

**EXHIBIT "C"**

**AMENDED, RESTATED AND SUBSTITUTED  
BY-LAWS OF  
HARBOR EAST  
PROPERTY OWNERS ASSOCIATION**

KNOW ALL MEN BY THESE PRESENTS:

This Amended, Restated and Substituted By-Laws of the Harbor East Property Owners Association, an Arkansas non-profit Association, is made and entered into by the Association and its Members, herein collectively referred to as the "Parties".

WHEREAS, the Parties hereto have made and entered into that certain Amended, Restated and Substituted Declaration of Master Deed to Harbor East Horizontal Property Regime to which these By-Laws are attached (the, "Declaration") pertaining to the Harbor East Horizontal Property Regime (the, "Regime") as defined and declared in said Declaration; and,

WHEREAS, Harbor East Property Owners Association (the, "Association") was formed pursuant to its Articles of Incorporation (the, "Articles of Incorporation") and chartered as an Arkansas nonprofit corporation to operate, govern and maintain the Regime and By-Laws were heretofore adopted as the By-Laws of and for the Association (the, "Prior By-Laws"); and,

WHEREAS, the Parties are desirous of amending and restating the Prior By-Laws and substituting this instrument therefor.

**NOW, THEREFORE,  
WITNESSETH:**

That for and in consideration of the terms, provisions, covenants, agreements, conditions and promises herein contained to be well and truly performed and honored, which said terms, provisions, covenants, agreements, conditions and promises the parties hereto acknowledge are mutually beneficial and therefore sufficient consideration to support the due and complete enforcement hereof and adherence hereto, the Association and the Current Unit Owners, acting by and through the duly appointed and empowered the Owners' Representative (who are the Members of the Association), do make and enter in this Amended, Restated and Substituted By-Laws of and for Harbor East

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Horizontal Property Owners Association (hereinafter referred to as the "By-Laws") and in so doing hereby declare, covenant and agree as hereinafter set forth, which declarations and covenants shall run with the land more particularly described in the Declaration and shall be binding upon the Association, any and all Unit Owners as Members, their Mortgagees and any person claiming any right, privilege or benefit by, through or under the Association, any Unit Owners, the Members and their Mortgagees, in and to the common elements of the Regime (both limited and general) and all Units of the Regime, to-wit:

**Article I  
Amendment, Restatement  
and Substitution,  
Rules of Construction and Definitions**

**Section 1.01: Amendment, Restatement and Substitution.** This Amended, Restated and Substituted By-Laws of and for Harbor East Horizontal Property Owners Association be and the same hereby is, as of the Effective Date hereof, declared by the parties hereto (i) to be a restatement of and substituted for the Prior By-Laws of the Association; (ii) that the term "By-Laws" as used herein and in the Declaration to which these By-Laws are attached means these By-Laws as expressed in this instrument and (iii) that to the extent of any conflict, exceptions or discrepancy, whether actual, apparent or inferred, between the terms and provisions of the Prior By-Laws, as amended from time to time, and this Amended, Restated and Substituted By-Laws of and for the Harbor East Horizontal Property Owners Association, the terms, provisions, covenants, conditions, promises and commitments herein contained shall, from and after the Effective Date, control and govern the continuing duties, responsibilities, rights, interest, privileges, estates and obligations of the Regime, the Association, its Board of Directors, officers, employees and agents, any and all Unit Owners as Members, their Mortgagees and any person claiming any right, privilege or benefit by, through or under the Association, any Unit Owners or the Mortgagees.

**Section 1.02: Rules of Construction and Definitions.** The Parties agree that any word contained in the text of this instrument shall be read as the singular or the plural and as the masculine, feminine or neuter gender as may be applicable in the particular

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context. More specifically, however, for the purposes of this instrument the Parties agree that the following words shall have the meanings attributed to them in this Section:

- (a) "Act" means the Arkansas Horizontal Property Act, as amended from time to time, and now codified at A.C.A. §18-13-101 *et. Seq.*
- (b) "Board," when that term is used without further explanation, qualification or modification shall be deemed to be a reference to the Board of Directors of the Association which Board is the Board of Administration of the Regime. The term is used interchangeably to denote both the Board of Directors of the Association and the Board of Administration of the Regime, as the context may require, there being but one such Board which is hereby declared to have all of the powers and duties of a Board of Directors of a nonprofit Corporation as well as all powers and duties of the Board of Administration as that term is used in these Bylaws and in the Act.
- (c) "Building" or "Buildings" means the structure containing the Units as defined in the Declaration.
- (d) "Common Elements", both general and limited, shall have the meaning assigned to it in the Declaration.
- (e) "Director" means a member of the Board of Directors of the Association.
- (f) "Member(s)" and "Membership," when either of those terms are used without further explanation, qualification or modification, shall be deemed to refer to the members of the Association who are the "Council of Co-Owners" as the latter term is used in these Bylaws and as defined in the Act, who are also Unit Owners as described in the Declaration. The Membership (Council of Co-Owners) shall have all of the rights, powers, privileges and obligations of members of a nonprofit corporation as well as all of the rights, powers, privileges and obligations of the Council of Co-Owners as that term is used herein and in the Act. It is hereby declared that there is but one such group composed of the same identical persons; firms, corporations and other legal entities.

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(g) "Person" means an individual, partnership, corporation, association, business trust, joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity of whatever nature.

(h) "Unit" herein shall have the same meaning assigned to it in the Declaration.

**ARTICLE II  
Form of Administration**

**Section 2.01: Form of Administration.** The form of administration of the Association shall be that which is set forth in the Declaration, Articles of Incorporation and these Bylaws. The administration of the Regime shall be governed by the Articles of Incorporation, these Bylaws, by the Act and by the Declaration. All present and future Members as Unit Owners, Mortgagees and occupants of units, and any and all persons claiming by, through or under any of them may use the Units and the common elements of the Regime only in accordance with the Declaration, the Articles of Incorporation, these Bylaws, all rules made pursuant hereto and any amendments thereof and the Act. The acceptance of a deed of conveyance or the act of occupancy of a Unit shall constitute an agreement that the provisions of the Declaration, the Articles of Incorporation, and these Bylaws, any rules and regulations made pursuant thereto and any amendments thereof are accepted, ratified, approved, affirmed and will be complied with by the present and future Unit Owners, Mortgagees and occupants of units, and any and all persons claiming by, through or under any of them.

**Section 2.02: The Association.** The affairs and business of the Regime, the Council of Co-Owners and the Unit Owners shall be conducted and operated by the Harbor East Horizontal Property Owners Association (the, "Association"), an Arkansas non profit corporation.

**ARTICLE III  
Board of Directors**

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**Section 3.01: General Powers.** The management of all the affairs of the Association and of the Regime shall be vested in the Board which, subject to the restrictions imposed by law, by the Declaration, the Articles of Incorporation of this Association or by these Bylaws, may exercise all the powers of the Association and of the Regime.

**Section 3.02: Number, Term and Quorum.** The number of Directors of the Board is and shall be five (5) identified as Director Position 1, Director Position 2, Director Position 3, Director Position 4 and Director Position 5. Each Director shall be elected to serve for a term of three (3) years and each Director so elected shall continue to serve as a Director until his successor shall be duly elected and qualified. Currently the term for Director Position 1 expires on July 1, 2005, for Director Position 2 on July 1, 2007, for Director Position 3 on July 1, 2005, for Director Position 4 on July 1, 2006 and for Director Position 5 on July 1, 2006. Election of a Director to the Board shall be conducted at the annual meeting of the Members as herein prescribed; provided that in the event of failure to hold an annual meeting of the Members or in the event of failure to hold such election at such meeting, the election may be held at any special meeting called for that purpose. Except as provided herein, each Director shall be a natural person and shall be or shall represent an owner of a Unit in the Regime. A majority of the Directors shall constitute a quorum for the transaction of business and a vote of a majority of the Directors so present shall constitute the action of the Board of Directors, except as to those matters requiring a greater majority as prescribed by the Act, the Declaration, the Articles of Incorporation or herein. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time until a quorum is obtained and no further notice thereof need be given other than by announcement at said meeting which shall be so adjourned.

**Section 3.03: Election of Officers.** At any meeting of the Board called for the purpose of electing officers, the Directors shall elect from the membership of the Board of Directors a President from their number, a Vice President from their number, a Secretary and a Treasurer, the latter two of which need not be Directors. Such officers shall hold office until the next election of officers and until their successors are elected and qualified. A person may be elected to hold one or more of the above mentioned

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offices simultaneously except that the offices of President and Secretary may not be held by the same person simultaneously.

**Section 3.04: Regular and Special Meetings.** Regular meetings of the Board may be held with or without notice at such places and times as shall be determined from time to time by resolution of the Board. Special meetings of the Board may be called by the President, the Vice President or by the Secretary or upon call of any two (2) Directors on at least two (2) days notice to each Director. Any Director may waive notice of meetings.

**Section 3.05: Place of Meetings.** The Board may hold their meetings and have one (1) or more offices and keep the books of the Association and of the Regime inside the State of Arkansas, at any office or offices of the Association or of the Regime, or at any other place as they may from time to time by resolution determine.

**Section 3.06: Resignation.** Any Director may resign at any time by giving written notice to the President or to the Secretary of the Association.

**Section 3.07: Removal of Directors.** Directors may be removed for cause by the affirmative vote of a majority of Members of the Association and the successor Director for any Director so removed shall be elected by an affirmative vote of the majority of Members of the Association and shall serve as such Director until the end of that Director's term and until the successor Director is duly elected.

**Section 3.08: Vacancies in the Board.** Other than vacancies on the Board of Directors caused by removal as prescribed in Section 3.07 which are to be filled in accordance with Section 3.07, any other vacancies on the Board of Directors shall be filled by vote of a majority of the remaining Directors at a special meeting of the Board held for that purpose, which meeting shall be held promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum and each person so elected shall be a Director until the successor Director is duly elected at the next Annual Meeting of the Association, or until a Special Meeting of the Association is duly called and held for the express purpose of electing a Director to

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fill the vacancy until the expiration of the term. No Director shall continue to serve as such if, during his term of office, he or she shall cease to be a Unit Owner.

**Section 3.09: Compensation of Board.** No Director of the Board shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

**Section 3.10: Directors Not Liable.** The Directors shall not be liable to the Members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct. The Association shall and does indemnify and hold harmless each Director against all contractual liability to others arising out of a contract made by the Board on behalf of the Association unless any such contract shall have been made in contrary to the provisions of the Declaration or contrary to these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

**Section 3.11: Records.** The Board shall cause to be kept detailed records of the actions of the Board and of the officers, if any, minutes of the meetings of the Board, minutes of the meetings of the Members and financial records and books of account of the Association.

**Section 3.12: Annual Report.** An annual report of the receipts and expenditures of the Association shall be made at the end of each fiscal year by an independent, disinterested, certified public accountant. The Board shall cause this report to be made and a copy of said report shall be kept on file at the office of the Association and shall be made available for inspection by Members and their authorized agents during reasonable business hours.

**Section 3.13: Specific Powers of Board.** Without in any way limiting the general powers hereinabove granted to the Board of Directors it is hereby expressly declared that the Board shall have the following powers, to-wit:

(a) To make and change regulations for the management and operation of the Regime's affairs and the governance of the Common Elements of the Regime.

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(b) To purchase, own, hold, operate, maintain, sell, lease or otherwise acquire or dispose, on behalf of the Regime, any lands or real or personal property rights or privileges which the Board deems necessary or desirable; Provided, However, the Association presently owns lands which though not in the Regime have situated thereon the Association's offices and certain maintenance facilities and from and after the date hereof, said lands and the improvements thereon may not be conveyed or sold without the consent of a majority of Members.

(c) To make and change Internal Rules having to do with use of the Units, the Common Elements, and any other property, real, leasehold or personal, comprising or belonging to the Regime. The Internal Rules promulgated by the Board shall be binding on all Members from and after a copy of same, or a copy of any amendment, alteration or modification thereof is posted in some central, public area of the Regime or is personally delivered to the Members, and may be enforced through any appropriate legal remedy, including but not limited to injunctive relief. Such rules shall be reduced to writing and each Member shall be furnished a copy thereof and of all changes, but failure to receive a copy shall not excuse a violation.

(d) To remove any officer or employee, other than any Director or the President (who shall be removed only for cause), summarily with or without cause, and in its discretion, from time to time, to devolve the powers and duties of any officers upon any other persons.

(e) To provide for the operation, maintenance, care, upkeep and surveillance of the Common Elements and services of the Regime, through the employment of such persons or business entities or companies and to delegate such duties to such persons or companies as the Board might see fit.

(f) To confer upon any officer of the Association the power to appoint, remove and suspend subordinate officers, agents and employees.



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- (g) To determine who shall be authorized, on behalf of the Association, to make and sign acceptances, endorsements, checks, releases, receipts, contracts and other instruments.
- (h) To levy, fix, charge, collect, sue for and assess (and to increase, reduce or supplement from time to time) the amount of assessments to the Members deemed by the Board necessary and desirable to fully perform the duties and responsibilities of the Association to the Members and the Regime, all as proscribed by and in accordance with the Act, the Declaration and herein.
- (i) To call special meetings of the Members for any purpose or purposes.
- (j) To create committees (members of whom shall be natural persons and who shall be or shall represent the owner of a Unit) to maintain architectural control and fiscal control of the Regime and for other similar or dissimilar purposes. Such committees shall have such powers as are delegated to them in the Resolution of the Board creating each such committee. Absent creation of such committees, all powers enumerated above shall remain within the jurisdiction of the Board.
- (k) To form, own, be a member of, operate, engage and contract with such persons, companies, entities and enterprises as the Board determines in its discretion may be necessary or desirable in furtherance of its duties and obligations under the Act, the Declaration, herein and in order to conduct or provide those services and facilities deemed by the Board necessary or desirable for the benefit of the Association, its Members as Unit Owners and the Regime.
- (l) To make and enter into contracts for the provision of all utility and other services deemed by the Board necessary or desirable and to pay all costs, fees, charges and expenses associated therewith.
- (m) To govern, operate, maintain, protect, defend, replace, repair, restore and insure the Regime, any assets owned by the Association and to enforce, amend or modify the Declaration, the Articles of Incorporation and these By-Laws in accordance with the terms thereof.

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- (n) To make such expenditures, take such acts and actions, enter into such agreements and engage in such undertakings as the Board of Directors of the Association deems necessary or desirable, in its discretion in furtherance of its duties and responsibilities as prescribed by the Act, the Declaration, the Articles of Incorporation and these By-Laws as the same are in effect from time to time or which are reasonably inferable therefrom in order to accomplish the objectives of the Association and the Regime.
- (o) To exercise such other powers as are specifically granted to the Board elsewhere herein or which might be necessary or required to carry out the duties and responsibilities of the Board.
- (p) To open and maintain such bank accounts, both checking and savings, and conduct such banking business as the Board deems desirable, borrow money and give notes and mortgages therefore and other security and execute and deliver any documentation in connection therewith and execute, deliver and cause to be recorded any deed, plat, conveyance or instrument deemed desirable by the Board, file tax returns and reports if any are required, hire such professionals and commence and prosecute any action at law or in equity, all as the Board of Directors of the Association deems necessary or desirable, in its discretion in furtherance of its duties and responsibilities as prescribed by the Act, the Declaration, the Articles of Incorporation and these By-Laws as the same are in effect from time to time or which are reasonably inferable therefrom in order to accomplish the objectives of the Association and the Regime.

Section 13.14: Indemnity. Every person who was or is involved in, any action, suit or proceedings whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director or officer of the Association or is or was serving at the request of the Association as a director, officer, manager or member of another corporation or limited liability company or in some other official capacity, including but not limited to, its representative in a partnership, joint venture, trust or other enterprise, shall be indemnified and held harmless to the fullest extent legally permissible, against all expenses, liabilities and losses (including attorney's fees, judgments, fines and amounts paid or to paid in settlement) reasonably incurred or suffered by him in connection

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therewith. Such right of indemnification shall be a contract right that may be enforced in any lawful manner by such person. Such right of indemnification shall not be exclusive of any other right which such person may hereafter acquire and, without limiting the generality of the foregoing, he shall be entitled to his rights of indemnification under any agreement, vote of the Board or Members, provision of law, or otherwise, as well as his rights under this paragraph. The board of directors may cause the Association to purchase and maintain insurance on behalf of any such person or persons against any claim or liability asserted against such person or persons and incurred in any such capacity or arising out of such status, whether or not the Association would have power to indemnify such person.

**ARTICLE IV  
MEMBERSHIP**

**Section 4.01: Members.** Every person who is an owner of record a Unit in the Regime (a "Unit Owner") shall be a Member of the Association, and shall be deemed to be a "Member" with respect to each such Unit owned by that Unit Owner, provided that any such person who is vested with an interest of record in a Unit in the Regime merely as security for the performance of an obligation, such as a mortgage, shall not be a Member by virtue thereof. Membership shall be appurtenant to and not separated from ownership of a Unit. When more than one person holds an undivided fee interest in a Unit, all such persons shall individually be Members.

**Section 4.02: Place of Holding Meetings.** All meetings of the Members shall be held at the Regime, unless written notice of another place for meeting is given on the meeting notice.

**Section 4.03: Annual Election of Board.** The annual meeting of the Members shall be held on the third Saturday of August in each year. If the date of the annual meeting shall fall upon a legal holiday, the meeting shall be held on the next succeeding business day. At each annual meeting Director(s), whose term has expired, shall be elected by ballot of the Members of the Association, in accordance with the requirements of these By-Laws. The Association may also transact such other business as may

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properly come before it. No change of time or place of meeting for the election of Directors, as fixed by these Bylaws, shall be made within thirty (30) days of the day on which such election is to be held. In case of any change in such time or place for such election of Directors, notice thereof shall be given to each Member entitled to vote, in person or by letter mailed to his last known post office address, forty-five (45) days before the election is held.

**Section 4.04: Voting.** Every Member shall be entitled to cast one vote for each Unit owned on all matters upon which the Membership shall be entitled to vote; PROVIDED HOWEVER, when more than one Person holds an undivided fee interest in any Unit, like a husband and wife, all such persons shall collectively have but one vote only with respect to each Unit owned by such Persons. The Member(s), or some natural person designated by such Member(s) to act as proxy on his, its or their behalf, who need not be an owner, shall be entitled to cast their vote(s) at any meeting. To be valid the designation of any proxy shall be made in writing to and filed with the Secretary before the time set for the meeting and shall remain valid only for that particular meeting. A proxy may be revoked by the Member's personal appearance at the meeting and stating to the President or Secretary that the proxy is revoked prior to any vote. Any or all Members may be present at any meeting and may vote or take any other action as a Member either in person or by proxy. As used in these By-Laws, the terms "majority of Members", "majority of Unit-Owners or "majority of co-owners" shall mean any number of Members owning Units representing fifty-one (51%) percentage or more of the Total Basic Value of the Regime as established by the Declaration, present in person or by proxy and voting at any meeting. The vote of the majority of Members present at a meeting at which a quorum shall be present shall be binding upon all Members for all purposes except when a higher percentage vote is required by law, the Declaration, the Articles of Incorporation or these By-Laws.

**Section 4.05: Quorum.** Except as provided in the next section hereof, any number of Members together owning Units representing and being at least fifty-one percent (51%) of the Total Basic Value of the Regime (as set forth in the recorded Declaration) who shall be present in person or represented by proxy at any meeting duly called, shall constitute a quorum for the transaction of business thereat.

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Section 4.06: Adjournment of Meetings. If less than a quorum shall be in attendance at any time for which the meeting shall have been called, the meeting may, after the lapse of at least half an hour, be adjourned from time to time by a majority of Members present or represented and entitled to vote thereat, and no further notice thereof need be given other than by announcement at said meeting which shall be so adjourned.

Section 4.07: Special Meetings: How Called. Special meetings of the Members for any purpose or purposes may be called by the President or Secretary, and shall be called upon a requisition in writing therefor, stating the purpose or purposes thereof, delivered to the President or Secretary, signed by a majority of the Board or by the affirmative vote of a majority of Members or by resolution of the Board.

Section 4.08: Notice of Members Meeting. Written or printed notice, stating the place and time of the meeting and the general nature of the business to be considered, shall be given by the President or Secretary to each Member entitled to vote thereat at his last known post office address, or personally delivered to each Member, at least ten (10) days before the meeting in the case of an annual meeting, and at least fifteen (15) days before the meeting in the case of a special meeting. Notice of any meeting may be waived in writing either in person or proxy signed by or behalf of a Member before or after the meeting.

**ARTICLE V**

**OFFICERS**

Section 5.01: Officers. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer and such other officers as may from time to time be elected or appointed by the Board. One person may hold one or more of the officer positions of the Association except that one person shall not serve simultaneously both as President and as Secretary.

Section 5.02: Duties. The Officers of the Association shall have the following duties:

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(a) The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are incidental to the office of President, including but not limited to the power to appoint committees from among the Board of Directors and/or the Members from time to time, as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association.

(b) The Vice-President shall take the place of the President, and shall perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Member of the Board to act in place of the President, on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President.

(c) The Secretary shall keep the minutes of all meetings of the Members and of the Board; shall have charge of such books and papers as the Board may direct; and shall perform all the duties incidental to the office of Secretary, and as described elsewhere in these By-Laws or the Declaration. The Board may appoint one or more Assistant Secretaries.

(d) The Treasurer shall have the responsibility for funds and securities and shall be responsible for keeping full and accurate financial and books of account showing all receipts and disbursements and for the preparation of required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Association in such depositories as may from time to time be designated by the Board and he shall perform all duties incidental to the office of Treasurer. No payment voucher shall be paid unless and until approved by the Treasurer, or in his absence the Assistant Treasurer. The Board may appoint one or more Assistant Treasurers.

(e) All agreements, contracts, deeds, leases, checks, and other instruments of the Association may be executed by the President or by such other person(s) as may be authorized by the Board.

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(f) The officers of the Association and therefore of the Regime shall have such other powers, duties and responsibilities as the Board may, from time to time, fix and declare by resolution.

**Section 5.03: Treasurer's Bond.** If required by the Board, the Treasurer, and any other person designed by the Board, shall give bond with a reputable corporate surety for the faithful discharge of his duties in such amount as the Board may prescribe. The premium for said bond shall be a common expense of the Regime.

**Section 5.04: Compensation, Resignations, Filling of Vacancies.** No elected officer shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. If any corporate office becomes vacant, the remaining Directors may appoint any qualified person to fill such vacancy which person shall hold office for the unexpired term and until his successor shall be duly chosen.

**ARTICLE VI**

**INSURANCE**

**Section 6.01: Insurance Coverages.** Without limiting the right of any Member as set forth in the Act (any provision contained herein which is deemed contrary to the Act shall be deemed severed from these Bylaws, without effect on the remainder of these Bylaws), the Board shall acquire and shall pay, as a common expense, insurance of such types, affording such coverages on such terms, conditions and with such endorsements, in such amounts and subject to such deductibles as the Board shall determine to be reasonably necessary or desirable. The Board shall attempt to obtain:

(a) A policy or policies of fire insurance with extended coverage endorsement, for the full insurable replacement value of the Units and Common Elements, or such other type of fire and casualty insurance as the Board shall determine

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gives substantially equal or greater protection to the Association, the Members and their mortgagees, as their respective interests may appear.

(b) A policy or policies insuring the Association, its Board, officers and employees and the Members against any liability to the public or to the Members and their invitees or tenants incident to the ownership or use of the Regime, the Common Elements or any part thereof as well as any other facilities owned or operated by the Association, as follows: Commercial General Liability Insurance covering bodily injury, including death, personal injury, property damage, fire damage, contingency liability and contractual liability, providing coverage on an occurrence basis including explosion, collapse, underground hazard and products/completed operations coverages with the following limits of liability provided by this coverage:

1.	General Aggregate	\$2,000,000.00
2.	Products/Completed Operations Aggregate	\$2,000,000.00
3.	Personal & Advertising Injury	\$1,000,000.00
4.	Each Occurrence	\$2,000,000.00
5.	Medical expense	\$5,000.00

Said policy or policies shall, if available, provide cross liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudiced as respects his, her, its or their action against another named insured;

(c) Workmen's compensation insurance to the extent necessary to comply with any applicable law.

(d) Insurance obtained by the Board shall, insofar as is possible be administered by the Board and governed by the following provisions:



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- (1) All policies shall be written with a company licensed to do business in the State of Arkansas and having a size and insurance rating satisfactory to the Board;
- (2) Exclusive authority to adjust losses under policies of insurance procured by the Board of the Association shall be vested in the Board or its authorized representative;
- (3) In no event shall the insurance coverage obtained and maintained by the Board hereunder, be brought into contribution with insurance purchased by Members or their mortgagees;
- (4) Each Member may obtain additional insurance on the Member's Unit and the Member's personal liability at the Member's own expense and each Member shall be solely responsible for procuring such insurance coverage on contents, appliances, furniture, furnishings, carpet, rugs, household goods and personal property situated in a Unit or about the Regime; provided, however, that no Member shall be entitled to exercise the right to maintain insurance coverage in such a way as to decrease the amount which the Board, on behalf of the Members, may realize under any insurance policy which the Board may have in force on the Regime at any particular time;
- (5) Each Member shall be required to notify the Board of all permanent improvements or construction made by the Member to or in his Unit, the value of which is in excess of One Thousand United States Dollars (\$1,000.00), it being understood that this provision does not expressly or impliedly authorize any owner to make such improvements except in compliance with other applicable provisions hereof, but each Member agrees to bear the risk of loss for any improvements made to the Member's Unit that were not the subject of the aforesaid notice to the Board;

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- (6) Any Member who obtains individual insurance policies covering a Unit shall file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance;
- (7) The Board shall attempt to secure insurance policies that will provide for the following: (i) That the master policy of the Regime cannot be canceled, invalidated or suspended on account of the conduct of any one or more individual Members; (ii) That the master policy on the Regime cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board without a prior demand in writing that the Board cure the defects; and (iii) that any "no other insurance" clause in the master policy exclude individual Member policies from consideration.

**Section 6.02: Alternative Coverage.** If the Board concludes in its discretion that it should not continue to procure fire and casualty insurance coverages on the individual Units the Board may, upon sixty (60) written notice to each Member, discontinue such coverage and thereafter each Member shall at the Member's sole cost purchase such fire and casualty insurance coverage on that Members Unit, naming, if requested by the Association, the Association as an additional insured.

**Section 6.03: Review.** The Board may conduct such insurance reviews as it deems necessary or desirable which may include an appraisal of the improvements in the Regime by a representative of the insurance carrier writing the master policy or by such other person or entity as the Board directs.

**ARTICLE VII**

**ASSESSMENT FOR COMMON EXPENSES**

**Section 7.01: Assessment and Annual Budget Estimate.** Each Member covenants and agrees to fully pay on or before the due date as determined by the Board any assessment levied, charged, billed or invoiced by the Association, acting through the Board, against the Units and to the Unit Owners. Prior to December 31 of each year, the

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Board shall estimate the common expenses of the Regime (the, "Regime's Common Expenses"), that is the cost of the Association, acting through the Board, discharging its duties, performing its obligations and providing the services as prescribed under the Act, the Declaration, the Articles of Incorporation and these By-laws, including but not limited to, any capital contributions the Board may deem desirable for general working capital, for general operating reserves, for funding a replacement and maintenance reserve fund or other similar contributions, or for any other purpose allowed by the Act, the Declaration, the Articles of Incorporation or these By-Laws, during the next ensuing year including provision for deficits from the prior year and contingencies and replacements but less any expected income and surplus from the prior year's collected assessments. Once the Regime's Common Expenses for the next ensuing year is so determined by the Board, the same shall be deemed to be assessed, levied and charged against the Units and against the Members as Unit Owners in accordance with the Unit Share Percentage of each Unit, representing their percentage of the Total Basic Value of the Regime as set forth in the Declaration and said assessment shall be fully paid by each Member to the Association in equal monthly installments commencing on January 1 of each year and continuing on the first day of each succeeding month of the year. If the Regime's Common Expenses assessed by the Board in any year is inadequate or insufficient, for any reason as determined by the Board in its discretion from time to time during the year, to fully pay the cost of the Association, acting through the Board, discharging its duties, performing its obligations and providing the services as prescribed under the Act, the Declaration, the Articles of Incorporation and these By-laws, including but not limited to, any capital contributions the Board may deem desirable for general working capital, for general operating reserves, for funding a replacement and maintenance reserve fund or other similar contributions, or for any other purpose allowed by the Act, the Declaration, the Articles of Incorporation and these By-laws; then and in that event the Board may, in its discretion and at any time, levy such further assessment or assessments the Board deems necessary or desirable, which shall be assessed to the Members in like proportions, unless otherwise provided herein and each Member shall pay such further assessment or assessments in such amounts and within such time period as is directed and designated by the Board from time to time.

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**Section 7.02: Expenditure of Common Fund.** All assessments collected in the manner herein provided shall be expended for the purposes allowed by the Act, the Declaration, the Articles of Incorporation and in these Bylaws.

**Section 7.03: Non-Waiver.** The omission by the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provision of these Bylaws, or a release of any Member from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessments fixed for the preceding year shall continue until a new assessment is fixed. Amendments to this Article VII shall be effective only upon the unanimous consent of all Members. No Member may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any Common Element or by abandonment of a Unit.

**Section 7.04: Records.** The Board shall keep detailed, accurate records in chronological order, of the receipts and expenditures of the Association affecting the Regime, specifying and itemizing maintenance and repair expenses of the Common Elements and any other expenses incurred. Records and vouchers authorizing the payment involved shall be available for examination by the Members at convenient hours during weekdays or otherwise as required by the Act. At the close of each year, the Board shall cause the Association's financial books and records to be audited by a Certified Public Accountant licensed in the State of Arkansas, engaged by the Board for that purpose.

**ARTICLE VIII**

**DEFAULT IN PAYMENT OF ASSESSMENTS**

**Section 8.01: Default.** (a) Any assessment made by the Board shall be a separate, distinct and personal debt and obligation of the Member against whom the same is assessed. If any assessment made by the Board is not paid at the time and in the manner as herein prescribed or as the Board might reasonably direct, then such assessment shall be deemed delinquent. The Board shall have the authority to levy a late charge in such amount as is set by the Board from time to time as an additional assessment with payment

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of said assessment and to charge interest on the original assessment at the maximum rate allowed by law. The Association, acting through the Board and its President, may commence any suit to recover a money judgment for delinquent assessments, late charges, interest, attorneys' fees and costs, and similar matters, and shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any delinquent assessment whether regular or special, plus any applicable late charge, plus interest at the highest rate allowed by law, costs and a reasonable attorneys' fee, shall become a lien upon the Unit owned by the Member who is delinquent at the time the assessment becomes delinquent which lien shall be effective against third parties upon recordation of a Notice of Delinquent Assessment. Such lien shall have such priority with respect to all other liens and encumbrances, recorded or unrecorded, as is set forth in the Declaration, in these Bylaws and as provided by law, including without limitation the Act.

(b) Each Member covenants and agrees that should a Member fail to pay in full and prior to delinquency thereof any assessment, charge or expense levied, billed or assessed by the Association to a Member of the Regime, then the Association, acting by and through the Board of Directors, may in the Board's discretion discontinue, disconnect and withhold any services or facilities performed or provided by the Association to the delinquent Member and to any person claiming by, through or under said Member and to the Unit owned by that Member, including but not limited to, water and sewer services, and any such services or facilities so discontinued, disconnected or withheld may be reestablished, re-connected and extended back to the said Member or any person claiming by, through or under the said Member and to the Unit only upon such terms and conditions as may be established and set by the Board of Directors of the Association from time to time.

**Section 5.02: Certificate.** A certificate executed and acknowledged by the President or Vice President of the Association stating the amount of the indebtedness secured by such lien shall be conclusive upon the Board and the Members as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Member or prospective purchaser or any encumbrancer or prospective encumbrancer of a Unit upon request at a reasonable fee, not to exceed Fifteen United States Dollars (\$15.00).

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Upon payment or other satisfaction of a delinquent assessment concerning which such a certificate has been so recorded, the Board shall cause to be recorded in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction and release of the lien thereof. Such lien for a delinquent assessment may be foreclosed in any manner permitted by law. The delinquent Member shall be required to pay the costs and expenses of proceedings to collect, file notice of, satisfy and otherwise pursue claims incurred in connection therewith, plus all attorneys' fees incurred by the Association.

**Section 8.03: Right to Bid.** The Board shall have the power to bid on the Unit at foreclosure or other sale and to hold, lease, mortgage and convey the Unit.

**Section 8.04: Priority.** Notwithstanding any contrary provisions hereof:

(a) The liens created hereunder upon any Unit shall be subject and subordinate to, and shall not affect the rights of the holder of an indebtedness: (i) resulting from nonpayment of past due and payable federal state and local taxes; or (ii) secured by any recorded prior mortgage or similar encumbrance upon a Unit or an interest therein if such prior recorded mortgage was made in good faith and for value, provided that after the foreclosure of any such encumbrance any lien created pursuant to Section 1 of this Article shall attach to the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner from and after the date of such foreclosure sale, which said lien, if any, shall have the same effect and be enforced in the same manner as provided herein;

(b) No amendment to this Article shall affect the rights of the holder of any such prior recorded encumbrance unless such holder joins in the execution thereof.

(c) By subordination agreement executed by the Association, acting through its Board, the benefits of subsections (a) and (b) above may be extended to encumbrances not otherwise entitled thereto; and

(d) The purchaser of a Unit shall be jointly and severally liable with the seller of the Unit for the amounts owing by the latter Articles VII and VIII up to the time of

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**BY-LAWS OF HARBOR EAST HORIZONTAL  
PROPERTY OWNERS ASSOCIATION**

conveyance, without prejudice to the right of the purchaser to collect from his seller the amounts paid pursuant to this joint and several liability.

**ARTICLE IX**

**MAINTENANCE AND REPAIR**

**Section 9.01: Obligation to Repair.** Each Member shall, at the expense of the Member, keep all portions of a Unit (as defined in the Declaration) and its furnishings, fixtures, equipment and appurtenances in good order, condition and repair and in a clean, safe and sanitary condition, and shall make and do all repairs, replacements, redecorating, and painting which may at any time be necessary to maintain the good appearance and condition of the Unit, inside and out. Each Member covenants that the Member shall not alter, paint, decorate or change the appearance or function of the Common Elements, general or limited, or any portion thereof without first securing the prior written consent therefore of the Board of the Association and then shall do so only in conformity with any requirements prescribed by the Board of the Association. Each Member covenants that the Member will comply with any requirements published by the Board of the Association from time to time directing the nature, type and color of window, glass or door covering materials observable from the exterior of a Unit.

**Section 9.02: Right to Repair.** If such maintenance, repair or replacement is reasonably necessary in the discretion of the Board to protect the Common Elements or to preserve the architectural integrity and appearance and value of the Regime, and the Member(s) have failed or refused to perform said maintenance, repair or replacement within a reasonable time after written notice of the necessity of said maintenance or repair given by the Board to said Member(s), the Board may in its discretion cause such maintenance, repairs or replacement to be performed at the expense of the Member(s) and shall levy a special assessment against the Unit of such Member(s) for the cost of said maintenance, replacement or repair.

**ARTICLE X**

**LEASE OF UNITS**

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**Section 10.01: Lease Addendum.** Any Member who desires to rent, lease, let or demise their Unit shall cause the tenant to execute an instrument containing the following provision:

**LEASE ADDENDUM**

I/WE, the undersigned tenant, covenant and agree with the Unit Owner of Unit \_\_\_\_\_ and with the Harbor East Horizontal Property Owners Association (the "Association"), as a condition of occupancy of the aforesaid Unit, as follows:

1. Rules and Regulations. Tenant acknowledges that the Unit is a part of the Harbor East Horizontal Property Regime and is regulated, governed and maintained by the Association, as administered by its Board of Directors (the "Board"), pursuant to certain rules and regulations as established by the Board and which may from time to time be revised and amended. Tenant agrees to comply with all such rules and regulations relating to occupation and use of the property. Any violation of such rules and regulations by Tenant, Tenant's agents, family or invitees shall constitute a default under this lease, rendering Tenant liable to ejectment therefor. Tenant shall also be required to abide by the Bylaws of the Association as well as any applicable governmental laws relating to occupancy and use.
2. Assignment. Tenant shall not sublet or otherwise assign the Unit which is the subject of the lease.
3. Assignment of Rent. Tenant acknowledges that the property which is being leased hereunder is subject to a regular monthly assessment for common charges, together with such further and special assessments as voted by the Board, for maintenance, exterior upkeep and other expenses. Upon written notice from the Board, or its designated agent, of delinquency in payment of any such assessment by Tenant's Lessor regarding the Unit, Tenant shall pay to the Association from any rent due to the Lessor for the Unit such assessment in the amount directed by the Association, deducting such sum from the rental due Lessor, such direct payment to continue until Tenant is notified by the Association to cease direct payment. Lessor does hereby covenant with Tenant that Tenant may, upon



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receipt of due notice from the Association of delinquency in assessments, withhold the amount of such assessments as designated by the Association and remit same directly to the Association, and that such payment shall be considered as payment of rent to Lessor and shall not constitute default for nonpayment of rent.

4. Notice. Any notice required under this addendum may be accomplished by either personal delivery or by certified mail, return receipt, to the address of the Unit or by posting of such notice on the door of the Unit.

**Section 10.02: Submission of Lease Agreement.** Members desiring to lease their Unit shall be required to adhere to the dictates of paragraph 1 of the addendum to eject any tenant who violates the rules and regulations of the Association as well as the Bylaws and any governmental law concerning use and occupancy. Prior to entering into any lease or rental agreement, the Member shall submit to the Board a copy of the lease agreement to be employed to ensure compliance with this Article of the Bylaws. The lien created by any unpaid assessments shall also constitute a lien upon rentals due under any leaseholds of Units within the Regime, and all Unit Owners are bound by the assignment of rental provision as contained in paragraph 3 of the above Lease Addendum. Should any Member of the Association fail to pay any monthly or special assessment as due, the Association is hereby be empowered to enforce this lien, in addition to any and all other methods herein by notification to any tenant of any Member with direction to such tenant that such assessment be paid by the tenant to the Association from any rental otherwise due to a Unit Owner.

**ARTICLE XI**

**DAMAGE OR DESTRUCTION**

**Section 11.01: Reconstruction.** In the event of fire, casualty, or other disaster, the insurance proceeds, if sufficient to reconstruct the Common Elements, including any Building or Buildings or repair the damages thereto and including the Units (if the Board procures such insurance on the Units), shall be applied to and used by the Board to accomplish such reconstruction or repair. Reconstruction of the Common Elements, including any Building or Buildings, means restoring the Common Elements and

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Building or Buildings and including the Units (if the Board procures such insurance on the Units) to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with each Unit, including any Limited Common Element appurtenant thereto, having the same vertical and horizontal boundaries as before. Such reconstruction shall be accomplished by the Board, and if the plans for the design thereof differ from original construction, such plans shall be filed with a recordable certificate reflecting the nature of the changes.

**Section 11.02 Insufficient Insurance.** (a) If the insurance proceeds are insufficient to reconstruct the damage to or destruction of that portion of the Common Elements, not including any Building or Buildings, then those Common Elements, not including any Building or Buildings, shall nevertheless be promptly repaired and restored by the Board using proceeds of insurance, to the extent available for that purpose and all the Members shall be liable for and shall promptly pay any assessment for any deficiency necessary to complete the reconstruction levied by the Board.

(b) If the insurance proceeds are insufficient to reconstruct the damage to or destruction of any Building or Buildings of the Regime and any limited common elements appurtenant to the same, then Building or Buildings of the Regime and any limited common elements appurtenant to the same shall nevertheless be promptly repaired and restored by the Board using proceeds of insurance, to the extent available for that purchase and the Members owning a Unit in the damaged or destroyed Building or Buildings shall be liable for and shall promptly pay any assessment for any deficiency necessary to complete the reconstruction levied by the Board, including in particular but not limited to, any deductible due under any insurance policy.

(c) Provided, however, that if insurance proceeds are insufficient to reconstruct the Common Elements, including any Building or Buildings or repair the damages thereto and including the Units (if the Board procures such insurance on the Units), and more than two-thirds (2/3) of the all of the Common Elements and Buildings comprising the Regime were destroyed or severely damaged by the casualty, then, notwithstanding all other provisions hereof, in case of such fire, casualty or other disaster, the Members may, by the affirmative vote of Members constituting at least seventy five percent (75%) of the Total Basic Value of the Regime, at a meeting of the Members called for that purpose, elect not to reconstruct, and if such action is taken, the net proceeds of the insurance, if any, shall be considered as one fund and shall be divided

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among all the Members in a percentage equal to the undivided interest owned by each Member in the Common Elements, after first paying out of the respective shares of the Members, to the extent sufficient for that purpose, all liens on the undivided interest in the property owned by such Member.

**ARTICLE XII**

**CONVEYANCE OF A UNIT**

**Section 12.01: Conveyance.** The provisions of the Act shall govern all conveyances of a Unit in the Regime, without limitation on the rights of the Regime to collect delinquent assessments as provided in these Bylaws and the Act.

**ARTICLE XIII**

**AMENDMENT OF BYLAWS**

**Section 13.01: Amendments.** Except when a larger percentage is required herein or by the Act, these Bylaws may be amended by the affirmative vote of Members owning at least 51% percent or more of the Total Basic Value of the Regime as established by the Declaration. Amendments shall not be effective until filed for record in the office of the Circuit Clerk of Montgomery, Arkansas.

**ARTICLE XIV  
MISCELLANEOUS**

**Section 14.01: Invalidity.** The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

**Section 14.02: Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

**BY-LAWS OF HARBOR EAST HORIZONTAL  
PROPERTY OWNERS ASSOCIATION**

**Section 14.03: Waiver.** No restriction, condition, obligation, or provisions contained in these By-Laws shall be deemed to have been abrogated or waived by reason of a failure to enforce the same, irrespective of the number of violations or breaches thereof which occur.

**ARTICLE XV  
CERTIFICATE OF ADOPTION**

**Section 15.01: Certificate of Adoption.** The foregoing Bylaws of the corporation have been duly adopted this 15<sup>th</sup> day of December, 2004.

IN TESTIMONY THEREOF, witness the hand of the undersigned as Directors of the corporation on such date.

Harbor East Property Owners Association,  
an Arkansas not for profit corporation.

BY: [Signature]  
TITLE: President/Trustee  
BY: [Signature]  
TITLE: Secretary

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PROPERTY OWNERS ASSOCIATION**

Section 14.03: Waiver. No restriction, condition, obligation, or provisions contained in these By-Laws shall be deemed to have been abrogated or waived by reason of a failure to enforce the same, irrespective of the number of violations or breaches thereof which occur.

**ARTICLE XV  
CERTIFICATE OF ADOPTION**

Section 15.01: Certificate of Adoption. The foregoing Bylaws of the corporation have been duly adopted this 10th day of December, 2004.

IN TESTIMONY THEREOF, witness the hand of the undersigned as Directors of the corporation on such date.

Harbor East Property Owners Association,  
an Arkansas not for profit corporation,

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: Ann Lewis

TITLE: President

**BY-LAWS OF HARBOR EAST HORIZONTAL  
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BY: VOP/L

TITLE: VICE - PRESIDENT

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_



Amended, Restated and Substituted  
Declaration of Master Deed to Harbor  
East Horizontal Property Regime

## ACKNOWLEDGMENT

STATE OF Arkansas) ss

COUNTY OF Pulaski)

BE IT REMEMBERED, That on this day came on before me, the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, Jon Ahrens, the court appointed Class Representative of and for the Class of Unit Owners owning Units in the Harbor East Horizontal Property Regime, to me well known or satisfactorily proven to be the person whose name appear in the foregoing instrument, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth.

day of December, 2004. 15th

*Debra Richard*  
Notary Public

MY COMMISSION EXPIRES:

June 29 2012



FINAL

HarborEast/HarborEast-Substituted V8.doc  
09/20/2004 3:22 PM

FILED FOR RECORD  
this 15 day of Dec 2004

DEBRA RICHARD-HURT  
Notary Public  
BY *Debra Richard-Hurt*