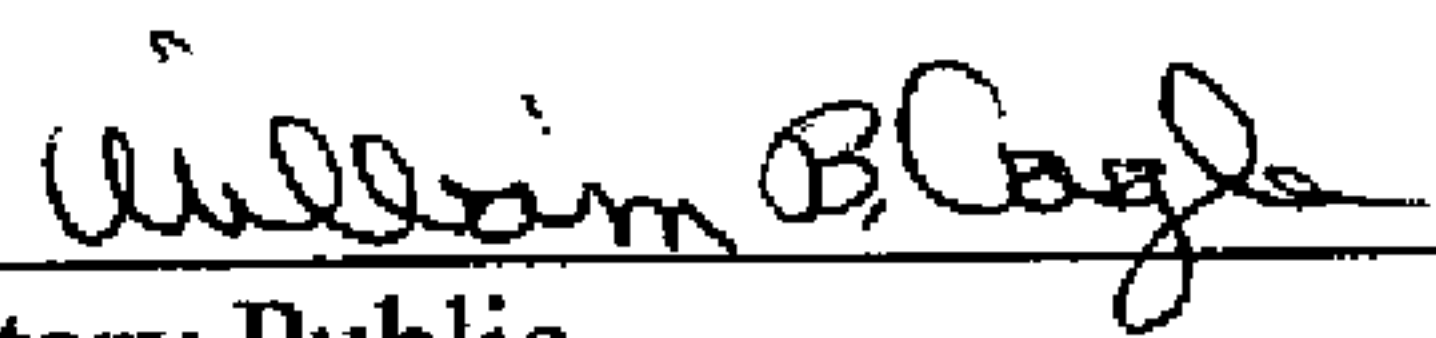


**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

I, William B. Cagle, a Notary Public of the County and State aforesaid, certify that MICHEAL S. ROBINSON personally came before me this day and acknowledged that he is President of JME, Inc., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its President.

Witness my hand and official stamp or seal this the 5th day of December, 2006.

My Commission Expires:
11/26/2009


Notary Public