

**ARTICLES OF INCORPORATION**

**OF**

**THE BROWNSTONES AT PARK POTOMAC  
HOMEOWNERS ASSOCIATION, INC.**

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### THE BROWNSTONES AT PARK POTOMAC HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements of the Corporations and Associations Article, Title 2, Annotated Code of Maryland (1999 Replacement Volume), and any amendments thereto, the undersigned, Le Roy Eakin, III, Robert D. Youngentob and Frank R. Connors, whose post office address is c/o Eakin Youngentob Associates, Inc., 1000 Wilson Boulevard, Suite 2720, Arlington, VA 22209 each, being at least eighteen (18) years of age, this day, by execution of these Articles, voluntarily declared themselves for the purpose of forming a non-stock, non-profit corporation pursuant to the general laws of Maryland and do hereby certify as follows:

#### ARTICLE I

##### NAME OF THE ASSOCIATION; PRINCIPAL OFFICE; RESIDENT AGENT

1.1 The name of the corporation is The Brownstones at Park Potomac Homeowners Association, Inc. (hereinafter called the "**Association**").

1.2 The post office address of the principal office of the Association is located at 7213 Beacon Terrace, Bethesda, Maryland 20817.

1.3 Frank R. Connors, who is a citizen of the State of Maryland and actually resides therein, and whose post office address is 7213 Beacon Terrace, Bethesda, Maryland 20817, is hereby appointed the initial resident agent of the Association.

## ARTICLE II

### PURPOSES AND POWERS OF THE ASSOCIATION

2.1 The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in The Brownstones at Park Potomac Declaration of Covenants, Conditions and Restrictions (hereinafter called the “**Declaration**”), and all Supplementary Declarations thereto, applicable to all or any part of the property subjected to the Declaration (the “**Property**”) in the Land Records of Montgomery County, Maryland, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein and made a part hereof. Unless the context requires otherwise, the term Declaration shall include all Supplementary Declarations.

(b) To provide for the Maintenance, preservation and architectural control of the Lots and Common Areas (as said terms are defined in the Declaration) within that certain Property as described in the Declaration, and any and all other properties which may be annexed thereto in accordance with the provisions of the Declaration.

(c) To promote the general health, safety and welfare of the residents within the residential community created at the Property.

(d) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in any and all easement and cost-sharing

agreements and other agreements affecting the Property, as the same may be amended from time to time.

2.2 Without limiting the generality thereof, subject to such limitations as are set forth in the Declaration, said powers and duties of the Association shall be:

(a) To acquire (by gift, purchase or otherwise), own, hold, improve, Maintain, manage, lease, pledge, convey, or transfer real or personal property for the benefit of its Members in connection with the affairs of the Association, except that any conveyance of the Common Areas shall be subject to the provisions of Article II and Article VIII of the Declaration, to the extent applicable, and further provided, that any conveyance of the Common Areas shall be subject to the easements granted across the Common Areas established pursuant to Article VII of the Declaration.

(b) To establish, and amend from time to time, and enforce compliance with, such reasonable rules and regulations as may be necessary to govern the use and Maintenance of the Association's property and facilities thereon, and the personal conduct of the Members of the Association and their guests thereon, and to establish penalties for the violation of same.

(c) To fix, levy and collect assessments, including, without limitation, the establishment of reserves, all as provided in the Declaration.

(d) To pay all expenses incident to the conduct of business of the Association.

(e) To enter into, make, grant, perform, enforce and vacate contracts, agreements, licenses, leases, easements and/or rights-of-way over and across the Common Areas,

and to the extent provided in the Declaration, the Lots, including, without limitation, to public agencies to serve necessary public purposes, to owners of other properties within the Park Potomac development of which the Property is a part, to the Master Association (as hereinafter defined), those that may otherwise be or become necessary, or deemed reasonable by the Board of Directors, or those anticipated pursuant to easement and cost-sharing agreements and other agreements affecting the Property, or as otherwise provided in accordance with or anticipated by the provisions of the Declaration.

(f) To employ, enter into contracts with, delegate authority to and supervise such persons or entities as may be appropriate to manage, conduct and perform the business obligations and duties of the Association.

(g) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes, subject to the conditions set forth in the Declaration, including, without limitation, the affirmative vote of at least sixty-seven percent (67%) of each class of Members and subject to such other approvals and consents as are required in Article VIII of the Declaration.

(h) To dedicate, sell or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes, and subject to such conditions, as may be agreed to by the Members. No such dedication or transfer shall be effective unless at least sixty-seven percent (67%) of each class of Members have consented to such dedication, sale or transfer, or mortgaging of the Common Areas and provisions of the Declaration have been complied with, to the extent applicable; and further provided, that any conveyance of the

Common Areas shall be subject to the easements granted across the Common Areas pursuant to the Declaration.

(i) To perform such acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, for enforcing or effectuating any of the provisions of the Declaration, these Articles, and the Bylaws of the Association.

(j) To form subsidiary incorporations.

(k) To regulate the external design, appearance and location of the Association's property and the improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among the structures and the natural vegetation and topography, and to review, modify, and approve architectural standards adopted by the Architectural Review Board; and to monitor compliance with the requirements of any conservation easements and other restrictions imposed on Lots and/or the Common Areas by Montgomery County, Maryland and any and all project plans, preliminary and/or site plan approved by Montgomery County, Maryland, and to periodically remind the Members of the Association of such restrictions.

(l) To take all actions, as may be reasonably necessary or appropriate to perform the obligations of the Association, and to enforce or defend rights, obligations, easements, burdens and benefits under any and all agreements with third parties affecting the Property, including without limitation, providing all consents, waivers, approvals, appointments,

responses to requests for approval, performing all maintenance obligations, bringing or defending a suit, causing a lien to be filed or foreclosed, or removed, and exercising all remedies available for enforcing or effectuating any of the provisions of such agreements.

(m) To borrow money, and with the assent of Class A Members holding at least sixty-seven percent (67%) of the votes in the Association and the Class B Members, so long as the Class B Membership shall not have ceased to terminate as provided in Article IV, Section 4.1 hereof, mortgage, pledge, deed or trust, or hypothecate any of all or the real or personal property owned by the Association as security for money borrowed or debts incurred.

(n) Monitor compliance with the requirements of any conservation easements and other restrictions imposed on Lots and/or the Common Areas by Montgomery County, Maryland and any and all project plans, preliminary and/or site plan approval by Montgomery County, Maryland, and to periodically remind the members of the Association of their restrictions.

(o) To exercise any and all powers, rights and privileges which a corporation organized under the laws of the State of Maryland may now or hereafter have or exercise.

(p) To take all actions and to perform all duties and obligations as a member of The Park Potomac Master Association, Inc., a Maryland non-stock, non-profit corporation (the “**Master Association**”) under the governing documents of the Master Association, including, without limitation, satisfying all obligations of the Association to collect and remit each Member’s share of the assessments thereunder.

(q) Upon tender of a deed from the Declarant (as hereinafter defined) with respect to the Common Areas, to accept fee simple title to the Common Areas from the Declarant, which deed shall include, if requested by the Declarant, an acknowledgment by the Association of its obligations with respect to the Common Areas.

### **ARTICLE III**

#### **NO CAPITAL STOCK**

This Association is not authorized to issue any capital stock, and shall not be operated for profit. The Association does not anticipate distributing dividends, gains or profits to its Members. No Member shall have any personal liability for the debts or obligations of the Association.

### **ARTICLE IV**

#### **MEMBERSHIP AND VOTING**

4.1 Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to the Declaration (an "Owner") shall be a Member of the Association. The foregoing is not intended to include persons or entities who or which hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association shall have two classes of Members as follows:

Class A. Class A Members shall be all Owners of Lots, except the Class B Member (until the expiration of the Class B Membership as provided below). Class A Members shall be entitled to one (1) vote for each Lot owned.



Class B. The Class B Member shall be FP Homes Associates Limited

Partnership, a Maryland limited partnership (the “**Declarant**”), its successors and assigns, (i) to whom the Declarant assigns any or all of its rights as Declarant pursuant to the Declaration, by assignment recorded in the Land Records of Montgomery County, Maryland, or (ii) who is a purchaser at foreclosure with respect to the Declarant’s interest in the Property or a grantee in a deed in lieu of foreclosure from the Declarant, who acquires not less than five (5) undeveloped Lots for purposes of development. The Class B Member shall have three (3) votes for each Lot in which it owns a fee or undivided fee interest. The Class B Member shall initially have four hundred fifty (450) votes. This number shall be increased by three (3) votes for each Lot which is annexed within the jurisdiction of the Association in accordance with Article II, Section 2 of the Declaration in excess of one hundred fifty (150) Lots, and shall be decreased by three (3) votes for each Lot conveyed to a Class A Member.

The Class B membership and Class B voting rights shall cease, and be converted to a Class A membership with Class A voting rights as to each and every Lot in which the Declarant then holds the interest otherwise required for Class A membership, upon the earliest to occur of the following events:

- (i) one hundred twenty (120) days following the date on which the total authorized, issued and outstanding votes of the Class A Members equals the number of votes of the Class B Member; or
- (ii) ten (10) years after the date of recordation of this Declaration by the Declarant; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer,

water or building permit moratorium or any other cause or event beyond the Declarant's reasonable control, the aforesaid ten (10) year period shall be extended by a period of time equal to the lesser of (a) the period of the delays, or (b) an additional five (5) years; or

- (iii) upon the surrender of said Class B membership by the then holders thereof for cancellation on the books of the Association.

If any membership is held by more than one (1) person, the voting rights appurtenant to that membership may be exercised by any one of the Members holding that membership, unless any objection or protest by any other holder of such membership is made prior to the completion of a vote, in which case the vote for such membership shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. Except in the case of the Class B voting rights, in no event shall more than one vote be cast with respect to any Lot.

4.2 Class A Members and Class B Members shall have voting rights, as the same are expressly set forth in the Declaration. Each Member shall have the rights, duties and obligations set forth in the governing documents of the Association, including a right and easement of enjoyment in and to the Common Areas, including, without limitation, an easement for the use and enjoyment of the private streets, alleyways, sidewalks, and walkways, if any, within the Common Areas, which right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot, for purposes of ingress and egress to and from such Member's Lot.

4.3 Except as provided otherwise by law, where a vote of the Members is required, the Board of Directors shall determine by resolution whether the questions shall be decided by

ballot vote at a meeting or by mail or at a polling place, designated by the Board, and shall give notice thereof as provided by the Bylaws.

## ARTICLE V

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of Directors. Except for directors appointed by the Declarant pursuant to the Bylaws of the Association, a director must be a Member of the Association or an officer, principal, director or employee, or a partner in an entity which is a Member of the Association, or a trustee of a trust which is a Member of the Association. The number and method of selection shall be as provided in the Bylaws of the Association. The initial Board of Directors shall consist of three (3) Directors appointed by the Declarant. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

| <u>Name</u>          | <u>Address</u>  |
|----------------------|---|
| J. Wyndham Robertson | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite 2720<br>Arlington, Virginia 22209 |
| Christine M. Wade    | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite<br>2720Arlington, Virginia 22209  |
| Wayne Whipp          | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite<br>2720Arlington, Virginia 22209  |

Officers of the Association shall be elected and shall serve as provided for in the Bylaws of the Association.

**ARTICLE VI**

**DURATION**

The corporation shall exist perpetually unless dissolved as provided in Article VII.

**ARTICLE VII**

**DISSOLUTION**

The Association may be dissolved at a duly held meeting at which a quorum is present upon the approval of (i) at least sixty-seven percent (67%) of the votes, in person or by proxy, of the Class A Members, (ii) the Class B Member, if the Class B membership still exists, and (iii) at least sixty-seven percent (67%) of the First Mortgagees (as defined in the Declaration). Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be consonant with this Article VII) shall be mailed to every Member not less than ten (10) nor more than ninety (90) days in advance of any action to be taken. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to the appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to similar purposes.

**ARTICLE VIII**

**SEVERABILITY**

Invalidation of any of these articles or sections of articles by judgment or court order shall in no way effect any other provisions, which shall remain in full force and effect.

**ARTICLE IX**  
**ANNEXATION**

Additional properties may be annexed to the area subject to the Association as in accordance with the provisions of the Declaration.

**ARTICLE X**  
**INCORPORATORS**

The names and addresses of the Incorporators are as follows:

| <u>Name</u>          | <u>Address</u>  |
|----------------------|---|
| Le Roy Eakin, III    | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite 2720<br>Arlington, Virginia 22209 |
| Robert D. Youngentob | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite<br>2720Arlington, Virginia 22209  |
| Frank R. Connors     | c/o Eakin-Youngentob Associates, Inc.<br>1000 Wilson Boulevard, Suite<br>2720Arlington, Virginia 22209  |

**ARTICLE XI**  
**AMENDMENTS**

Amendment of these Articles shall require the approval of (i) Class A Members entitled to cast at least seventy-five percent (75%) of the votes in the Association and (ii) at the Class B Members, so long as the Class B Membership has not ceased to exist pursuant to Article IV, Section 4 hereof.

## **ARTICLE XII**

### **LIABILITY**

No Director or officer of the Association shall be liable to the Association or to its Members for money damages except (i) to the extent that it is proved that such Director or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received, or (ii) to the extent that a judgment or other final adjudication adverse to such Director or officer is entered in a proceeding based on a finding in the proceeding that such Director's or officer's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding.

## **ARTICLE XIII**

### **MISCELLANEOUS**

Unless it is plainly evident from the context that a different meaning is intended, all terms used herein shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Articles and the Declaration, the terms and provisions of the Declaration shall control.

