

WHEREAS, the Community Enhancement Fee shall be used for the limited purposes set forth within this Amendment; and,

WHEREAS, there are a total of 352 total Class "A" votes in the Association; and,

WHEREAS, there were 180 Class "A" votes in favor of the proposed amendments, as set forth more thoroughly herein; and,

WHEREAS, this instrument is being executed and recorded to reflect the approval of the Members to the following amendments to the Declaration.

NOW, THEREFORE, the Declaration, with the consent of the Voting Members representing fifty-one percent (51%) or more of the total Class "A" votes in the Association, is hereby amended as follows:

Section 1. **Incorporation of Recitals.** The above recitals are hereby incorporated herein as if restated fully and are hereby made an integral part hereof so that their contents are a substantive part of this Agreement.

Section 2. **Reaffirmation.** Except as specifically amended herein, the Declaration, as amended by the First Amendment, shall continue in full force and effect as if fully restated herein.

Section 3. **Amendment to Section 8.1 of the Declaration.** Section 8.1 of the Declaration shall be amended through the addition of the following phrase to the end of the first paragraph "and the amount of the Community Enhancement Fee as provided for in Section 8.9 of this Declaration" so that the first paragraph of Section 8.1 shall read as follows:

8.1. **Budgeting and Allocating Common Expenses.** At least ninety (90) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.3 and the amount of the Community Enhancement Fee as provided for in Section 8.9 of this Declaration.

Section 4. **Amendment to Section 8.6(a) of the Declaration.** Section 8.6(a) of the Declaration shall be amended (a) through the addition of the following phrase to the end of the first sentence of Section 8.6: "and the Community Enhancement Fee"; (b) by the addition of the following sentence immediately following the first sentence of this Section 8.6(a): "For the purposes of this Section, any reference to "assessment" shall be deemed to include the Community Enhancement Fee unless the context clearly provides otherwise"; and, (c) by the capitalization of the word "transfer" as used in the second-to-last sentence of the first paragraph of Section 8.6, so that the revised first paragraph of Section 8.6(a) shall read as follows:

(a) Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay all assessments and the Community Enhancement Fee authorized in this Declaration. For the purposes of this Section, any reference to "assessment" shall be deemed to include the Community Enhancement Fee unless the context clearly provides otherwise. All assessments, together with interest from the due date of such assessment at a rate determined by the Board (but not less than ten percent (10%) per annum,

subject to the limitations of South Carolina law) reasonable late charges in such amount as is established by resolution of the Board, costs and reasonable attorneys' and paralegals' fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.7. Each such assessment, together with interest, late charges, costs and reasonable attorneys' and paralegals' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a Transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no Person who obtains title to a Unit following foreclosure of a first priority Mortgage given in good faith and for value shall be liable for unpaid assessments which accrued prior to such foreclosure.

Section 5. **Amendment to Article 8 of the Declaration by the Addition of Section 8.9.** Article 8 of the Declaration shall be amended by the addition of Section 8.9, entitled "Community Enhancement Fee," which shall read, in its entirety, as follows:

8.9. **Community Enhancement Fee.** In order to provide an additional source of funds for the betterment of Westbury Park, there is hereby established and imposed a Community Enhancement Fee that shall be payable to the Association upon each Transfer of title to a Unit in Westbury Park. The Community Enhancement Fee shall be charged to the purchaser of the Unit, shall be payable to the Association at the closing of the transaction, and shall be secured by the Association's lien for assessments under Section 8.7 of the Declaration. For the purposes of this Section, a "Transfer" shall be deemed to occur upon the execution of a deed, instrument, conveyance, or other written document whereby a Unit or any interest therein is sold, granted, conveyed, exchanged, or otherwise transferred by an Owner to another Person.

(a) **Process.** An Owner shall notify the Association through its Management Agent of a pending Transfer of such Owner's Unit at least ten (10) days prior to the Transfer. Such notice shall include the name of the purchaser, the anticipated date of the Transfer and such other information as the Board or the Management Agent shall reasonably require.

(b) **Fee Amount.** Except as provided herein, the Board shall have the sole discretion to determine, from time to time, the amount and method of calculating the Community Enhancement Fee; provided, however, the Community Enhancement Fee shall not exceed three-quarters (3/4) of one (1%) percent of the Gross Sales Price of the Unit. For the purpose of determining the amount of the Community Enhancement Fee, the Gross Sales Price of the Unit is the total cost and consideration (including any assumed mortgage) paid by the purchaser of the Unit, excluding transfer taxes and title fees imposed by Beaufort County or the State of South Carolina. The Board or its Management Agent may require that the purchaser or the seller of the Unit provide documentation associated with the Transfer, such as a copy of an executed settlement statement, contract, deed, or other document evidencing the Transfer to corroborate the Gross Sales Price of the Unit.

(c) Purpose of Fee. The Community Enhancement Fee shall be placed in a segregated account and used to provide funding exclusively for the following purposes:

(1) Funding the capital reserves of the Association for the repair, maintenance, and replacement of Common Areas or Areas of Common Responsibility; and,

(2) Construction, renovations, and projects for the enhancement, beautification and preservation of Westbury Park; and,

(3) The construction of new capital improvements, or the renovation, replacement, rehabilitation, or emergency repair (if such emergency repair is necessitated by reason of storm, fire, flood, hail, natural disaster, or Act of God) but only to the extent such costs are not adequately covered by insurance.

(4) Funding programs and activities which enhance the welfare, benefit, and lifestyle of the residents of the Association.

(d) Exempt Transfers. Notwithstanding the foregoing, no Community Enhancement Fee shall be levied upon the following transfers:

(1) A Transfer to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner and for nominal consideration; or,

(2) A Transfer to an entity wholly owned by the Owner or to a family trust created by the Owner for the benefit of the Owner, his or her spouse, and/or heirs at law; provided, upon any subsequent Transfer of an ownership interest in such entity, the Community Enhancement Fee shall become due; or,

(3) A Transfer an Institutional Lender acquiring a Unit in foreclosure or acquiring a deed thereto in lieu of foreclosure; or,

(4) A Transfer by or to the Association.

(e) Obligation and Interest. The Community Enhancement Fee shall be the joint and several obligation of each Person acquiring an interest in a Unit through a Transfer and shall be collectible as an assessment pursuant to Section 8.6 and secured by the Association's lien for assessments under Section 8.7 of the Declaration.

Section 6. **No Other Amendments or Changes.** Except as expressly set forth within this Amendment, all rights, covenants, interests, obligations, and easements declared, granted, sold, aligned, conveyed, reserved, imposed, and established by the Declaration are hereby ratified, confirmed, reaffirmed, and shall remain unchanged and fully enforceable according to the Declaration's terms, and no other changes to the Declaration are made or implied by this Amendment.

Section 7. **Conflicts.** In the event of a conflict between the terms of the Declaration and the terms of this Amendment, the terms of this Amendment shall control.

Section 8. **Effective Date.** This Amendment shall be effective as of April 15, 2023.

{Remainder of Page Intentionally Omitted. Signature Page to Follow.}

