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**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
GRAMERCY WEST DEVELOPMENT**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT (hereinafter referred to as this "Declaration") is made this 4<sup>th</sup> day of December, 2018, by BC GRAMERCY II, LLC, an Indiana limited liability company (hereinafter referred to as "Developer").

**Recitals**

WHEREAS, Developer is the developer and owner of that certain real property described on Exhibit A attached hereto (hereinafter referred to as the "Initial Real Estate");

WHEREAS, Developer is also the developer and owner of that certain real property described on Exhibit B attached hereto (the "Additional Real Estate")

WHEREAS, Developer desires to develop, or cause to be developed, the Initial Real Estate into that certain single family residential subdivision to be known as the Gramercy West Development, initially comprised of sixty-nine (69) single family and attached residential lots (each, hereinafter referred to as a "Lot" and collectively, the "Lots"), as depicted on that certain Gramercy West Section One Secondary Plat, to be recorded in the office of the Recorder of Hamilton County Indiana (hereinafter referred to as the "Plat");

WHEREAS, Developer intends, in the future, to develop the Additional Real Estate as may be made subject to the terms of this Declaration, as hereinafter provided, and to record a future plat or plats of such Additional Real Estate to create a total of approximately two hundred thirty-nine (239) single family and attached residential lots (collectively, the "Intended Lots"), which total, for avoidance of doubt, includes the sixty-nine (69) single family and attached residential lots shown on the Plat;

WHEREAS, the term "Real Estate" or the "Subdivision", as used herein, shall hereafter mean and refer to the Initial Real Estate together with such portions of the Additional Real Estate as have from time to time been subjected to this Declaration;

WHEREAS, the Real Estate is subject to the Amended and Restated Master Declaration of Covenants and Easements and Grant of Easements recorded in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2018049486 ("Master Declaration");

WHEREAS, the Subdivision is intended to be developed as a Residential Area (as defined in the Master Declaration), and this Declaration shall be a Supplemental Declaration (as defined in the Master Declaration); and

WHEREAS, Developer wishes to impose the following additional development standards, restrictions, covenants, conditions and assessments on the Real Estate, for the benefit of all present and future Owners (as hereinafter defined) of any Lot in the Subdivision (as hereinafter defined) and Developer.

### **DECLARATIONS**

Developer hereby declares that the Real Estate and all Lots, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, shall be subject to the following development standards, restrictions, covenants, conditions and assessments, which are in furtherance of a plan of the improvement and sale of the Subdivision and each Lot and Residence (as hereinafter defined) situated therein and in accordance with the Carmel/Clay Zoning Ordinance No. Z-289, as amended and in effect as of December 1, 2017, including the site specific requirements under Carmel Zoning Ordinance No. Z-630-18 dated March 19, 2018 (all hereinafter referred to as the "PUD"), and are established and agreed upon for the purpose of enhancing and protecting the values, desirability and attractiveness of the Subdivision as a whole, each of the Lots situated therein. This Declaration shall be for the benefit of Developer and all Owners and occupants within the Subdivision and shall run with the property and shall be binding on Developer and all Owners and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time after expiration or sooner termination of the Development Period (as hereinafter defined) and the turnover of the Association (as hereinafter defined) to the Owners pursuant to the terms hereof, a majority of the Owners in the Subdivision agree to change or terminate said covenants in whole or in part and on the condition that an instrument to that effect signed by the Owners voting in favor of such change has been recorded; provided, however, that Developer may, in its sole and absolute discretion, terminate said covenants in whole or in part before the expiration or sooner termination of the Development Period for any portion of the Subdivision upon recordation of an instrument to that effect signed by Developer. In no event shall any change or termination of said covenants affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

The Owner of any Lots subject to these development standards, restrictions, covenants, conditions and assessments contained in this Declaration, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer, any third party Builder (as hereinafter defined), or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to each development standard, restriction, covenant, condition, assessment and agreement herein contained.

The "Development Period" shall be the period commencing on the date hereof and expiring on the date which is the sooner to occur of (a) ninety (90) days after 100% of all Intended Lots within the Subdivision are sold to third party Owners (other than a Builder), or (b) Developer elects, in its sole and absolute discretion, to turn over control of the Association to the Owners.

In addition to the provisions of this Declaration, each "Townhome," as hereinafter defined, shall be subject to the terms, conditions, and covenants of the Townhome Rider, attached hereto and made a part hereof. A Townhome means each single family residence contained within a group of two or more attached single family residences in the Subdivision that are separated by one or more common Lot lines and one or more "Common Wall" (as defined in the Townhome Rider), with each residence extending from its foundation to its roof and with open space on at least two sides.

Notwithstanding anything in this Declaration to the contrary, the Declaration shall be subject at all times to the Master Declaration, and in the event of any conflict between the provisions of this Declaration and the provisions of the Master Declaration, the provisions of the Master Declaration shall govern and control.

**Article 1.     Use Restrictions**

**1.01** Each Lot shall be used and occupied by a single family only for residential purposes and shall be subject to the restrictions and requirements set forth in this Declaration. However, Developer, its agents or assignees may use the Lots for construction and sales purposes during the Development Period. "Residence" shall mean a single family detached or attached residence located on a Lot. An "Owner" shall mean and refer to the record title Owner of a Lot in the Subdivision other than Developer, and shall be all Owners of a Lot, jointly and severally, if there is more than one Owner of record.

**1.02** No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Lot as reasonably determined by the Association (as hereinafter defined).

**1.03** It shall be the duty and obligation of the Owner of any vacant Lot to maintain such Lot, and mow the lawn thereof until improved.

**1.04** No fence, wall, mound, hedge, landscape screening or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right of way and a line connecting points twenty-five (25) feet from the intersection of the street right of way extended or in the case of a rounded property corner, from the intersection of the street rights of way extended. The same sight line limitations shall apply to any Lot within ten (10) feet from the intersection of a street right of way with the edge of a driveway or alley line. No tree shall be permitted to remain within such distances of such areas unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

**Article 2.     Easement Restrictions**

**2.01** There are hereby reserved unto Developer, during the Development Period, and thereafter, the Association, and the designees of each (which may include, without limitation, any private or public utility provider or governmental authority) (collectively, the "Infrastructure Easement Holder"), access, maintenance and utility easements upon, across, over and under the Subdivision to the extent reasonably necessary for the purposes of replacing, repairing and maintaining security and similar systems, landscaping, landscaping mounding and

screening, roadways, sidewalks, bicycle pathways, lakes, ponds, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas and electricity infrastructure, and for the purpose of installing any of the foregoing on property which it owns or which is located within the Subdivision or within easements designated for such purposes on the Plat. Notwithstanding anything to the contrary herein, this easement shall not entitle the Infrastructure Easement Holder to construct or install any of the foregoing systems, facilities, infrastructure or utilities over, under or through any existing Residence on a Lot or in such a manner as to unreasonably and adversely affect any Residence or portion thereof located upon such Lot or Developer's or the Owner's use and enjoyment thereof or unreasonably restrict the rights of ingress and egress to such Lot, except in an emergency. Entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

2.02 Subject to the restrictions, covenants and easements contained in the Plat and this Declaration, there are hereby reserved unto each Owner, Developer (during the Development Period), and thereafter, the Association, and their agents, contractors or employees (each, a "Maintenance Easement Holder"), non-exclusive access easements for maintenance purposes as described herein upon, across, over and under that portion of each Lot or the Common Areas (as hereinafter defined) adjacent to an Owner's Lot, as applicable, and that portion of each Lot adjacent to the Common Areas, as applicable, extending a distance of not more than three (3) feet from each side of the common boundary line between adjacent Lots or between each Lot and adjacent Common Areas, as applicable, as measured from any point on the common boundary line and extending perpendicular to such common boundary line at such point (the "Maintenance Access Easement"). Subject to the restrictions, covenants and easements contained in the Plat and this Declaration, the Maintenance Access Easement shall be used by the Maintenance Easement Holder thereof on a non-exclusive basis for the sole purpose of allowing for convenient and minimally invasive access to inspect, construct, maintain, replace or restore the lawn and that portion of any structures or improvements constructed on a Maintenance Easement Holder's Lot or the Common Areas, as applicable, in accordance with this Declaration within three (3) feet of the common boundary line, as measured from any point on the common boundary line extending perpendicular to such boundary at such point, only to the extent such inspection, construction, maintenance, replacement or restoration activities cannot be reasonably performed within the boundaries of a Maintenance Easement Holder's Lot or the Common Areas without utilizing the Maintenance Access Easement. Notwithstanding anything to the contrary herein, (a) in no event shall such Maintenance Access Easement exist with respect to a Maintenance Easement Holder if the Maintenance Easement Holder's landscaping, structures or improvements otherwise benefitting from the Maintenance Access Easement were constructed in violation of the restrictions, covenants and easements contained in the Plat or this Declaration or encroach upon an adjacent Lot or the Common Areas due to the willful and knowing conduct on the part of, or with the knowledge and consent of, the Maintenance Easement Holder or occupant; (b) the Maintenance Access Easement shall not entitle a Maintenance Easement Holder to construct or install any landscaping, structures or improvements on an adjacent Lot or the Common Areas; (c) the Maintenance Access Easement shall not entitle a Maintenance Easement Holder to relocate or unnecessarily disturb any landscaping, structures or improvements on an adjacent Lot or Common Areas, without first obtaining such Owner's, Developer's or the Association's, as applicable, prior written consent; (d) use of the Maintenance Access Easement shall be limited to such location and duration as minimally necessary to complete inspection, construction, maintenance or restoration activities

during such times and on such days as established for such activities by Developer or the Association, as applicable, from time to time in their reasonable discretion; and (e) upon completion of the inspection, construction, maintenance, replacement or restoration activities within the Maintenance Access Easement, any damage or destruction to landscaping, structures or improvements located within the Maintenance Access Easement shall be immediately repaired and restored to the same condition as existed immediately prior to the Maintenance Easement Holder's use of the Maintenance Access Easement or better, at the Maintenance Easement Holder's sole cost and expense.

### 2.03 Use Easements on Lots.

(a) General Description of Use Easements. Developer desires to expand the outdoor area that some Owners, and their family members, tenants, guests and invitees exclusively may use as provided in this Section 2.03 (each, a "Use Easement"). Each Lot may be benefited, and/or be burdened and/or be neither benefited nor burdened, by a Use Easement. A Lot that contains a Use Easement will be burdened by such a Use Easement as provided in this Article ("Burdened Lot"). As to a Lot that is adjacent to a Use Easement and Burdened Lot ("Benefited Lot"), the parties hereto intend to expand the general area for use and enjoyment of such Benefited Lot by providing such Use Easement, so that the useable area of such Benefited Lot will essentially be expanded to include the area of such Use Easement on the Burdened Lot. As a result, each Benefited Lot will have an expanded use area for its general use, enjoyment, and improvement, all as provided in this Article.

(b) Grant and Reservation of Use Easements. Each Owner of a Burdened Lot grants (which shall be effective, as to each Lot, as provided in the next sentence), a perpetual, exclusive (except as otherwise provided in this Article) easement, on, over, under and across each Use Easement situated on a Burdened Lot for the benefit of the Benefited Lot that is adjacent to such Use Easement. A Use Easement that is illustrated on the attached Exhibit C and any other Use Easement shall be effective, whether such Lot is a Burdened Lot or a Benefited Lot, upon issuance of a certificate of occupancy on the Residence on such Lot and upon issuance of a certificate of occupancy on a Residence on the adjacent Lot that shares a Use Easement with such Lot. Builder may, upon acquisition of title to Lots, change Use Easements as to Lots owned by Builder (provided that Builder owns title to both the affected Burdened Lot and the affected Benefited Lot). Notwithstanding the foregoing, as to any Lots owned by Developer, Developer may add, remove, or otherwise change any Use Easement or the designations of Benefited Lot or Burdened Lot. Further notwithstanding the foregoing, as to any Lots owned by Builder, Builder may add, remove, or otherwise change any Use Easement or the designations of a Benefited Lot or Burdened Lot (provided that, in each instance, Builder owns all lots affected by such addition, removal, or change). Without limiting or restricting the authority granted to Builder in the preceding sentence: Builder may attach to each deed whereby Builder conveys a Burdened Lot, a drawing, plot plan or survey which shows the Lot which is being conveyed thereby and the Use Easement premises located thereon, if any, and the designation of the Burdened Lot and the Benefited Lot (provided, in such instance, that Builder owns both the affected Burdened Lot and the affected Benefited Lot); or Builder may record a separate plot plan or survey of one (1) or more Lots which shows thereon one (1) or more Use Easements (provided, in such instance, that Builder owns both the affected Burdened Lot and the affected Benefited Lot).

(c) Use of Use Easement. The Owner of the Benefited Lot that is immediately adjacent to a Use Easement, and also the family members, tenants, guests and invitees of such Owner, shall have the right to use the adjacent Use Easement in a manner that is consistent with this Declaration, to the exclusion of the owner of the Burdened Lot on which such Use Easement is located, except as otherwise provided in this Article. Subject to compliance with all terms and provisions of the Master Declaration, including obtaining the prior written approvals that may be required therein (i.e. landscaping or improvements) each Use Easement may be used as a general recreational, picnic, social and garden area, as though such Use Easement was owned by the Owner of the Benefited Lot, with a right to use such Use Easement; provided that (i) such Use Easement shall not be used in any manner to unreasonably disturb the Owner of the Burdened Lot on which such Use Easement is located or such Owner's family members, tenants, guests and invitees; (ii) nothing shall be attached to the exterior wall of the Residence on such Burdened Lot; and (iii) any improvements in a Use Easement shall not be enclosed, have solid cover, or violate such Burdened Lot's home warranty. However, use of a Use Easement is subject to this Article and the other provisions of this Declaration; the Owner of the Benefited Lot which has a right to use such Use Easement shall not plant flower beds (especially annuals), vegetable gardens, other landscaping which requires regular watering, or locate piping or heads for sprinkler systems, within 3.1' of the foundation of the Residence or within 3.1' of any slab on or adjacent to a Use Easement; and if evergreen shrubbery is located within 3.1' of any foundation wall or slab on or adjacent to a Use Easement, then the Owner of the Benefited Lot with the right to use such Use Easement shall water such shrubbery by "controlled hand-watering" only, and should avoid excessive watering.

(d) Right of Entry. The Owner of each Burdened Lot shall have the right, at all reasonable times, to enter upon the Use Easement located on such Burdened Lot, for the purpose of performing work related to maintenance of the Residence located on such Burdened Lot.

(e) Right of Drainage. Each Burdened Lot shall have the right of drainage over, across and upon the Use Easement that is located on such Burdened Lot, for normal precipitation upon and irrigation of such Burdened Lot, as long as such is done in accordance with the approved drainage plan for the Subdivision. The Owner of the Benefited Lot that is adjacent to such Use Easement shall not do or permit to be done any act which interferes with such drainage.

(f) Right of Support. Each Burdened Lot shall have the right of lateral and subjacent support for the Residence and all improvements now or hereafter constructed upon such Burdened Lot, and no use of the Use Easement located thereon shall adversely affect such right of support.

(g) Indemnity of Owner of Benefited Lot. The Owner of the Burdened Lot that contains a Use Easement, shall indemnify and hold harmless, the Owner of the Benefited Lot that is adjacent to such Use Easement, from damage to any improvements, shrubs, plants, flowers, vegetables, trees and other landscaping installed by the Owner of the Benefited Lot within the Use Easement premises, to the extent the damages result from the right of access reserved to the Owner of such Burdened Lot.

(h) Indemnity of Owner of Burdened Lot. The Owner of the Benefited Lot that is adjacent to a Use Easement, shall indemnify and hold harmless, the Owner of the Burdened Lot

on which such Use Easement is located, from damage to any improvements now or hereafter constructed, located or erected by the Owner of the Burdened Lot on such Use Easement, and from any personal injury (including death), to the extent that any such damage or injury is caused by use of the Use Easement by the Owner of such Benefited Lot, or by such Owner's family members, tenants, guests and invitees, The Owner of such Benefited Lot shall acquire and keep in force adequate hazard and liability insurance covering such Use Easement.

(i) Maintenance of Use Easement. The Owner of the Benefited Lot which has the right to use a Use Easement, shall, to the extent it is not the responsibility of the Association, be responsible for maintenance, repair and replacement of such Use Easement (regardless of whether or not there are any improvements on such Use Easement), and of all improvements that are located thereon by or for the benefit of such Benefited Lot, to the same extent as if such Use Easement was located on such Benefited Lot and owned by the Owner of such Benefited Lot. The foregoing obligation, to the extent applicable, shall include, but not be limited to, weed control, watering of landscaping on the Use Easement and maintenance, repair and replacement of any improvements located on such Use Easement.

(j) Burdened Lot Owner's Right to Maintain Use Easement Premises. If any Owner of a Benefited Lot that has the right to use a Use Easement, shall fail to perform his or her maintenance, repair and/or replacement obligations in a manner reasonably satisfactory to the Association or any Owner of the Burdened Lot on which such Use Easement is located, any Owner of such Burdened Lot may, if said failure continues for a twenty (20) day period after written notice by the Association or the Owner of such Burdened Lot to the Owner of such Benefited Lot, enter upon said Use Easement subsequent to the expiration of said twenty (20) day period to perform any or all of such maintenance, repair or replacement. Notwithstanding anything to the contrary in the foregoing, no notice shall be required in emergency situations. The cost of such maintenance, repair or replacement shall be the personal obligation of the Owner of the Benefited Lot that has the right to use such Use Easement, and is transferable to the Association so that such amount(s) shall be subject to all of the terms and provisions applicable to "Assessments" as provided in Article 7 of the Master Declaration including interest, late charges and lien rights.

2.04 No Owner shall do or permit to be done any action or activity which would result in (a) the pollution or contamination of any retained water, (b) the diversion of water, (c) a change in the elevation of the water level, (d) silting or (e) an adverse effect on water quality, drainage or proper water management, or which would otherwise impair or interfere with the use of easement areas for drainage and related purposes for the benefit of all Owners.

2.05 No boating, fishing, swimming, ice skating or other recreational activity shall be conducted in, on or above any easement areas.

2.06 The Association shall have the right to establish from time to time written rules regarding the use of any easement areas, provided such rules are (a) not in conflict with any other provision contained herein; (b) are reasonably established to protect the safety and welfare of Developer, the Owners and their guests and the general public, or (c) are established to ensure the continued service of the areas for the purposes for which they were designed.

### **Article 3.     Association**

**3.01 Formation.** Within sixty (60) days after the recording of this Declaration, Developer shall form and incorporate Gramercy West, Inc., an Indiana nonprofit corporation (hereinafter referred to as the “**Association**”) to promote the common interest of Developer and all Owners, to handle maintenance of certain areas within the Subdivision as set forth in this Declaration and to promote compliance with the development standards, restrictions, covenants, conditions and assessments set forth in this Declaration and the PUD. The Association shall be comprised of Developer and all Owners in the Subdivision, as provided for herein. Every Owner shall be a member of the Association pursuant to the provisions of this Declaration.

**3.02 Owner Votes and Records.** Each Owner shall be entitled to one (1) vote for each Lot owned after expiration or sooner termination of the Development Period. When more than one person holds an interest in any Lot, all such persons shall be members; provided, however, in no event shall more than one (1) vote be cast with respect to any Lot. The membership rights of a Lot owned by a corporation, partnership or limited liability company shall be exercised by the individual designated from time to time by Developer or the Owner in a written instrument provided to the Association as more fully set forth in the Articles of Incorporation and By Laws for the Association. Such membership shall be appurtenant to and shall not be separated from ownership of the Lot and such membership shall terminate upon the sale or other disposition by such member of such Lot ownership. The Association shall maintain a current roster of each Owner within the Subdivision and the mailing address of each Owner and legal description for each Lot within the Subdivision. To the extent provided to the Association by an Owner, the Association shall also maintain an electronic mail address or facsimile number for those Owners who have consented to receive notice from the Association by electronic mail or facsimile. Electronic mail addresses and facsimile numbers provided by an Owner to receive notice by electronic mail or facsimile shall be removed from the Association’s records when the Owner revokes consent to receive notice by electronic mail or facsimile; provided, however, the Association shall not be liable for an erroneous disclosure of an electronic mail address or a facsimile number for receiving notices. The mailing addresses and legal descriptions maintained by the Association shall be available to Developer and an Owner upon request, may be used by Developer or an Owner only for purposes related to the operation of the Association and may not be used by Developer or an Owner for any other reasons.

**3.03 (a)     “Common Areas”** means (i) all portions of the Subdivision (including improvements thereto) so designated on the Plat which are not located on a Lot and which are not dedicated to the public, including areas designated as “C.A.” and private streets, (ii) all facilities, structures, buildings, improvements and personal property owned or leased by the Association from time to time and (iii) all private streets and alleys shown on the Plat. Common Areas may be located within a public right-of-way or in an easement area as shown on the Plat.

**(b)     “Common Expenses”** means (i) the costs and expenses incurred in connection with the maintenance, operation, repair or replacement of the Common Areas and related improvements thereon and the costs and expenses related to the performance of the responsibilities and duties of the Association, including, without limitation, costs and expenses for the improvement, operation, maintenance, replacement or repair of the improvements, foliage

and landscaping not located on a Lot, including adequate reserves for replacement of buildings, improvements, furniture, fixtures or equipment, except for lawn maintenance as described herein (unless located on an easement located on a Lot to the extent the Association deems, in its sole and absolute discretion, it necessary to maintain such easement), (ii) costs and expenses incurred in connection with the maintenance, repair or continuation of the drainage facilities located within and upon the easements, (iii) all judgments, liens and valid claims against the Association, (iv) all expenses incurred in the administration of the Association and (v) if applicable, costs and expenses associated with trash pick-up within the Subdivision.

**3.04 Association Insurance.** The Association shall purchase the following coverage:

(a) **Liability Insurance.** The Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as public liability and/or owners policies insuring the Association against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the fulfillment by the Association of its obligations specified in this Declaration, or for any other risk insured against by such policies which the Association, in its sole and absolute discretion, determines to insure against, including, without limitation, claims arising out of the Common Areas. All such policies will name the Association as the insured under such policy or policies. The insurance purchased shall contain a "severability of interest endorsement", or equivalent coverage, which would preclude the insurer from (i) denying the claims of an Owner because of the negligent acts of either the Association, Developer or any other Owners or (ii) denying the claims of either Developer or the Association because of the negligent acts of an Owner.

(b) **Casualty Insurance.** The Association may purchase and pay the costs of a policy or policies of insurance to allow the Association to insure for the fulfillment by the Association of its obligations specified in this Declaration. Such casualty insurance may insure, without limitation, any improvements located within the Common Areas.

(c) **Errors and Omissions Coverage.** The Association may purchase adequate errors and omissions insurance in an amount reasonably determined by the Board (as hereinafter defined) to protect and insure the Association and its officers and directors against liability for negligence in the fulfillment of their obligations and duties.

**3.05 Board of Directors.** The management and control of the affairs of the Association shall be vested in its Board of Directors (the "Board"). The Board of Directors shall be composed of between three (3) and nine (9) members. The initial members of the Board of Directors shall be selected by Developer until the end of the Development Period. The three (3) initial members of the Board of Directors shall serve until the expiration or sooner termination of the Development Period. Upon the incapacity, resignation or death of any initial director, a successor, who shall serve the remaining term of the departed director, shall be appointed by the remaining members of the Board of Directors within three (3) months after the incapacity, resignation or death of the departed director. Upon expiration or sooner termination of the Development Period, the Board of Directors shall be elected by a majority vote of the Owners as more fully set forth in the Articles of Incorporation and By Laws for the Association.

**3.06 Special Meetings.** In addition to any other meetings held by the Board of Directors as permitted or required in the Articles of Incorporation or By Laws for the Association, the Board of Directors shall hold a special meeting of the Owners and, if applicable, Developer, if Developer submits a written demand to the Board of Directors, or the Owners submit to the Board of Directors a written demand signed by at least ten percent (10%) of the Owners, for a special meeting that describes the purpose for which the meeting is to be held. If the Board of Directors does not send out a notice of the date, time and place for a special meeting as required in the Articles of Incorporation and By Laws for the Association within thirty (30) days after the date the Board of Directors receives such valid written demand therefore, Developer, if Developer submitted the written demand, or an Owner who signed the written demand, may set the date, time and place for the special meeting and send out the notice for the special meeting to the Owners and Developer, as applicable.

**3.07 Other Matters Concerning the Association.** The Articles of Incorporation of the Association as filed with the Indiana Secretary of State and the By Laws of the Association, both as may be amended from time to time, are incorporated herein by reference.

**3.08 Association Common Area Rights.** The Association, or its agents, assigns or third party contractors, shall have the right to enter onto the Common Areas, open space, public right of way or landscape easement areas as shown on the Plat, if any, or other easement area as it from time to time deems necessary for the purpose of maintaining the same. Such maintenance may include, but shall not be limited to:

- (a) regular mowing, trimming and fertilizing of grassy areas;
- (b) periodic mulching of flower beds and landscaped areas within the Subdivision;
- (c) regular weeding of flower beds and landscaped areas;
- (d) flower planting and landscaping installation within the Subdivision;
- (e) maintenance of street lighting, if any, and associated electric service billings;
- (f) repair, maintenance and replacement of any permanent signs;
- (g) repair, maintenance and replacement of any Common Area wall, monument or fencing;
- (h) operation, maintenance, repair and replacement of any community pools, buildings, playgrounds, pathways or other Common Area amenities;
- (i) plowing and/or removal of snow from private streets and alleys located within Common Areas and community walkways located within Common Areas;
- (j) treatment of water in any detention or retention areas to limit algae and grassy growth;

(k) maintaining, trimming, pruning, irrigating, fertilizing, removing and replacing flowers, plants, trees and bushes within Common Areas as necessary; and

(l) such other activities as the Association shall reasonably determine from time to time.

**3.09 Association Annual Budget.** Without any approval or vote by the Owners, but subject to the approval of the Developer during the Development Period, the Board of Directors shall prepare annually, or cause to be prepared annually, a proposed budget (herein after referred to as the "Proposed Budget") for the subsequent calendar year which shall be the basis for any amounts collected from the Owners in the Subdivision, estimates of Common Expenses and other costs and expenses to be incurred by the Association in the subsequent calendar year and shall provide for the allocation of expenses in such a manner that the obligations imposed by this Declaration and the Master Declaration can effectively be met. The Proposed Budget shall provide the Board of Directors' estimate of revenues and expenses for the subsequent budget calendar year and the estimated surplus or deficit as of the end of the then current budget calendar year. The Association shall provide Developer and each Owner with (1) a copy of the Proposed Budget or written notice that the Proposed Budget is available upon request at no charge to the Developer or Owner and (2) a written notice of any increase or decrease in annual assessments paid by the Owners if the Proposed Budget is approved. The Board of Directors during any calendar year prior to the effective date of the Proposed Budget shall be entitled to increase any assessments for the year in which the Proposed Budget is to be in effect if the Board of Directors should determine that the estimate or current assessment is insufficient for that year, provided that the Board of Directors shall give at least thirty (30) days' advance notice thereof to Developer and the Owners. After all of the foregoing take place, the Association shall hold a meeting pursuant to the following Section 3.10.

**3.10 Association Meeting to Approve the Budget.** The initial Proposed Budget shall be determined solely by the Developer. The initial Proposed Budget is estimated at \$180 per quarter per Owner of a single family home and \$550 per quarter per Owner of a Townhome, which, in each instance does not include the sums due the Master Association. The Proposed Budget, subsequent to the initial Proposed Budget year, shall be determined by the Board of Directors. Further, the Proposed Budget must be approved by the Developer during the Development Period and, subject to Section 3.11 hereof, by a majority of Owners in attendance at a meeting called and conducted in accordance with the requirements of this Declaration, the Articles of Incorporation and the By-Laws (the "Approved Budget"). For purposes of this meeting, Developer or an Owner is considered to be in attendance at the meeting if the Developer or Owner attends: (1) in person; (2) by proxy; or (3) by any other means allowed under Indiana law or under this Declaration, the Articles of Incorporation or the By-Laws. During the Development Period there shall be no quorum requirement for the Owners.

**3.11 Power of the Board of Directors to Adopt a Proposed Budget in the Absence of a Quorum.** If the number of votes possessed by Developer and the Owners, if applicable, in attendance at the meeting held under Section 3.10 above does not constitute a quorum, if applicable, as defined in the By-Laws of the Association, the Board of Directors may adopt an annual budget for the Association for the ensuing year in an amount that does not exceed one

hundred ten percent (110%) of the amount of the previous year's annual budget, and such annual budget adopted by the Board of Directors shall be deemed to be the Approved Budget for the ensuing year.

**3.12 Amounts.** Each Owner of any Lot, except as otherwise provided for herein, by acceptance of a deed therefore, whether or not it shall be solely expressed in such deed, is deemed to covenant and agree to pay to the Association assessments as provided for herein for the purpose of providing funds to carry out the responsibilities of the Association hereunder as well as assessments under the Master Declaration. Each Owner shall pay the Assessments under the Master Declaration to the Association in which case, the Association shall timely pay such Assessments under the Master Declaration to the Master Association. The assessments shall commence for each Lot on the date of closing of the sale of a Lot to an Owner based on the Approved Budget for the applicable calendar year. The obligation to pay the assessments provided for herein shall commence for each Lot on the date it is conveyed to an Owner. The assessments shall be pro-rated to the applicable interval of payment. The Board of Directors shall fix any increase in the amounts assessed hereunder at least thirty (30) days in advance of the effective date of such increase. The Board of Directors may provide for reasonable interest and late charges on past due installments of assessments.

**3.13 Notice and Due Date.** Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be delivered to every Owner subject thereto. The due dates for special assessments shall be established by the Board of Directors.

**3.14 Assessments.** Assessments shall be paid monthly by Owners, unless otherwise determined by the Board of Directors. The monthly assessments levied by the Association shall be used in the reasonable discretion of the Board of Directors in accordance with the Approved Budget to fulfill the duties and obligations of the Association specified in or reasonably inferred by this Declaration, including, without limitation, the Common Expenses, as well as the costs and expenses of insurance, refuse collection and professional property management, if applicable (the "Monthly Assessment").

**3.15 Initial Operating/Reserve Fund Assessment.** In addition to the Monthly Assessment set forth above, upon the closing of the initial conveyance of each Lot to the first Owner of the respective Lot, the Owner shall pay to the Association, in addition to any other amount then owed or due to the Association, as a contribution to the working capital of the Association and its start-up fund, an amount equal to the then-current Monthly Assessment (the "Initial Operating/Reserve Fund Assessment"), which payment shall be non-refundable and shall not be considered as an advance payment of any other assessments or other charges owed to the Association with respect to such Lot. The working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to, Developer for advances made to pay expenses of the Association for its early period of operation to enable the Association to have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary by the Board of Directors.

**3.16 Special Assessments.** In addition to Monthly Assessment and the Initial Operating/Reserve Fund Assessment set forth above, the Board of Directors of the Association

may make special assessments against each Lot (a "Special Assessment") for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing or replacing any capital improvement which the Association is required to maintain or the cost of special maintenance and repairs or to recover any deficits (whether from operations or any other loss) which the Association may from time to time incur, but any such Special Assessment in excess of three (3) times the then-applicable Monthly Assessment per year per Owner shall require the assent of two-thirds (2/3) of the Developer or members of the Owners who cast votes in person or by proxy at a duly constituted meeting of the members of the Association called for such purpose.

3.17 Exemption. In no event shall Developer, or any related entity expressly exempted by Developer, be assessed or levied any portion of a Monthly Assessment, an Initial Operating/Reserve Fund Assessment or a Special Assessment during the Development Period of the Subdivision or any time thereafter. During the period commencing upon the closing of the conveyance of a Lot from Developer to a Builder (each, a "Builder Closing"), and ending on the earlier of (a) Builder's sale of that Lot to a third-party Owner, (b) twelve (12) months after the Builder Closing, or (c) completion of the Residence upon the Lot, Builder shall be exempted from being assessed or levied any portion of a Monthly Assessment or a Special Assessment for that Lot. During the period commencing on the Builder Closing and ending on the date of Builder's sale of that Lot to a third party Owner, Builder shall be exempted from being assessed or levied any portion of an Initial Operating/Reserve Fund Assessment. For avoidance of doubt, Builder shall not be responsible for an Initial Operating/Reserve Fund Assessment, until such Lot is sold to a third-party Owner, including any model home or show home. Upon Builder's sale of a Lot to a third-party Owner, each third-party Owner shall be responsible for the Initial Operating/Reserve Fund Assessment commencing upon the closing of the conveyance of the Lot from Builder to each such third-party Owner, and Builder shall be responsible for collecting and having such sum paid to the Association.

3.18 Unpaid Assessments. Any amount assessed or levied hereunder by the Association against an Owner shall become a lien on each Lot until paid. Any assessments which are not paid within thirty (30) days of the due date shall be delinquent. As long as an assessment remains delinquent, a late fee of Fifty Dollars and 00/100 Cents (\$50.00) will be charged per month until the assessment is paid in full. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Association or its property manager may file with the Hamilton County Recorder a Notice of Lien. The Notice of Lien shall contain a description of the Lot against which the lien exists, the name or names of the Owner or Owners thereof, and the amount of the unpaid portion of the assessment or assessments. The lien provided for herein shall remain valid for a period of five (5) years from the date a Notice of Lien is duly filed, unless sooner released or satisfied in the same manner provided for by Indiana law for the release and satisfaction of mortgages on real property or until discharged by the final judgment or order of the Court in an action brought to discharge the lien. The lien shall secure not only the amount of the unpaid assessments and late fees, but also the costs incurred in collection of any amount assessed or levied hereunder, including, but not limited to interest at one and a half percent (1.5%) per month, attorney's fees and court costs. Common Expenses for utilities serving the Common Areas in the Subdivision as provided for in Section 3.24 hereof shall be a continuing lien and may be enforced and collected by the utility providing such services. The lien of the assessment provided for herein

shall be subject and subordinate to the lien of any duly executed mortgage on any Lot recorded prior to the recording of the Notice of Lien. The holder of any such mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure shall take the property free of claims for unpaid installments of assessments or charges against the Lot which become due and payable prior to the time such holder or purchaser takes title to the Lot. In the event an Owner does not pay any assessment within six (6) months of the due date, the Association shall have the right to suspend that Owner's voting rights pursuant to this Declaration, the Articles of Incorporation and the By Laws until any assessments and past due amounts are paid in full.

**3.19 Director Liability.** No member of the Board of Directors shall be liable to Developer, the Owner(s) or any other person for any error or mistake of judgment exercised in carrying out his or her duties and responsibilities as a director, except in the case of willful misconduct or gross negligence. Further the Association shall indemnify and hold harmless and defend each of the directors against any and all liability to any person, firm or corporation arising out of any contract made by the Board of Directors on behalf of the Association, unless any such contract shall have been made fraudulently. It is intended that no director shall have personal liability with respect to any contract made by any board member on behalf of the Association.

**3.20 Indemnification.** The Association shall indemnify, hold harmless and defend the Developer, its officers, employees and owners and any person, his or her heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he or she is or was a director of the Association, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him or her in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such director is liable for gross negligence or willful misconduct in the performance of his or her duties. The Association shall also reimburse to any such director the reasonable costs of settlement of, or judgment rendered in, any action, suit or proceeding, if it shall be found by a majority vote of Developer and the Owners that such director was not guilty of gross negligence or willful misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a director, no director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his or her duties where, acting in good faith, such director relied on the books and records of the Association or statements or advice made by or prepared by the managing agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service, unless such director had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of, or liable for, negligence or misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of Directors.

**3.21 Developer Rights.** Any and all of the rights, powers, duties and obligations assumed by, reserved to, created in or given to the Association may be exercised by Developer until such time as the Association is formed and control thereof transferred to the Owners following the end of the Development Period. At such time as control of the Association is transferred to the Owners, Developer may reserve the exclusive right to approve the plot plan,

construction plans, color scheme and landscape plan associated with any structure on any Lot on which a Residence has not yet been completed and occupied, so long as Developer clearly identifies the Lots for which it is retaining such right at the time of the turnover. Developer shall maintain said right of approval for each Lot until such time as a Residence has been completed on that Lot and occupied by the homebuyer.

**3.22 Rubbish Disposal.** At the option of the Association, trash and refuse disposal for each Lot will be provided by the Association on a weekly basis. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and Residence construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.

**3.23 Intentionally omitted.**

**3.24 Utilities as Common Expenses.** All Residences located on the Real Estate shall pay for utilities as follows: Each Owner shall pay for the Owner's own utilities which are separately metered. The Association shall be reimbursed by Owner for any charge related to an Owner's construction activities, including any staking and utility location services, or damage to a utility which shall constitute a Special Assessment against the Owner (which shall include any Builder owning a Lot) and its Lot, and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

**3.25 Master Declaration Provisions.** All capitalized terms used in this Section 3.25 and not otherwise defined herein shall have the meanings ascribed to them in the Master Declaration. The Subdivision shall be a Residential Area and shall constitute a Voting Cluster, and each Lot shall be a Residential Parcel.

#### **Article 4. Other Conditions**

**4.01** All transfers and conveyances of each and every Lot in the Subdivision shall be made subject to these covenants and restrictions.

**4.02** Any failure to enforce these restrictions shall not be deemed a waiver thereof or an acquiescence in, or consent to, any continuing, further or succeeding violation hereof.

**4.03** If any covenant, condition or restriction hereinabove contained, or any portion thereof, is invalid, such invalidity shall in no way affect any other covenant, condition or restriction.

**4.04** All out of pocket costs of litigation and reasonable attorney's fees resulting from a violation of this Declaration shall be the financial responsibility of the Owner or Owners found to be in violation.

4.05 Developer reserves the right to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any federal agencies, local governing authorities, governmental agency, public authority or financial institution (including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar entity) as a condition of the approval of this Declaration, by the execution and recordation of such amendment following notice to all Owners.

4.06 It shall be lawful for Developer, the Association or any Owner within the Subdivision to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate any covenant or restriction contained herein. The proceeding may seek to prevent such person or persons from violating or continuing to violate the restrictions or to recover damages for such violation, seek restraining orders or other mandatory relief for the correction of any interference with or damage to the drainage and detention or retention system within the Subdivision, together with the costs incurred in enforcement of the restrictions.

4.07 Notwithstanding anything herein to the contrary, so long as Developer maintains control of the Association during the Development Period as set forth in Article 3 hereof, Developer hereby reserves the right unilaterally to amend, revise or clarify the standards, covenants and restrictions contained in this Declaration for any reason. No such amendment, however, shall restrict or diminish materially the rights or increase or expand materially the obligations of Owners with respect to Lots conveyed to such Owners prior to the amendment or adversely affect the rights and interests of mortgagees holding first mortgages on Lots at the time of such amendment. Developer shall give notice in writing to such Owners and mortgagees who have registered with the Association of any amendments. Developer shall not have the right at any time by amendment of this Declaration to grant or establish any easement through, across or over any Lot which Developer has previously conveyed without the consent of the Owner of such Lot. All amendments to this Declaration shall be in writing and recorded among the appropriate land records.

4.08 This Declaration may be amended by a majority vote of Owners in the Subdivision at a meeting duly called for the purpose of considering the amendment so long as such amendment does not materially increase the obligation(s) of Developer or any Owner under any covenant, condition, term or provision without Developer's or such Owner's consent; provided, however, that Developer shall have the right to consent to the amendment if (i) not more than seven (7) years have passed since the date of recording this Declaration, and (ii) Developer owns at least one (1) Lot within the Subdivision.

4.09 Only the Lots contained in the Subdivision shall be subject to and bound by the restrictions, covenants and conditions set out in this Declaration and, subject to Section 4.11 hereof, none of said provisions shall in any manner affect or be operative in respect to any other land of Developer or its successors or assigns.

4.10 Developer may, from time to time, designate a builder that has entered into an agreement or contract to buy all or substantially all undeveloped Lots in the Subdivision as "Builder" by filing a written supplement to this Declaration signed by Developer and duly

recorded with the Recorder of Hamilton County, Indiana. Developer may also, from time to time, amend such supplement if the identity of Builder changes, to terminate the designation of any Builder or when a Builder no longer exists by filing a written instrument signed by Developer and duly recorded with the Recorder of Hamilton County, Indiana. Upon the recording of a supplement pursuant to this Section 4.10, the identified Builder shall enjoy all the rights and privileges of Builder hereunder. Developer hereby designates Weekley Homes, LLC, an Indiana limited liability company (“Weekley”), as a Builder.

4.11 Developer shall have the right, and hereby reserves unto itself the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Real Estate and subject to this Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Real Estate (and therefore and thereby becomes a part of the Real Estate and subject in all respects to this Declaration and all rights, obligations, and privileges herein) when Declarant places of record in Hamilton County, Indiana an instrument so declaring the same to be part of the Real Estate, which supplementary Declaration (hereafter “**Supplementary Declaration**”) may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an amendment or supplement to this Declaration. Any such plat shall be included within the definition of “**Plat**” hereunder and any Intended Lots shown on such plat shall be included within the definition of “**Lot**” and “**Lots**” hereunder. Such Supplementary Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate or improvements to be located thereon. Upon recording of any such instrument on or before the expiration of the Development Period, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Real Estate and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Real Estate. No single exercise of Developer’s right and option to add and expand the Real Estate as to any part or parts of the Additional Real Estate, shall preclude Developer from thereafter from time to time further expanding and adding to the Real Estate to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Developer from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Development Period. Such expansion of the Real Estate is entirely at the sole discretion of the Declarant and nothing contained in this Declaration or otherwise shall require Developer to expand the Subdivision beyond the Real Estate (as such term is defined on the Effective Date), or to any portions of the Additional Real Estate which Developer may voluntarily and in its sole discretion from time to time subject to this Declaration.

## **Article 5.     Property Rights**

5.01 Owners’ Easement of Enjoyment of Common Areas. Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner and Developer for the use and enjoyment of the Common Areas. Such easements shall run with and be appurtenant to each Owner’s and Developer’s Lots, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of the recreational facilities, if any, situated upon the Common Areas;

(ii) the right of the Association to fine any Owner or make a special assessment against any Lot in the event a person permitted to use the Common Areas by the Owner violates any rules or regulations of the Association as long as such rules and regulations are applied on a reasonable and nondiscriminatory basis;

(iii) the right of the Association to make reasonable regular assessments for use and maintenance of the Common Areas and any services provided by the Association such as trash collection (at the Association's option), snow removal, grass mowing or like service;

(iv) the right of the Association to dedicate or transfer all or any part of the Common Areas or to grant easements to any public agency, authority or utility for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer;

(v) the right of the Association to enforce collection of any fines or regular or special assessments through the imposition of a lien;

(vi) the rights of Developer as provided in this Declaration and in the Plat;

(vii) the terms and provisions of this Declaration;

(viii) the easements reserved elsewhere in this Declaration and in the Plat; and

(ix) the right of the Association to limit the use of Common Areas in a reasonable nondiscriminatory manner for the common good.

**5.02 Permissive Use.** Any Owner and Developer may permit his or her family members, guests, tenants or contract purchasers who reside in the Lot to use his or her right of enjoyment of the Common Areas. Such permissive use shall be subject to the By-Laws of the Association and any reasonable nondiscriminatory rules and regulations promulgated by the Association from time to time.

**5.03 Conveyance of the Common Areas.** At the expiration of the Development Period, Developer shall convey all of its right, title, interest in and to the Common Areas to the Association by quitclaim deed, and such Common Areas so conveyed shall then be the property of the Association. Such conveyance shall be deemed to have been accepted by the Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying such Common Areas to the Association.

## **Article 6. Maintenance; Owner Responsibilities Upon Casualty Loss**

**6.01 Maintenance of Lots and Improvements.** Except to the extent maintenance of a Lot shall be the responsibility of the Association under any of the foregoing provisions of this Declaration, it shall be the duty of each Owner, including any Builder, to at all times maintain

each Owner's respective Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly as reasonably determined by the Association's Board of Directors; and, specifically, such Owner shall:

(i) Keep the Lot, including any drainage utility and sewer easements located on the Lot, free of weeds, trash or construction debris and otherwise neat and attractive in appearance, including, without limitation, the property maintenance of the exterior of any structures on such Lot.

(ii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Subdivision.

(iii) Cut down and remove dead trees.

(iv) Keep the exterior of all improvements in such a state of repair or maintenance to avoid becoming unsightly.

(v) Ensure that the Lot is maintained so as to comply with applicable state and local law.

In the event that the Owner of any Lot in the Subdivision shall fail to maintain such Lot and any improvements thereon in accordance with the provisions set forth herein, the Association, after approval by a majority vote of the Board of Directors, shall have the right (but not the obligation), by and through its agents, employees and contractors, to enter upon said Lot and clean, repair, mow, maintain or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of this Declaration. The cost of any such work shall be and constitute a Special Assessment against such Lot and the Owner thereof, whether or not a builder, and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

**6.02 Damage to Common Areas.** In the event of damage to or destruction of any part of the Common Areas or any improvements which the Association is required to maintain hereunder, the Association shall repair or replace the same to the extent of the availability of insurance proceeds. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds or against such Owners who benefit by affected Common Areas if less than all benefit. Notwithstanding any obligation or duty of the Association hereunder to repair or maintain the Common Areas, if, due to the willful, intentional or negligent acts or omissions of any Owner (including any Builder) or of a member of the Owner's family or of a guest, tenant, invitee or other occupant of visitor of such Owner, damage shall be caused to the Common Areas, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then the Association shall cause such repairs to be made and such Owner shall pay for such damage and such maintenance, repairs and replacements, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the

Association, the cost of repairing such damage shall be added to and constitute a Special Assessment against such Owner, whether or not a Builder, and its Lot, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

#### **Article 7. Mortgages**

**7.01 Notice to Association.** Any holder of a recorded first mortgage lien on any Lot (hereinafter referred to as a "Mortgagee") may notify the secretary of the Association of the existence of such mortgage and provide the name and address of such Mortgagee. A record of such mortgage and name and address shall be maintained by the secretary of the Association and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or Articles of Incorporation of the Association or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the secretary, as herein provided, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or Articles of Incorporation of the Association or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws or the Articles of Incorporation of the Association, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

**7.02 Notice to Mortgagees.** The Association, upon request, shall provide to any Mortgagee a written certificate or notice specifying unpaid assessments and defaults of the Owner of such Lot, if any, in the performance of such Owner's obligation under this Declaration or any other applicable documents, which defaults have not been cured within sixty (60) days.

#### **Article 8. Remedies**

**8.01 Enforcement.** Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant hereto as the same may be lawfully amended from time to time and with decisions adopted pursuant hereto, and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner.

**8.02 Grievance Procedures.** Except with respect to default in payment of assessments and resulting remedies under Article 3 of this Declaration, or any other "Exempt Claim" as defined in Indiana Code Section 32-25.5-5-4, prior to any enforcement hereunder the claimant and all other necessary parties must comply with the claim and grievance procedure set forth in Chapter 5 of Article 25.5, Title 32 of the Indiana Code, to the extent applicable, and such requirements shall equally apply to all Owners, the Association and the Board of Directors.

#### **Article 9. Architectural Control Committee**

**9.01 Approvals.** Approvals, determinations, permissions, or consents required herein shall be deemed given only if they are given in writing and signed, with respect to the Developer

or the Association, by an officer thereof; and with respect to the Committee (as hereinafter defined), by one (1) member thereof as included in the meeting minutes of such Committee and submitted to the Board of Directors as needed for approval.

9.02 Architectural Control Committee. An Architectural Control Committee (the "Committee"), composed of at least three (3) members, shall exist. During the Development Period, all such members shall be appointed by Developer and shall be subject to removal by the Developer at any time, with or without cause, and any vacancies from time to time shall be filled by appointment of the Developer. Following the Development Period, the Declarant (as such term is defined in the Master Declaration) under the Master Declaration shall have the right to appoint one (1) of the three (3) members at all times.

9.03 Continuation of Committee. Following the Development Period the Committee shall be a standing committee of the Association with like powers, consisting of a minimum of three (3) persons, two (2) of which shall be appointed by a majority vote of the Board of Directors and one (1) of which shall be appointed by the Declarant in accordance with Section 9.02 hereof. The persons appointed by the Board to the Committee shall consist of Owners of Lots and may be, but need not be, members of the Board of Directors. The exception to this is that the chair of the Committee must be a Board member. The Board may at any time remove any member of the Committee appointed by the Board upon a majority vote by the members of the Board of Directors.

9.04 Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to and actually received by it. The Committee for its permanent files shall retain one copy of submitted material. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason(s) for disapproval and the requesting applicant may re-apply with changes. If, however, approval has not been received by applicant in writing within thirty (30) days, then said request shall be considered DENIED.

9.05 Exercise of Discretion. Developer intends that the members of the Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

9.06 Inspection. An Owner, by submission for the approval of any alteration or addition, approves the Committee, Board of Directors or their appointed management agent to inspect the construction and or completed project and grants them access to the Lot to do so.

9.07 Liability. Neither the Committee nor any agent thereof, nor the Developer, nor the Association shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Committee, Association or Developer be responsible in any way for any defects in any plans,

specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Committee, Association and/or Developer make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, and required municipal permits and inspections on each Lot prior to proposing construction.

Furthermore, the Committee shall review the elevations ONLY of any proposed Residence or other improvements such that the Committee shall not be liable for any alleged deficiencies concerning the height or placement of any improvements. Thus, neither the Developer nor the Committee shall be responsible for anything related to height, setbacks, grade, finished floor or other elevations, drainage, or home position upon a Lot. The City of Carmel and applicable building ordinances shall control such matters.

**9.08 Lot Improvements.** Subject to the provisions of Section 9.14, no dwelling, building structure, fence, deck, driveway, swimming pool, or improvement of any type or kind (including significant landscaping or stacking of wood) shall be constructed or placed on any Lot, nor shall any of the same be modified or altered, without the prior approval of the Committee. Any change in the appearance or the color of any part of the exterior of a Residence or the Lot shall be deemed a change thereto and shall also require the prior approval of the Committee. Such approval shall be obtained only after the Owner of the Lot requesting authorization from the Committee has made written application to the Committee at least thirty (30) days prior to the proposed construction, alteration or modification. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing (i) the location of the improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated and (ii) all easements, setbacks, and rights-of-way and (iii) any landscape plans required by the Committee. Such plans and specifications shall further set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other materials, photographs, or information, which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of  $\frac{1}{4}'' = 1'$  and all plot plans shall be drawn by a professional to a scale of  $1'' = 30'$ , or to such other scale as the Committee shall deem appropriate. It is also recommended that a certified survey be prepared to insure that a resident is not encroaching on an adjacent Lot or in Common Areas. If Owner has encroached on an adjacent Owner's property or in Common Areas, the encroaching Owner will, at his or her own expense, move any fence or other improvement(s) so as to eliminate the encroachment. Notwithstanding anything to the contrary in the foregoing, upon receipt of any written application which is in form and content acceptable to the Committee in the Committee's sole and absolute discretion, the Committee may pre-approve a Builder's plans and specifications for the original construction of a Residence and, in the event of such pre-approval, the Builder shall then be authorized to construct the pre-approved Residence on different Lots without further approvals from the Committee.

No fence or screen of any kind will be permitted if its installation will obstruct necessary site lines for vehicular traffic. Undue obstruction of view of other amenities from adjoining properties shall be considered by the Committee when reviewing applications for approval.

**9.09 Power of Disapproval.** The Committee may refuse to grant permission to construct, place or make the requested improvement with or without cause. Common grounds for denial include, but are not limited to, a lack or absence of the following:

- (A) The plans, specifications, drawings or other material submitted must themselves be adequate and complete, show the proposed improvement, and not be in violation of this Declaration, any Design Guidelines (as hereinafter defined), the Plat, or the rules and regulations adopted by the Board of Directors;
- (B) The design or color scheme of a proposed improvement must be in harmony with the general surroundings of the Lot or with adjacent buildings or structures; and
- (C) The proposal should preserve or enhance the value and desirability of the Property and be consistent with the interests, welfare or rights of the Developer, the Association and any other Owner.

**9.10 Power to Grant Variances.** The Committee may allow reasonable variances or adjustments of this Declaration where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of this Declaration or to comply with written request of municipality in charge of applicable permits. No variance or adjustment shall be granted which is knowingly materially detrimental or injurious to other Lots in the Subdivision, and any such variance granted shall not be considered as precedent setting.

**9.11 Statement of Purposes and Powers.** Subject to this Declaration and the restrictions contained herein, the Committee shall regulate the external design, appearance, use, location and maintenance of lands and improvements thereon in such a manner as to preserve and enhance values and maintain a harmonious relationship among structures and the natural vegetation and topography, and in keeping with the intent of the Developer.

**9.12 Design Guidelines.** The Developer and, after the expiration of the Development Period, the Committee, may adopt documents establishing minimum standards of design, construction and maintenance, which are consistent with the level of quality and character desired for the Subdivision and the provisions in this Declaration and to assist Builders and Owners in the planning, design, maintenance, and construction of residences and all site improvements (collectively, "Design Guidelines"). The Developer and the Committee reserve the right to make any amendments, repeals, or modifications to the Design Guidelines that they deem necessary or appropriate at any time and without advance notice. The Design Guidelines are incorporated into this Declaration by reference.

**9.13 Non-Applicability to Developer.** Developer and its designees shall have no obligation to submit plans to, or receive approval from, the Committee. Developer shall have exclusive control of new construction within the Subdivision. No provision of this Declaration, as the same relates to new construction, may be modified without Developer's consent.

**9.14 Non-Applicability to Residences to be Newly Constructed.** The Developer shall always have the sole authority to approve the original Residence and landscaping on any Lot

within the Subdivision even after Developer no longer serves as or appoints the Committee. The architectural control provisions and requirements set forth above in this Article 9 shall not be applicable to any new, originally constructed Residences by Weekley and related structures, improvements and landscaping to be constructed on unimproved Lots. However, after such original construction by Weekley (or in the event that original construction is not performed by Weekley), the provisions of this Article 9 shall be applicable.

[SIGNATURE PAGE FOLLOWS.]



**EXHIBIT A**

**Real Estate**

A part of the North Half of Section 31, Township 18 North, Range 4 East, Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 31; thence North 89 degrees 50 minutes 15 seconds West along the North line of said Northwest Quarter 316.08 feet; thence South 00 degrees 09 minutes 00 seconds West 40.00 feet; thence South 57 degrees 03 minutes 22 seconds East 83.25 feet; thence South 18 degrees 18 minutes 21 seconds East 71.06 feet; thence North 90 degrees 00 minutes 00 seconds East 4.17 feet to the POINT OF BEGINNING of this description; thence continuing North 90 degrees 00 minutes 00 seconds East 80.00 feet; thence South 00 degrees 00 minutes 00 seconds East 656.14 feet to the point of curvature of a curve concave Northeasterly, the radius point of said curve being North 90 degrees 00 minutes 00 seconds East 165.00 feet from said point; thence Southeasterly along said curve 180.69 feet to the point of tangency of said curve, said point being South 27 degrees 15 minutes 23 seconds West 165.00 feet from the radius point of said curve; thence South 62 degrees 44 minutes 37 seconds East 363.22 feet to the point of curvature of a curve concave Southwesterly, the radius point of said curve being South 27 degrees 15 minutes 23 seconds West 235.00 feet from said point; thence Southeasterly along said curve 188.69 feet to the point of tangency of said curve, said point being North 73 degrees 15 minutes 41 seconds East 235.00 feet from the radius point of said curve; thence South 16 degrees 44 minutes 08 seconds East 154.04 feet; thence South 16 degrees 06 minutes 37 seconds East 189.63 feet to the point of curvature of a curve concave Westerly, the radius point of said curve being South 73 degrees 53 minutes 23 seconds West 235.00 feet from said point; thence Southerly along said curve 47.01 feet to the point of tangency of said curve, said point being North 85 degrees 21 minutes 02 seconds East 235.00 feet from the radius point of said curve; thence South 04 degrees 38 minutes 58 seconds East 116.42 feet to the point of curvature of a curve concave Westerly, the radius point of said curve being South 85 degrees 21 minutes 02 seconds West 785.00 feet from said point; thence Southerly along said curve 267.93 feet to the point of tangency of said curve, said point being South 75 degrees 05 minutes 36 seconds East 785.00 feet from the radius point of said curve; thence North 75 degrees 05 minutes 36 seconds West 80.00 feet to a point on a curve concave Westerly, the radius point of said curve being North 75 degrees 05 minutes 36 seconds West 705.00 feet from said point; thence Northerly along said curve 58.65 feet to the point of tangency of said curve, said point being South 79 degrees 51 minutes 35 seconds East 705.00 feet from the radius point of said curve; thence North 79 degrees 59 minutes 39 seconds West 40.43 feet to a point on a curve concave Southerly, the radius point of said curve being South 09 degrees 51 minutes 49 seconds West 200.00 feet from said point; thence Westerly along said curve 85.00 feet to the point of tangency of said curve, said point being North 14 degrees 29 minutes 14 seconds West 200.00 feet from the radius point of said curve; thence North 26 degrees 09 minutes 46 seconds West 169.46 feet; thence North 52 degrees 56 minutes 51 seconds West 192.74 feet; thence North 00 degrees 12 minutes 54 seconds West 165.79 feet; thence North 01 degrees 54 minutes 18 seconds East 28.77 feet; thence North 00 degrees 12 minutes 54 seconds West 57.50 feet; thence South 89 degrees 47 minutes 06 seconds West 65.22 feet; thence North 83 degrees 22 minutes 43 seconds West 21.00 feet to a point on a curve concave Easterly, the radius point of said curve being South 83 degrees 22 minutes 43 seconds East 210.50 feet from

said point; thence Northerly along said curve 11.18 feet to the point of tangency of said curve, said point being North 80 degrees 20 minutes 04 seconds West 210.50 feet from the radius point of said curve, said point also being the point of curvature of a curve concave Southwesterly, the radius point of said curve being North 80 degrees 20 minutes 04 seconds West 19.50 feet from said point; thence Northwesterly along said curve 33.86 feet to the point of tangency of said curve, said point being North 00 degrees 10 minutes 14 seconds East 19.50 feet from the radius point of said curve; thence North 00 degrees 10 minutes 14 seconds East 21.00 feet; thence South 89 degrees 49 minutes 46 seconds East 16.44 feet; thence North 00 degrees 10 minutes 14 seconds East 65.50 feet; thence North 89 degrees 49 minutes 46 seconds West 197.69 feet; thence North 00 degrees 00 minutes 00 seconds East 3.99 feet; thence South 90 degrees 00 minutes 00 seconds West 153.00 feet; thence North 00 degrees 00 minutes 00 seconds West 90.25 feet; thence North 90 degrees 00 minutes 00 seconds West 50.00 feet; thence North 00 degrees 00 minutes 00 seconds East 472.12 feet; thence North 90 degrees 00 minutes 00 seconds East 45.75 feet; thence South 00 degrees 00 minutes 00 seconds East 23.87 feet; thence North 90 degrees 00 minutes 00 seconds East 69.79 feet to a point on a curve concave Westerly, the radius point of said curve being North 75 degrees 31 minutes 22 seconds West 14.50 feet from said point; thence Northerly along said curve 3.66 feet to the point of tangency of said curve, said point being North 90 degrees 00 minutes 00 seconds East 14.50 feet from the radius point of said curve; thence North 90 degrees 00 minutes 00 seconds East 21.00 feet; thence South 00 degrees 00 minutes 00 seconds East 12.71 feet; thence North 90 degrees 00 minutes 00 seconds East 67.00 feet; thence North 00 degrees 00 minutes 00 seconds East 350.08 feet to the point of curvature of a curve concave Southwesterly, the radius point of said curve being South 90 degrees 00 minutes 00 seconds West 15.00 feet from said point; thence Northwesterly along said curve 23.56 feet to the point of tangency of said curve, said point being North 00 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve; thence North 00 degrees 00 minutes 00 seconds East 50.00 feet to a point on a curve concave Northwesterly, the radius point of said curve being North 00 degrees 00 minutes 00 seconds East 15.00 feet from said point; thence Northeasterly along said curve 23.56 feet to the point of tangency of said curve, said point being South 90 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve; thence North 00 degrees 00 minutes 00 seconds East 179.59 feet to the place of beginning, containing 13.155 acres, more or less.

**EXHIBIT B**

**Additional Real Estate**

A part of the Northwest Quarter and the Northeast Quarter of Section 31, Township 18 North, Range 4 East, in Hamilton County, Indiana, more particularly described as follows:

COMMENCING at the North Quarter corner of said Section 31; thence North 89 degrees 50 minutes 15 seconds West (assumed bearing) a distance of 316.08 feet along the North line of said Northwest Quarter; thence South 00 degrees 09 minutes 45 seconds West a distance of 40.00 feet to South line of the right-of-way of East 126th Street (Mohawk Drive) and the POINT OF BEGINNING of this description; thence South 57 degrees 03 minutes 22 seconds East a distance of 83.25 feet; thence South 18 degrees 18 minutes 21 seconds East a distance of 71.06 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 4.17 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 656.14 feet to a point of curvature on a curve concave northeasterly, the radius point of said curve being North 90 degrees 00 minutes 00 seconds a distance of 245.00 feet from said point; thence southeasterly along said curve a distance of 268.29 feet to a point on said curve, said point being South 27 degrees 15 minutes 23 seconds West a distance of 245.00 feet from the radius of said curve; thence South 62 degrees 44 minutes 37 seconds East a distance of 363.22 feet to a point of curvature on a curve concave southwesterly, the radius point of said curve being South 27 degrees 15 minutes 23 seconds West a distance of 155.00 feet from said point; thence southeasterly along said curve a distance of 124.45 feet to a point on said curve, said point being North 73 degrees 15 minutes 41 seconds East a distance of 155.00 feet from the radius of said curve; thence South 16 degrees 44 minutes 08 seconds East a distance of 153.60 feet; thence South 16 degrees 06 minutes 37 seconds East a distance of 189.19 feet to a point of curvature on a curve concave westerly, the radius point of said curve being South 73 degrees 53 minutes 23 seconds West a distance of 155.00 feet from said point; thence southerly along said curve a distance of 31.00 feet to a point on said curve, said point being North 85 degrees 21 minutes 02 seconds East a distance of 155.00 feet from the radius of said curve; thence South 04 degrees 38 minutes 58 seconds East a distance of 116.42 feet to a point of curvature on a curve concave westerly, the radius point of said curve being South 85 degrees 21 minutes 02 seconds West a distance of 705.00 feet from said point; thence southerly along said curve a distance of 181.98 feet to a point on said curve, said point being South 79 degrees 51 minutes 34 seconds East a distance of 705.00 feet from the radius of said curve; thence North 79 degrees 59 minutes 39 seconds West a distance of 39.93 feet to a point of curvature on a curve concave southerly, the radius point of said curve being South 10 degrees 00 minutes 21 seconds West a distance of 200.00 feet from said point; thence westerly along said curve a distance of 109.22 feet to a point on said curve, said point being North 21 degrees 17 minutes 02 seconds West a distance of 200.00 feet from the radius of said curve; thence South 68 degrees 42 minutes 58 seconds West a distance of 128.50 feet; thence North 21 degrees 17 minutes 02 seconds West a distance of 100.53 feet; thence North 00 degrees 18 minutes 57 seconds East a distance of 49.46 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 56.67 feet; thence North 00 degrees 06 minutes 27 seconds West a distance of 51.00 feet; thence South 89 degrees 47 minutes 06 seconds West a distance of 86.77 feet; thence North 00 degrees 12 minutes 54 seconds West a distance of 21.58 feet; thence South 89 degrees 47 minutes 06 seconds West a distance of 70.00 feet; thence North 00 degrees 12 minutes 54 seconds West a distance of 322.29 feet; thence North 89 degrees 49 minutes 46 seconds West a

distance of 555.52 feet to the East boundary of Auman's Addition a subdivision in Marion County recorded in Deed Book 138, Page 273, Instrument No. 53-3365 in said Recorder's Office; thence North 00 degrees 05 minutes 45 seconds West along said East line a distance of 1,415.00 feet; thence South 89 degrees 50 minutes 15 seconds East a distance of 342.79 feet to the place of beginning, containing 23.805 acres, more or less.

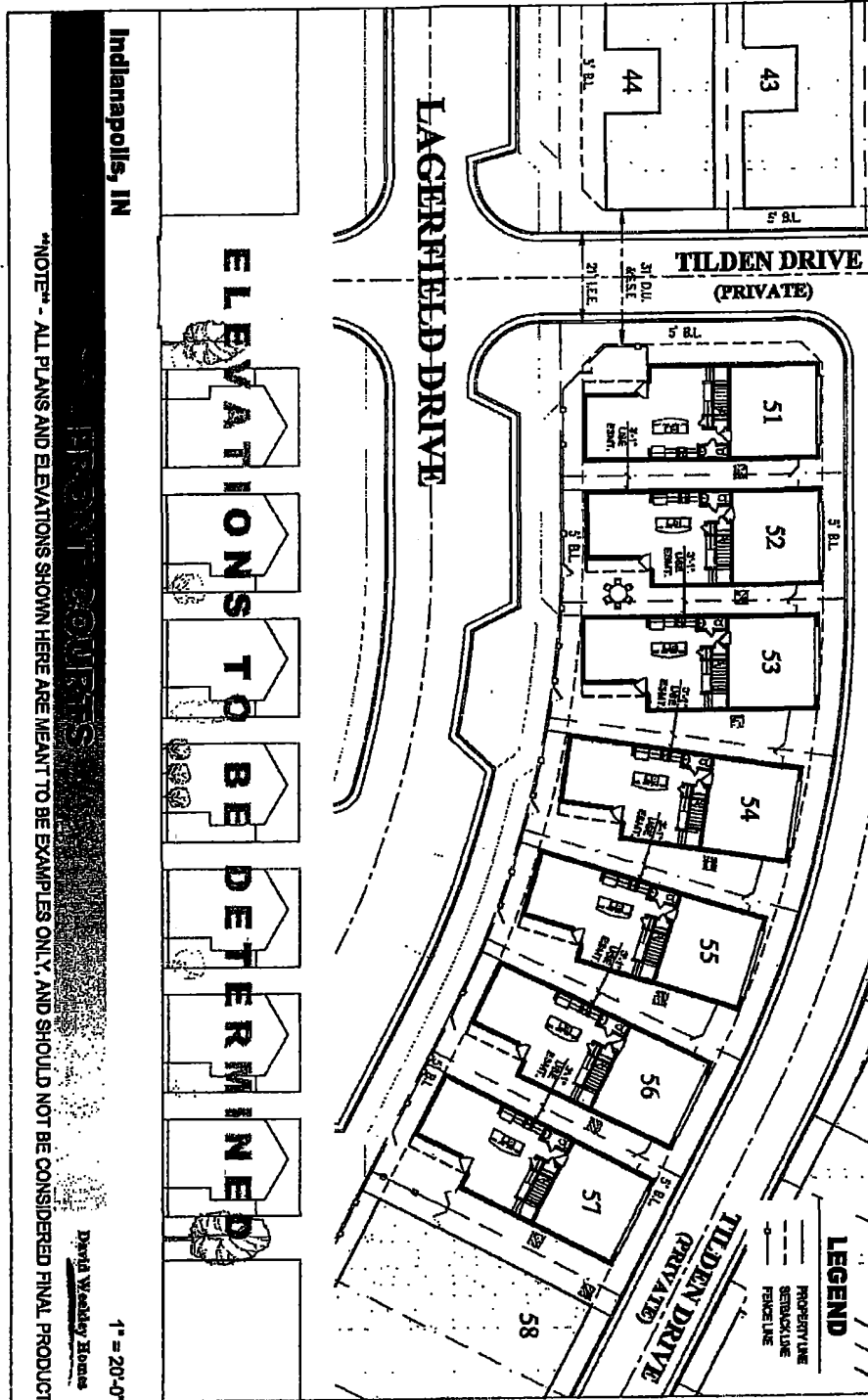
**EXCEPTING THEREFROM THE FOLLOWING:**

A part of the North Half of Section 31, Township 18 North, Range 4 East, Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 31; thence North 89 degrees 50 minutes 15 seconds West along the North line of said Northwest Quarter 316.08 feet; thence South 00 degrees 09 minutes 00 seconds West 40.00 feet; thence South 57 degrees 03 minutes 22 seconds East 83.25 feet; thence South 18 degrees 18 minutes 21 seconds East 71.06 feet; thence North 90 degrees 00 minutes 00 seconds East 4.17 feet to the POINT OF BEGINNING of this description; thence continuing North 90 degrees 00 minutes 00 seconds East 80.00 feet; thence South 00 degrees 00 minutes 00 seconds East 656.14 feet to the point of curvature of a curve concave Northeasterly, the radius point of said curve being North 90 degrees 00 minutes 00 seconds East 165.00 feet from said point; thence Southeasterly along said curve 180.69 feet to the point of tangency of said curve, said point being South 27 degrees 15 minutes 23 seconds West 165.00 feet from the radius point of said curve; thence South 62 degrees 44 minutes 37 seconds East 363.22 feet to the point of curvature of a curve concave Southwesterly, the radius point of said curve being South 27 degrees 15 minutes 23 seconds West 235.00 feet from said point; thence Southeasterly along said curve 188.69 feet to the point of tangency of said curve, said point being North 73 degrees 15 minutes 41 seconds East 235.00 feet from the radius point of said curve; thence South 16 degrees 44 minutes 08 seconds East 154.04 feet; thence South 16 degrees 06 minutes 37 seconds East 189.63 feet to the point of curvature of a curve concave Westerly, the radius point of said curve being South 73 degrees 53 minutes 23 seconds West 235.00 feet from said point; thence Southerly along said curve 47.01 feet to the point of tangency of said curve, said point being North 85 degrees 21 minutes 02 seconds East 235.00 feet from the radius point of said curve; thence South 04 degrees 38 minutes 58 seconds East 116.42 feet to the point of curvature of a curve concave Westerly, the radius point of said curve being South 85 degrees 21 minutes 02 seconds West 785.00 feet from said point; thence Southerly along said curve 267.93 feet to the point of tangency of said curve, said point being South 75 degrees 05 minutes 36 seconds East 785.00 feet from the radius point of said curve; thence North 75 degrees 05 minutes 36 seconds West 80.00 feet to a point on a curve concave Westerly, the radius point of said curve being North 75 degrees 05 minutes 36 seconds West 705.00 feet from said point; thence Northerly along said curve 58.65 feet to the point of tangency of said curve, said point being South 79 degrees 51 minutes 35 seconds East 705.00 feet from the radius point of said curve; thence North 79 degrees 59 minutes 39 seconds West 40.43 feet to a point on a curve concave Southerly, the radius point of said curve being South 09 degrees 51 minutes 49 seconds West 200.00 feet from said point; thence Westerly along said curve 85.00 feet to the point of tangency of said curve, said point being North 14 degrees 29 minutes 14 seconds West 200.00 feet from the radius point of said curve; thence North 26 degrees 09 minutes 46 seconds West 169.46 feet; thence North 52 degrees 56 minutes 51 seconds West

192.74 feet; thence North 00 degrees 12 minutes 54 seconds West 165.79 feet; thence North 01 degrees 54 minutes 18 seconds East 28.77 feet; thence North 00 degrees 12 minutes 54 seconds West 57.50 feet; thence South 89 degrees 47 minutes 06 seconds West 65.22 feet; thence North 83 degrees 22 minutes 43 seconds West 21.00 feet to a point on a curve concave Easterly, the radius point of said curve being South 83 degrees 22 minutes 43 seconds East 210.50 feet from said point; thence Northerly along said curve 11.18 feet to the point of tangency of said curve, said point being North 80 degrees 20 minutes 04 seconds West 210.50 feet from the radius point of said curve, said point also being the point of curvature of a curve concave Southwesterly, the radius point of said curve being North 80 degrees 20 minutes 04 seconds West 19.50 feet from said point; thence Northwesterly along said curve 33.86 feet to the point of tangency of said curve, said point being North 00 degrees 10 minutes 14 seconds East 19.50 feet from the radius point of said curve; thence North 00 degrees 10 minutes 14 seconds East 21.00 feet; thence South 89 degrees 49 minutes 46 seconds East 16.44 feet; thence North 00 degrees 10 minutes 14 seconds East 65.50 feet; thence North 89 degrees 49 minutes 46 seconds West 197.69 feet; thence North 00 degrees 00 minutes 00 seconds East 3.99 feet; thence South 90 degrees 00 minutes 00 seconds West 153.00 feet; thence North 00 degrees 00 minutes 00 seconds West 90.25 feet; thence North 90 degrees 00 minutes 00 seconds West 50.00 feet; thence North 00 degrees 00 minutes 00 seconds East 472.12 feet; thence North 90 degrees 00 minutes 00 seconds East 45.75 feet; thence South 00 degrees 00 minutes 00 seconds East 23.87 feet; thence North 90 degrees 00 minutes 00 seconds East 69.79 feet to a point on a curve concave Westerly, the radius point of said curve being North 75 degrees 31 minutes 22 seconds West 14.50 feet from said point; thence Northerly along said curve 3.66 feet to the point of tangency of said curve, said point being North 90 degrees 00 minutes 00 seconds East 14.50 feet from the radius point of said curve; thence North 90 degrees 00 minutes 00 seconds East 21.00 feet; thence South 00 degrees 00 minutes 00 seconds East 12.71 feet; thence North 90 degrees 00 minutes 00 seconds East 67.00 feet; thence North 00 degrees 00 minutes 00 seconds East 350.08 feet to the point of curvature of a curve concave Southwesterly, the radius point of said curve being South 90 degrees 00 minutes 00 seconds West 15.00 feet from said point; thence Northwesterly along said curve 23.56 feet to the point of tangency of said curve, said point being North 00 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve; thence North 00 degrees 00 minutes 00 seconds East 50.00 feet to a point on a curve concave Northwesterly, the radius point of said curve being North 00 degrees 00 minutes 00 seconds East 15.00 feet from said point; thence Northeasterly along said curve 23.56 feet to the point of tangency of said curve, said point being South 90 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve; thence North 00 degrees 00 minutes 00 seconds East 179.59 feet to the place of beginning, containing 13.155 acres, more or less.

**EXHIBIT C**



## TOWNHOME RIDER

This TOWNHOME RIDER is made a part of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT and is made the 4th day of December, 2018, by BC GRAMERCY II, LLC, an Indiana limited liability company (hereinafter referred to as "Developer").

In addition to the provisions of this Declaration, each Townhome, as defined in the Declaration, shall be subject to the terms, conditions, and covenants of this Townhome Rider:

Section 1. Casualty Losses – Owner Responsibilities. The following provisions apply in the event of damage, casualty loss, or other destruction to all or any portion of a Townhome in the Subdivision (each, a "Damaged Improvement").

1.01 Required Repair; Permitted Removal. Whether or not a Damaged Improvement is insured, in the event of damage, casualty loss, or other destruction to all or any portion of Damaged Improvement, (i) a Townhome, including its appurtenant garage, must be repaired, reconstructed or replaced in its entirety; and (ii) any Damaged Improvement other than a Townhome must be repaired, reconstructed or replaced in its entirety, or it must be demolished and removed as hereafter provided. Notwithstanding the foregoing, in the event all Townhomes in a single building are substantially destroyed, (a) if all Owners of the destroyed Townhomes consent, and (b) if approved by majority vote of Owners (including the vote of the consenting Townhome Owners) at a special meeting of Owners called for such purpose, then the building and all Townhomes contained therein may be demolished and removed as hereafter provided.

1.02 Manner of Repair or Removal. All repair, reconstruction or replacement of any Damaged Improvement must be performed in such manner as to restore the Damaged Improvement as it was originally constructed with substantially the same exterior dimensions and appearance (including as to color, type and quality of materials and architectural style and details) in substantially the same location as the Damaged Improvement was originally constructed unless otherwise approved in writing by the Committee. In the case of demolition and removal, the Damaged Improvement must be removed in its entirety, including removal of any foundation, and all other restoration work performed, including grading and sodding, in compliance with local ordinances and in a manner that is reasonably satisfactory to the Committee.

1.03 Time Limits. All work regarding a Damaged Improvement must be completed for a Townhome within one hundred twenty (120) days after the date of occurrence of the damage, casualty loss, or destruction as to a Townhome, including appurtenant garage, and all work regarding any other Damaged Improvement must be completed within sixty (60) days after the date of occurrence of the damage, casualty loss, or other destruction; provided, however, where such work cannot be completed within the applicable period of time, the work must be commenced within such period and completed within a reasonable time thereafter. In all events, all such work must be completed within one hundred eighty (180) days as to a Townhome, including appurtenant garage, and within ninety (90) days as to any other Damaged Improvement

after the date of occurrence of the damage, casualty loss or other destruction unless, for good cause shown, a longer period is approved by the Committee in its reasonable discretion.

1.04 Utilities. Notwithstanding any other provisions herein to the contrary, and whether or not insured, any damage or destruction to utility lines or other facilities that disrupt or interfere with utility services to any Lot, Townhome, or Common Areas must be repaired or replaced as soon as practical. All due diligence must be exercised to complete all such repairs or replacements, including installation of temporary utility lines or other temporary facilities pending completion of the repairs and/or replacements, if necessary, to prevent disruption of utility services to any other Lot, Townhome or Common Areas.

1.05 Architectural Standards. For the avoidance of doubt, the provisions of Article 9 of the Declaration apply to all work and to any other activities conducted pursuant to this Townhome Rider.

Section 2. Dampness and Humidity. Owners are advised that the continued presence of moisture in a Townhome and/or the appurtenant garage (from leaks, condensation, spills, etc.) may cause the propagation of mold, fungi, mildew, and other mycotoxins ("mold and mycotoxins"). Mold and mycotoxins may cause allergenic reactions and other health problems in some individuals. Such conditions in one Townhome may also affect an adjacent or other Townhome. Each Owner is responsible for implementing and maintaining an inspection and maintenance program for the identification and elimination of moisture in the Townhome that could give rise to the growth of mold or mycotoxins, or to other conditions detrimental to functioning of the residence or the health of its occupants, including any leaks, wet spots or dampness brought on by plumbing fittings on appliances (dishwashers, washing machines, ice makers, etc.), and/or condensation on or about windows, doors, and air-conditioning ducts. Additionally, after the initial sale of each Lot, the air conditioning system for the Townhome must be periodically operated to maintain the temperature of the Townhome, whether or not occupied, at no warmer than is reasonably necessary to minimize humidity in the residence. Owners are solely responsible and liable for any damages or personal injuries caused by failure to properly implement or maintain the aforesaid inspection and maintenance program, including as to any area or adjacent Townhome. The Committee is specifically authorized to establish dampness and humidity architectural guidelines, including without limitation, standards as to wall coverings and paints, and with regard to maintenance of air space and air movement, and to require specific maintenance and repair in conjunction therewith. While the foregoing is intended to minimize the potential development of mold or mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of mold or mycotoxins. Developer and Declarant make no representation or warranties regarding the existence or development of mold or mycotoxins, and each Owner, tenant and their related parties by virtue of their occupancy waives and expressly releases any such warranty, claim, loss or damage resulting from the existence and/or development of the same.

Section 3. Agreement Relating to Common Walls and Other Shared Structural Components.

3.01 Irrevocable Agreement. Each Townhome will share a wall or walls common to the adjacent Townhome or Townhomes which separates each Townhome (the "Common

Wall"). Each Owner, by accepting an executory contract for conveyance, deed or other conveyance of a Lot, hereby irrevocably agrees that each of the provisions of this Section will govern the use, maintenance, repair, replacement and extension of any and all Common Walls. The provisions of this Section apply in like manner, as applicable, to shared roofs and foundations, and to any other shared structural components, and to that extent the term "Common Wall" includes the said roofs, foundations and other shared structural components.

3.02 Common Usage. Each Owner acknowledges and agrees that the adjoining Townhome Owner has full right to use the Common Wall for the insertion of beams or otherwise for support and enclosure, provided, however, that such use may not injure or impair the Common Wall benefits of support and enclosure of either of the adjoining Townhomes, and further provided that prior written notice of any such use is given by the Owner who will engage in any such use to the adjoining Owner as provided in this Declaration regarding Maintenance Access Easements. To facilitate such use and for the purpose of erecting, extending, repairing or replacing the Common Wall as herein provided, each Owner is licensed by the adjoining Owner to enter upon the adjoining Owner's Townhome with reasonable prior notice and during reasonable times to make necessary excavations and to do all other work necessary to exercise any and all such rights. No doorways or other passages through a Common Wall are permitted except under such terms and conditions as may be agreed upon by the Owners contiguous to the Common Wall, provided that any such agreement must be in writing, must be approved by the Association and must be filed of record.

3.03 Extensions. Both the Owner and the adjoining Owner have the right to extend the Common Wall of a Townhome either horizontally or vertically, or both, and to make such extension of greater thickness of the Common Wall or any extension thereof already built; provided, however, such added thickness may not be placed upon the land of the other Owner without that Owner's prior written consent. Any such addition must comply with the Declaration and may not injure or impair the Common Wall benefits of support and enclosure of either of the adjoining Townhomes, and provided further that prior approval of the Committee must be obtained. In the event the Common Wall is extended as herein provided, either Owner has the right to use the same for any proper purposes for which the extension may be made to the full extent of the length and height thereof, and in the same manner that the Owner is entitled under the provisions hereof to use the Common Wall as originally constructed. In the event the Common Wall is extended as herein provided, the cost and expense of the extension must be borne by the Owner causing it to be made, provided, however, that should the adjoining Owner then use the extension or any portion thereof as a Common Wall, then that adjoining Owner must pay to the other Owner fifty percent (50%) of the cost of the extension or portion thereof used as a Common Wall.

3.04 Costs of Maintenance, Repair or Rebuilding. Each Owner must exercise reasonable diligence and care to prevent damage to the Common Wall, including damage to the foundation, structural supports and any other parts of the Common Wall. No Owner may take any action or permit any action which may restrict, impair or diminish the structural integrity of a Common Wall, or which may weaken or diminish the Common Wall benefits of support and enclosure. In the event that it becomes necessary to repair or rebuild the Common Wall or any portion thereof as constructed or extended, the cost of repairing or rebuilding the portions of the

Common Wall which serve both Owners must be shared by such Owners in equal proportions, and the cost of repairing or rebuilding any remaining portion will be wholly at the expense of the Owner who exclusively uses that portion.

3.05 Damage or Destruction. Subject to the next subsection, in the event a Common Wall is totally or partially destroyed by fire or other casualty, the Common Wall must be reconstructed at the expense of both Owners, in equal proportions. Such shared expenses will include all costs of repairs and modifications required in the event of razing and removal of a Townhome as permitted in this Declaration regarding casualty losses.

3.06 Negligence; Weatherproofing. Notwithstanding any other provisions of this Section, an Owner who by their negligent or willful act or omission causes damage to or destruction of a Common Wall or who causes the Common Wall to be exposed to the elements must bear all costs of repair and replacement, including furnishing the necessary protection against the elements, and will otherwise be liable for all damages resulting from the same.

3.07 Other Shared Components. The Owner of each Townhome is hereby required to share in all costs of maintenance, repair and replacement of any common roof or foundation, and such other shared components as determined from time to time by the Board. Costs will be shared, pro rata, based on the relative size of the foundation covered by each Townhome and as to replacement (including re-shingling) of a shared roof. Costs for maintenance or repair of any portion of a roof which exclusively services only one Townhome must be paid by the Owner of the Townhome so served. The affected Owners may, by written agreement, vary the foregoing cost allocations when the circumstances clearly demonstrate a different manner of allocation is required, and may determine allocation of costs as to any other shared components. Any affected Owner may also submit any dispute or disagreement as to allocation of costs to the Board for resolution as below provided. The Board is also specifically authorized to adopt Design Guidelines regarding any shared components, and to resolve any disputes regarding same. The immediately preceding subsection regarding negligence and any other applicable provisions of this Section also apply to Townhome shared components.

3.08 Extension of Owners' Access Easement. Notwithstanding any other provisions hereof to the contrary, any Maintenance Access Easements as set forth in the Declaration hereby are extended to entry to a Townhome as is reasonably necessary to perform needed work as to the Common Wall and other shared structural components of a Townhome, subject however to (i) reasonable requirements by the Owner and/or occupant of the Townhome being accessed to protect the privacy of the occupants and the contents of the Townhome, and (ii) such other rules and regulations as from time to time adopted by the Board.

3.09 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Townhome Rider, the general rules of law regarding party walls and liability of adjacent owners for property damage due to negligence or willful acts or omissions apply to each Common Wall.

3.10 Indemnity. Each Owner agrees to indemnify, defend and hold harmless the other Owners from and against any and all claims, expenses, liabilities, losses, damages and costs, including reasonable attorney's fees, and any actions or proceedings in connection therewith,

incurred in connection with, or arising directly or indirectly due to the indemnifying Owner's negligence or willful acts or omissions in violation of any provisions of this Section, including without limitation as to damages or injury to the persons or property.

3.11 Dispute Resolution. Any affected Owner may submit any dispute or disagreement as to application of any provisions of this Section, including as to any right to contribution or as to allocation of costs, to the Board for resolution as may be provided in the Declaration. In any such case the decisions of the Board will be final.

3.12 Duration; Covenants Run with the Land. The duration of all provisions of this Rider extends for a period of time equal to the Declaration and as long thereafter as reasonably necessary to the use and occupancy of each Townhome. The provisions of this Section constitute easements and covenants running with the land. Without limitation of the foregoing, the rights of any Owner to an indemnity or contribution from any other Owner under this Section are appurtenant to the land and will pass to such Owner's successors in title. Notwithstanding the foregoing, nothing herein contained may be construed as a conveyance by any Owner of any rights in the fee of the land upon which a Common Wall may stand.

#### Section 4. Other Townhome Provisions.

4.1 Sound-Proofing. Owners of each Townhome and the occupants of Townhomes must exercise reasonable caution to prevent unreasonable sound transmission to adjoining or nearby Townhomes. The Committee is specifically authorized to establish sound transmission architectural guidelines as to Common Walls, and as otherwise deemed appropriate to prevent unreasonable sound transmission, and to require specific maintenance and repairs in conjunction therewith. EACH OWNER ACKNOWLEDGES THAT SOUND TRANSMISSION IN A MULTI-STORY, MULTI-UNIT STRUCTURE IS DIFFICULT TO CONTROL, AND THAT NOISE FROM ADJOINING OR NEARBY TOWNHOMES AND/OR MECHANICAL EQUIPMENT CAN OFTEN BE HEARD IN OTHER TOWNHOMES. DEVELOPER AND DECLARANT DO NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE LEVEL OF SOUND TRANSMISSION BETWEEN OR AMONG TOWNHOMES. EACH OWNER AND THEIR RELATED PARTIES HEREBY WAIVE AND EXPRESSLY RELEASE DEVELOPER AND DECLARANT FROM ANY SUCH WARRANTY, AND FROM ANY CLAIM FOR LOSS OR DAMAGE RESULTING FROM SOUND TRANSMISSION.

4.2 Structural Integrity. No Owner or occupant may perform any work, construction, repair or modification which may or will, or in any other manner by act or omission, impair the structural integrity, weaken the support or otherwise adversely affect their Townhome or another Townhome, or the building containing the same.

4.3 Electrical Devices. No Owner or occupant may install or operate within a Townhome any dishwasher, clothes washer or clothes dryer, or any other appliance or piece of equipment that has or may have utility requirements exceeding the capacity of any utility system servicing such Townhome or which may adversely affect any utility system in the project. Misuse or abuse of appliances or fixtures within a Townhome which affects other Townhomes or any Common Area is prohibited. Any damage resulting from such misuse will be the sole

responsibility of the Owner who caused it. Total electrical usage in any Townhome may not exceed the capacity of the circuits as labeled on the circuit breaker boxes.

4.4 Approval Required for Exterior Changes. The exterior of each Townhome may not be painted or otherwise decorated or changed in any manner whatsoever which changes the appearance of any portion of the exterior of the Townhome, including as to the exterior of any balconies, any windows or exterior doors, and any garage doors, unless the Owners of all Townhomes within the applicable building consent in writing and prior written approval of the Committee is obtained in accordance with the Declaration.

4.5 Individual Townhome Lot Maintenance. The Association shall provide to each Townhome, as a Common Expense, maintenance of the lawn located on a Townhome Owner's Lot as well as in adjacent street right-of-ways (tree lawns). Maintenance of lawns shall mean the mowing of grass, including edging around fences, shrubs and bushes, fertilizing and weed control of the lawn. It shall not include the watering of lawns on a Townhome Lot nor the care and maintenance of (i) shrubs, (ii) trees, (iii) flowers, or (iv) other plants on any Townhome Lot, unless otherwise agreed to by the Association. The Association, Developer and its contractors or agents are hereby granted an easement on each Townhome Lot to perform such maintenance. Costs for such Townhome Lot maintenance shall be included in the Monthly Assessment payable by all Townhome Owners.

4.6 Townhome Snow Removal. The Association, or its agents, assigns or third party contractors, shall plow and/or remove snow on the sidewalk up to the front door of each Townhome in the Common Areas where the Townhome Lots are located, and from the garage pad behind each Townhome adjacent to the alleys. Costs for such snow plowing and removal shall be included in the Monthly Assessment payable by all Townhome Owners.

2023042457 AMEN \$25.00  
11/08/2023 08:47:31AM 7 PGS  
Trini Beaver  
Hamilton County Recorder IN  
Recorded as Presented



EJÇ

Cross Reference: Instrument No. 2018056504

**FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
GRAMERCY WEST DEVELOPMENT**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT ("Amendment"), is made this 7th day of November, 2023, by BC GRAMERCY II, LLC, an Indiana limited liability company ("Developer").

WHEREAS, on December 4, 2018, Developer, as "Developer", recorded that certain Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, as Instrument No. 2018056504 in the office of the Recorder of Hamilton County, Indiana (the "Original Declaration"), as amended by that certain Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of August 6, 2020, and recorded August 10, 2010, as Instrument No. 2020053273 (the "First Supplement"), and that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of October 2, 2021, and recorded December 9, 2021, as Instrument No. 2021088241 (the "Second Supplement", and together with the Original Declaration and the First Supplement, the "Declaration");

WHEREAS, the Development Period is currently in effect pursuant to the Declaration, and Developer currently maintains control of the Association;

WHEREAS, pursuant to Section 4.11 of the Original Declaration, Developer has the right prior to the Development Period to add to the Real Estate and subject to the Declaration all or any part of the Additional Real Estate by recording a Supplementary Declaration;

WHEREAS, Developer desires to subject the portion of the Additional Real Estate more particularly described on Exhibit A attached hereto and incorporated herein (the "Section Two Real Estate") to the Declaration and intends that this Amendment be a Supplementary Declaration in accordance with Section 4.11 of the Original Declaration;

WHEREAS, Developer also desires to make further amendments to the Declaration as more particularly set forth herein; and

WHEREAS, capitalized terms used in this Amendment and not otherwise defined shall have the meanings ascribed to such terms in the Declaration.

NOW, THEREFORE, for the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. The following sections are added to Article I of the Original Declaration to read as follows:

**"1.05** No noxious or offensive activity shall be carried on or permitted to be carried on upon the Real Estate, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood. Nothing shall be done or kept or permitted to be done or kept by an Owner in any Residence, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance paid by the Association or any other Owner. No Owner shall permit anything to be done or kept in

his, her or its Residence or on his, her or its Lot which will result in a cancellation of insurance on any part of the Common Area or any other Owner, or which would be a violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau. No Residence or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the Association or the Subdivision or which might be a nuisance, annoyance, or inconvenience, or which might cause damage, to other Owners and occupants of Residences or neighboring property, including, without limiting the generality of the foregoing, noise by the use of any musical instrument, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machinery. No exterior lighting on a Lot shall be directed outside the boundaries of the Lot.

1.06 Excessive barking of dog(s) or vicious animals shall constitute a nuisance and may be ordered removed from the Real Estate by the Association. Pets will not be permitted outside of a Residence unless on a leash and any Owner walking a pet within the Subdivision or on any Common Areas will immediately clean up any solid animal waste and properly dispose of the same. Failure to remove any solid animal waste shall subject the Owner to a fine per occurrence in an amount as determined from time to time by the Board upon notice to each Owner. Law enforcement and animal control personnel shall have the right to enter the Real Estate to enforce local animal control ordinances.

1.07 No inoperable, junk, unregistered or unlicensed vehicle shall be kept within the Subdivision. No portion of the Subdivision shall be used for the repair of a vehicle. Except upon the prior written approval of the Architectural Control Committee, no commercial or industrial vehicle, including, but not limited to, moving vans, trucks, tractors, trailers, vans, wreckers, tow trucks, hearses and buses, shall be parked overnight or regularly or habitually parked within the Subdivision, nor shall any such vehicle be located within the Subdivision for longer than twenty-four (24) hours. No recreational vehicles or equipment, including, but not limited to, boats, boating equipment, jet-skis, wave runners, travel trailers, fuel tanks, camping vehicles or camping equipment, shall be parked within the Subdivision without the prior, written approval of the Architectural Control Committee, as to location, size, screening and other criteria deemed to be relevant by the Architectural Control Committee. The Association shall not be required to provide a storage area for these vehicles. The Board shall have the right to tow any vehicle parked or kept in violation of the covenants contained within this Article 1, upon twelve (12) hours' written, telephonic or verbal notice and at the vehicle owner's sole expense. Any conversion of any garage that will preclude the parking of vehicles within that garage is prohibited. Owners shall keep and maintain their garages at all times in a manner that will permit the usage of such garage for parking of passenger automobiles, vans and/or trucks.

1.08 Reserved.

1.09 The Board shall have the authority to adopt such rules and regulations regarding this Article I, Article VI and Article IX as it may from time to time consider necessary or appropriate."

2. The first sentence of Section 3.15 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

"In addition to the Monthly Assessment set forth above, upon the closing of the initial conveyance of each Lot to the first Owner of the respective Lot, the Owner shall pay to the Association, in addition to any other amount then owed or due to the Association, as a contribution to the working capital of the Association and its start-up fund, an amount equal to three times the then-current Monthly Assessment (the "Initial Operating/Reserve Fund Assessment"), which payment shall be non-refundable and shall not be considered as an advance payment of any other assessments or other charges owed to the Association with respect to such Lot."

3. The following language is added to the end of Section 8.01 of the Original Declaration:

"Without limiting the foregoing, the Board, subject to Section 8.02 hereof, may impose sanctions for violation of the Governing Documents. To the extent permitted by Indiana law, such sanctions may include:

- (A) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot. (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- (B) suspending an Owner's right to vote if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;
- (C) suspending any Owner's right to use the Common Areas; provided, such suspension shall not impair an Owner's right to vehicular and pedestrian ingress and egress to and from its Lot, and the right to park within parking areas;
- (D) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;
- (E) exercising legal self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation; and
- (F) levying special assessments against a Lot to cover costs incurred by the Association to bring such Lot into compliance with the Governing Documents.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity."

4. Reference is hereby made to that certain Gramercy West Section Two Secondary Plat, recorded August 17, 2021, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2021059979 (the "Section Two Plat"), which Section Two Plat is of the Section Two Real Estate. Pursuant to the provisions of Section 4.11 of the Original Declaration, Developer hereby declares that the Section Two Real Estate, as it is owned and shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered, is now annexed into, and is part of, the Real Estate, to be

effective as of August 17, 2021. The Section Two Real Estate shall be subject to and bound by the provisions of the Declaration, and the Section Two Real Estate shall hereafter be deemed within the Real Estate and the Subdivision. Accordingly, pursuant to Section 4.11 of the Original Declaration, the Section Two Plat shall be included within the definition of "Plat" under the Declaration, and any Intended Lots shown on such plat shall be included within the definition of "Lots" under the Declaration. This Amendment and the Declaration shall run with the Section Two Real Estate and shall be binding upon the owners of the Section Two Real Estate and their respective successors and assigns, and upon the parties having or acquiring any interest in the Section Two Real Estate or any part or parts thereof subject to these restrictions.

5. From and after the date of this Amendment the term "Declaration" shall be deemed to mean and refer to, collectively, the existing Declaration as amended by this Amendment. If any term, provision or condition of this Amendment is found to be or rendered invalid or unenforceable, it shall not affect the remaining terms, provisions and conditions of this Amendment or the Declaration, and each and every other term, provision and condition of this Amendment shall be valid and enforceable to the fullest extent permitted by law.

6. This Amendment shall be governed, construed, applied and enforced in accordance with the laws of the State of Indiana.

7. Except as expressly amended herein, all other terms, covenants and conditions of the Declaration shall remain in full force and effect.

[The rest of this page has been intentionally left blank.]

IN WITNESS WHEREOF, Developer has executed this First Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development as of the day and year first above written.

**DEVELOPER:**

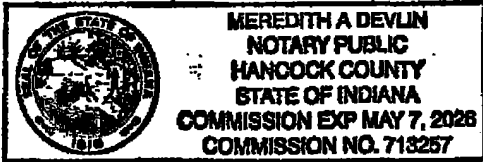
BC GRAMERCY II, LLC,  
an Indiana limited liability company

By: [Signature]  
Christopher W. Myrvold, Authorized Representative

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MARION     )

Before me, a Notary Public in and for said county and state, personally appeared Christopher W. Myrvold, the Authorized Representative of BC Gramercy II, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing for an on behalf of said limited liability company.

Witness my hand and Notarial Seal this 7<sup>th</sup> day of November, 2023.



NOTARY PUBLIC

[Signature]

Printed: Meredith A. Devlin

My Commission Expires:

5/7/26

County of Residence:

Hancock

This instrument prepared by, and should be returned to, Gregory Touney, Esq., ICE MILLER, LLP, One American Square, Suite 2900, Indianapolis, IN 46282-0200.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Gregory C. Touney

Exhibit A

**Section Two Real Estate**

Beginning at the northwest corner of Lot 45 in Gramercy West, Section One, recorded as Instrument number 2018057148, Plat Cabinet 5, Slide 910 in the Office of the Recorder for Hamilton County, Indiana; the following nineteen (19) courses being on and along the boundary of said Gramercy West, Section One: 1) South 00 degrees 00 minutes 00 seconds West 90.25 feet; 2) North 90 degrees 00 minutes 00 seconds East 153.00 feet; 3) South 00 degrees 00 minutes 00 seconds West 3.99 feet; 4) South 89 degrees 49 minutes 46 seconds East 197.69 feet 5) South 00 degrees 10 minutes 14 seconds West 65.50 feet to a point on the North R/W of Steinbeck Place; 6) North 89 degrees 49 minutes 46 seconds West 16.14 feet along said North R/W; 7) South 00 degrees 10 minutes 14 seconds West 21.00 feet to the point of curvature of a curve concave southwesterly, the radius point of said curve being South 00 degrees 10 minutes 14 seconds West 19.50 feet from said point said point also being a point on the South R/W of Steinbeck Place; 8) southeasterly along said curve 33.86 feet to the point of tangency of said curve, said point being South 80 degrees 20 minutes 04 seconds East 19.50 feet from the radius point of said curve said point also being a point on a curve concave easterly, the radius point of said curve being South 80 degrees 20 minutes 04 seconds East 210.50 feet from said point said point also being on the East R/W of Valentine Lane; 9) southerly along said curve 11.18 feet along said R/W to a point on said curve, said point being North 83 degrees 22 minutes 43 seconds West 210.50 feet from the radius point of said curve; (10) South 83 degrees 22 minutes 43 seconds East 21.00 feet to a point on the East right-of-way line of Valentine Lane, said point also being a point on a curve concave easterly, the radius point of said curve being South 83 degrees 22 minutes 43 seconds East 189.50 feet from said point; (11) northerly along said curve 5.25 feet along said R/W to a point on said curve, said point being North 81 degrees 47 minutes 28 seconds West 189.50 feet from the radius point of said curve; 12) South 80 degrees 06 minutes 31 seconds East 30.02 feet; 13) North 89 degrees 47 minutes 06 seconds East 25.35 feet; 14) South 62 degrees 44 minutes 37 seconds East 10.84 feet; 15) South 00 degrees 12 minutes 56 seconds East 52.44 feet; 16) South 01 degree 54 minutes 18 seconds West 28.77 feet; 17) South 00 degrees 12 minutes 54 seconds East 165.79 feet; 18) South 52 degrees 56 minutes 51 seconds East 192.74 feet; 19) South 26 degrees 09 minutes 46 seconds East 169.46 feet to a point on a curve concave southerly, the radius point being South 14 degrees 29 minutes 14 seconds East 200.00 feet from said point, said point also being on the boundary of land owned by Mohawk WB, LLC recorded as Instrument #2014-001787 and Instrument #2014-001788 in the aforesaid Recorder's Office; the following eleven (11) courses being on and along the boundary of said Mohawk WB, LLC land: 1) westerly along the aforesaid curve 23.72 feet to the point of tangency of said curve, said point being North 21 degrees 17 minutes 02 seconds West 200.00 feet from the radius point of said curve; 2) South 68 degrees 42 minutes 58 seconds West 128.50 feet; 3) North 21 degrees 17 minutes 02 seconds West 100.53 feet; 4) North 00 degrees 18 minutes 57 seconds East 49.46 feet; 5) North 90 degrees 00 minutes 00 seconds West 56.67 feet; 6) North 00 degrees 06 minutes 27 seconds West 51.00 feet; 7) South 89 degrees 47 minutes 06 seconds West 86.77 feet; 8) North 00 degrees 12 minutes 54 seconds West 21.58 feet; 9) South 89 degrees 47 minutes 06 seconds West 70.00 feet; 10) North 00 degrees 12 minutes 54 seconds West 322.29 feet; 11) North 89 degrees 49 minutes 46 seconds West 560.36 feet to a point on the East right-of-way of East Auman Drive as shown on the plat of Auman's Addition recorded as Instrument #53-3365 D.B. 138, page 273 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 302.43 feet to a point on the boundary of land owned by Mohawk WB, LLC recorded as Instrument #2014-001786 in the aforesaid Recorders Office; the following three (3) courses being on and along said boundary: 1) North 90 degrees 00 minutes 00 seconds East 192.21 feet to a point on the West Right-of-Way of Templeton Drive; 2) North 00 degrees 00 minutes 00 seconds East 19.75 feet along said Right-of-Way; 3) North 90 degrees 00 minutes 00 seconds East 45.75 feet to a point on the boundary of the aforesaid Gramercy West, Section 1, said point also being on the East Right-of-Way of Templeton Drive; the following two (2) courses being on and along said boundary: 1) South 00 degrees 00 minutes 00

seconds West 69.75 feet; 2) North 90 degrees 00 minutes 00 seconds East 50.00 feet to the place of beginning, containing 5.457 acres, more or less.

2023043483 AMEN \$25.00  
11/16/2023 08:37:44AM 5 PGS  
Trini Beaver  
Hamilton County Recorder IN  
Recorded as Presented

TGR

Cross References: Instrument No. 2018056504  
Instrument No. 2023042457

**SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
GRAMERCY WEST DEVELOPMENT**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT (“**Amendment**”), is made this 9th day of November, 2023, by BC GRAMERCY II, LLC, an Indiana limited liability company (“**Developer**”).

WHEREAS, on December 4, 2018, Developer, as “Developer”, recorded that certain Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, as Instrument No. 2018056504 in the office of the Recorder of Hamilton County, Indiana (the “**Original Declaration**”), as amended by that certain Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of August 6, 2020, and recorded August 10, 2010, as Instrument No. 2020053273 (the “**First Supplement**”), that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of October 2, 2021, and recorded December 9, 2021, as Instrument No. 2021088241 (the “**Second Supplement**”), and that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of November 7, 2023, and recorded November 8, 2023, as Instrument No. 2023042457 (the “**First Amendment**”), and together with the Original Declaration, the First Supplement and the Second Supplement, the “**Declaration**”);

WHEREAS, the Development Period is currently in effect pursuant to the Declaration, and Developer currently maintains control of the Association;

WHEREAS, pursuant to Section 4.11 of the Original Declaration, Developer has the right prior to the Development Period to add to the Real Estate and subject to the Declaration all or any part of the Additional Real Estate by recording a Supplementary Declaration;

WHEREAS, Developer desires to subject the portion of the Additional Real Estate comprised of the “**Section Three Real Estate**” and the “**Section Four Real Estate**”, as more particularly described on Exhibit A attached hereto and incorporated herein to the Declaration and intends that this Amendment be a Supplementary Declaration in accordance with Section 4.11 of the Original Declaration; and

WHEREAS, capitalized terms used in this Amendment and not otherwise defined shall have the meanings ascribed to such terms in the Declaration.

NOW, THEREFORE, for the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Reference is hereby made to that certain Gramercy West Section Three Secondary Plat, recorded August 23, 2023, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2023032348 (the “**Section Three Plat**”), which Section Three Plat is part of the Section Three Real Estate, and that certain Gramercy West Section Four Secondary Plat recorded August 23, 2023, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2023032349 (the “**Section Four Plat**”), which Section Four Plat is part of the Section Four Real Estate. Pursuant to the provisions of Section 4.11 of the Original Declaration, Developer hereby declares that the Section Three Real Estate and the Section Four Real Estate, as it is owned and shall be owned, held, transferred, sold, conveyed,

used, occupied, mortgaged or otherwise encumbered, is now annexed into, and is part of, the Real Estate, to be effective as of August 23, 2023. The Section Three Real Estate and the Section Four Real Estate shall be subject to and bound by the provisions of the Declaration, and the Section Three Real Estate and the Section Four Real Estate shall hereafter be deemed within the Real Estate and the Subdivision. Accordingly, pursuant to Section 4.11 of the Original Declaration, the Section Three Plat and the Section Four Plat shall be included within the definition of "Plat" under the Declaration, and any Intended Lots shown on such plat shall be included within the definition of "Lots" under the Declaration. This Amendment and the Declaration shall run with the Section Three Real Estate and the Section Four Real Estate and shall be binding upon the owners of the Section Three Real Estate and the Section Four Real Estate and their respective successors and assigns, and upon the parties having or acquiring any interest in the Section Three Real Estate and the Section Four Real Estate or any part or parts thereof subject to these restrictions.

2. From and after the date of this Amendment the term "Declaration" shall be deemed to mean and refer to, collectively, the existing Declaration as amended by this Amendment. If any term, provision or condition of this Amendment is found to be or rendered invalid or unenforceable, it shall not affect the remaining terms, provisions and conditions of this Amendment or the Declaration, and each and every other term, provision and condition of this Amendment shall be valid and enforceable to the fullest extent permitted by law.

3. This Amendment shall be governed, construed, applied and enforced in accordance with the laws of the State of Indiana.

4. Except as expressly amended herein, all other terms, covenants and conditions of the Declaration shall remain in full force and effect.

[The rest of this page has been intentionally left blank.]

IN WITNESS WHEREOF, Developer has executed this Second Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development as of the day and year first above written.

**DEVELOPER:**

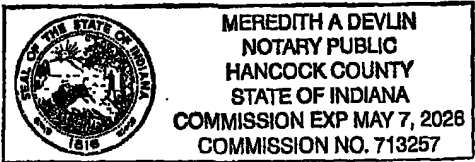
BC GRAMERCY II, LLC,  
an Indiana limited liability company

By: *[Signature]*  
Christopher W. Myrvold, Authorized Representative

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MARION        )

Before me, a Notary Public in and for said county and state, personally appeared Christopher W. Myrvold, the Authorized Representative of BC Gramercy II, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing for an on behalf of said limited liability company.

Witness my hand and Notarial Seal this 9<sup>th</sup> day of November, 2023.



NOTARY PUBLIC  
*Meredith A. Devlin*  
Printed: Meredith A. Devlin

My Commission Expires:  
5/7/26

County of Residence:  
Hancock

This instrument prepared by, and should be returned to, Meredith A. Devlin, Buckingham Companies, 941 N. Meridian St., Indianapolis, IN 46204

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Meredith A. Devlin

Exhibit A

**Section Three Real Estate**

Part of the Northwest Quarter of Section 31, Township 18 North, Range 4, East, Clay Township, Hamilton County, Indiana being more particularly described as follows:

Beginning at the northeast corner of Lot 33 in Gramercy West Section One recorded as Instrument Number 2018057148 in the Office of the Recorder for Hamilton County, Indiana; the following eight (8) courses being on and along the boundary of said Gramercy West Section One as follows: 1) North 90 degrees 00 minutes 00 seconds West 67.00 feet; 2) North 00 degrees 00 minutes 00 seconds West 12.71 feet; 3) North 90 degrees 00 minutes 00 seconds West 21.00 feet to the point of curvature of a curve concave westerly, the radius point of said curve being North 90 degrees 00 minutes 00 seconds West 14.50 feet from said point; 4) southerly along said curve 3.66 feet to a point on said curve, said point being South 75 degrees 31 minutes 22 seconds East 14.50 feet from the radius point of said curve; 5) North 90 degrees 00 minutes 00 seconds West 69.79 feet; 6) North 00 degrees 00 minutes 00 seconds East 23.87 feet; 7) North 90 degrees 00 minutes 00 seconds West 45.75 feet; 8) South 00 degrees 00 minutes 00 seconds East 402.37 feet to a point on the boundary of Gramercy West Section Two recorded as Instrument Number 2021059979 in the aforesaid Recorder's Office, the following three (3) courses being on and along said boundary as follows: 1) North 90 degrees 00 minutes 00 seconds West 45.75 feet; 2) South 00 degrees 00 minutes 00 seconds West 19.75 feet; 3) North 90 degrees 00 minutes 00 seconds West 192.21 feet to a point on the East right-of-way line of East Auman Drive in Auman's Addition recorded in Deed Book 138, Page 273, Instrument Number 53-3365 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 586.25 feet; thence North 90 degrees 00 minutes 00 seconds East 101.60 feet; thence North 00 degrees 00 minutes 00 seconds East 2.50 feet; thence North 90 degrees 00 minutes 00 seconds East 91.25 feet; thence North 00 degrees 00 minutes 00 seconds West 165.50 feet; thence North 01 degrees 43 minutes 06 seconds West 50.02 feet; thence North 00 degrees 00 minutes 00 seconds East 16.00 feet; thence South 90 degrees 00 minutes 00 seconds East 94.50 feet; thence South 00 degrees 00 minutes 00 seconds West 16.00 feet; thence North 90 degrees 00 minutes 00 seconds East 141.75 feet to a point on the North right-of-way line of Barrymore Drive, said point also being on the boundary of the aforesaid Gramercy West Section One, the following three (3) courses being on and along said boundary as follows: 1) South 00 degrees 00 minutes 00 seconds East 50.00 feet to a point on the South right-of-way line of said Barrymore Drive, said point also being the point of curvature of a curve concave southwesterly, the radius point of said curve being South 00 degrees 00 minutes 00 seconds West 15.00 feet from said point; 2) southeasterly along said curve 23.56 feet to the point of tangency of said curve, said point being South 90 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve, said point also being on the West right-of-way line of Kinzer Avenue; thence South 00 degrees 00 minutes 00 seconds East along said right-of-way and Section One boundary 350.08 feet; to the place of beginning, containing 5.326 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

### Section Four Real Estate

Part of the Northwest Quarter of Section 31, Township 18 North, Range 4, East, Clay Township, Hamilton County, Indiana being more particularly described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 31; thence North 89 degrees 50 minutes 15 seconds West along the North line of said Northwest Quarter 663.05 feet; thence South 00 degrees 03 minutes 45 seconds East 50.00 feet to a point on the South right-of-way line of East City Center Drive, said point also being the POINT OF BEGINNING of this description; thence South 89 degrees 50 minutes 15 seconds East along said right-of-way 345.96 feet; thence South 57 degrees 05 minutes 38 seconds East 83.18 feet; thence South 18 degrees 20 minutes 56 seconds East 71.08 feet; thence North 90 degrees 00 minutes 00 seconds East 5.00 feet to a point on the West right-of-way line of Kinzer Avenue and also a point on the boundary of Gramercy West Section One recorded as Instrument Number 2018057148 in the Office of the Recorder for Hamilton County, Indiana; thence South 00 degrees 00 minutes 00 seconds East along said right-of-way and Section One boundary 169.68 feet to the point of curvature of a curve concave northwesterly, the radius point of said curve being South 90 degrees 00 minutes 00 seconds West 15.00 feet from said point; thence southwesterly along said curve and the aforesaid Section One boundary 23.56 feet to the point of tangency of said curve, said point being South 00 degrees 00 minutes 00 seconds West 15.00 feet from the radius point of said curve, said point also being a point on the boundary of Gramercy West Three recorded as Instrument Number 2023032348 in the aforesaid Recorder's Office, the following nine (9) courses being on and along said boundary as follows: 1) North 90 degrees 00 minutes 00 seconds West 141.75 feet; 2) North 00 degrees 00 minutes 00 seconds East 16.00 feet; 3) North 90 degrees 00 minutes 00 seconds West 94.50 feet; 4) South 00 degrees 00 minutes 00 seconds East 16.00 feet; 5) South 01 degrees 43 minutes 06 seconds East 50.02 feet; 6) South 00 degrees 00 minutes 00 seconds East 165.50 feet; 7) North 90 degrees 00 minutes 00 seconds West 91.25 feet; 8) South 00 degrees 00 minutes 00 seconds East 2.50 feet; 9) North 90 degrees 00 minutes 00 seconds West 101.60 feet to a point on the East right-of-way line of East Auman Drive in Auman's Addition recorded in Deed Book 138, Page 273, Instrument Number 53-3365 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 136.32 feet to a point on the boundary of a parcel of land described in Instrument Number 2012-013068 recorded in the aforesaid Recorder's Office; thence South 89 degrees 50 minutes 15 seconds East along the boundary of said parcel of land 4.25 feet; thence North 00 degrees 05 minutes 45 seconds West along said boundary 240.00 feet; thence continuing on and along said boundary North 89 degrees 51 minutes 11 seconds West 4.11 feet to the southeast corner of lot 64 in the aforesaid Auman's Addition; thence North 00 degrees 03 minutes 45 seconds West along the East line of said lot 64 a distance of 140.00 feet to the place of beginning, containing 3.839 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

2020053273 DECL \$25.00  
08/10/2020 02:18:30PM 8 PGS  
Jennifer Hayden  
Hamilton County Recorder IN  
Recorded as Presented

LLP



**Cross Reference: Instrument No. 2018056504**

## **SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT**

This Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development (this “**Supplement**”) is made effective as of the 6<sup>th</sup> day of August, 2020 by BC GRAMERCY II, LLC, an Indiana limited liability company (“**Developer**”), and Weekley Homes, LLC, a Delaware limited liability company (“**Weekley**”). Developer and Weekley are the owners of the Lots subject to the Use Easements herein described.

1. Recitals. Developer previously executed and recorded that certain “Declaration of Covenants, Conditions and Restrictions for Gramercy West Development” that was recorded in the Office of the Recorder of Hamilton County, Indiana on December 4, 2018, as Instrument Number 2018056504 (the “**Declaration**”). Under Section 2.03 of the Declaration, Developer (i) created Use Easements as illustrated on Exhibit C attached to the Declaration, (ii) reserved the right to add, remove, or otherwise change any Use Easement or the designation of Benefitted Lot or Burdened Lot as to any Lots owned by Developer, and (iii) also granted the right to Builder to add, remove, or otherwise change any Use Easement or the designation of Benefitted Lot or Burdened Lot as to any Lots owned by Builder. Weekley (misidentified as an Indiana limited liability company in the Declaration) is a Builder under the Declaration. All of the Benefitted Lots and Burdened Lots set forth on Exhibit C attached to this Supplement are owned by Developer or Weekley.

2. Supplement and Amendment. Exhibit C attached to the Declaration is hereby deleted and replaced with Exhibit C attached hereto, which consists of (i) a table listing the Burdened Lots and Benefitted Lots, and (ii) depictions of the location of the Use Easements upon the Burdened Lots. Developer, with respect to the Benefitted Lots and Burdened Lots set forth on Exhibit C owned by Developer, and Weekley, with respect to the Benefitted Lots and Burdened Lots set forth on Exhibit C owned by Weekley, hereby subject each such Burdened Lots to a Use Easement as depicted on Exhibit C, which Use Easement consists of a three foot (3') wide strip along the entire common property line shared by the Burdened Lot and the Benefitted Lot.

3. No Further Amendments: Incorporation of Definitions. Except as set forth in this Supplement, the Declaration shall be unaffected and unchanged and shall remain in full force and effect in accordance with its terms. Any references to capitalized terms not otherwise defined in this Supplement shall have the meanings set forth in the Declaration.





After recording please return to: Weekley Homes, LLC, Attn: Natalie Thaxton, 1111 N. Post  
Oak Road, Houston, Texas 77055.

I affirm under penalties of perjury, that I have take reasonable care to redact each Social Security  
Number in this document, unless required by law. Richard K. Anderson

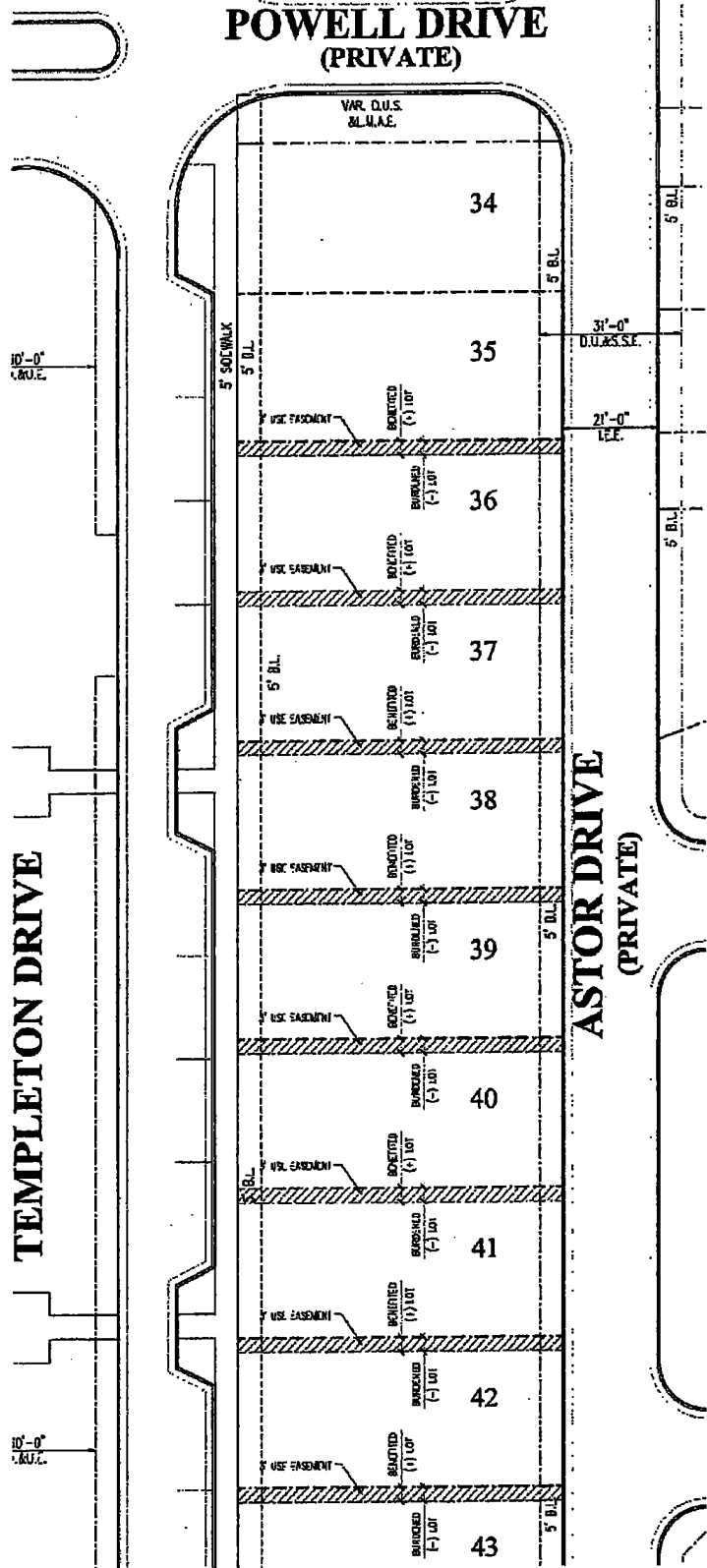
This instrument was prepared by Richard K. Anderson, Associate General Counsel of Weekley  
Homes, LLC, 1111 N. Post Oak Road, Houston, Texas 77055.

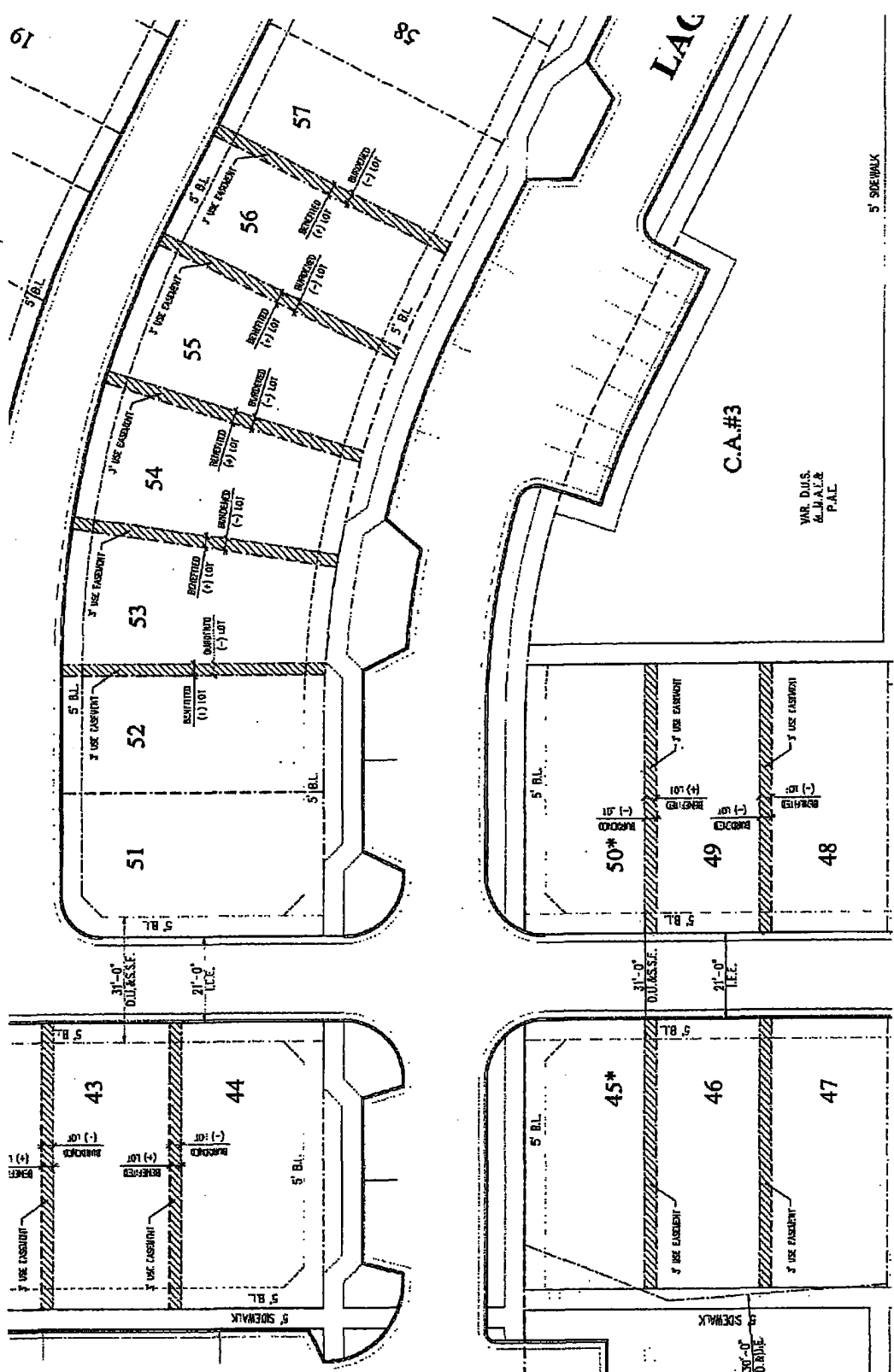
EXHIBIT C

USE EASEMENTS AND BENEFITTED LOTS AND BURDENED LOTS

<b>Gramercy West Section 1</b>	
Use Easement Burden/Benefit Lots	
<u>Burdened Lot</u>	<u>Benefited Lot</u>
Easement limits use of area within the platted lot	Easement grants use of area outside the platted lot
Lot 45	Lot 46
Lot 46	Lot 47
Lot 49	Lot 48
Lot 50	Lot 49
Lot 53	Lot 52
Lot 54	Lot 53
Lot 55	Lot 54
Lot 56	Lot 55
Lot 57	Lot 56
Lot 44	Lot 43
Lot 43	Lot 42
Lot 42	Lot 41
Lot 41	Lot 40
Lot 40	Lot 39
Lot 39	Lot 38
Lot 38	Lot 37
Lot 37	Lot 36
Lot 36	Lot 35

# POWELL DRIVE (PRIVATE)





19

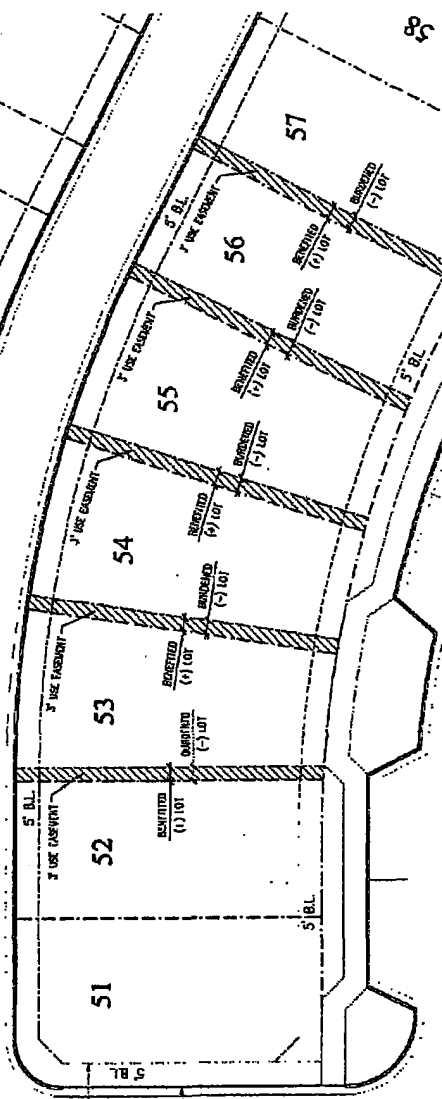
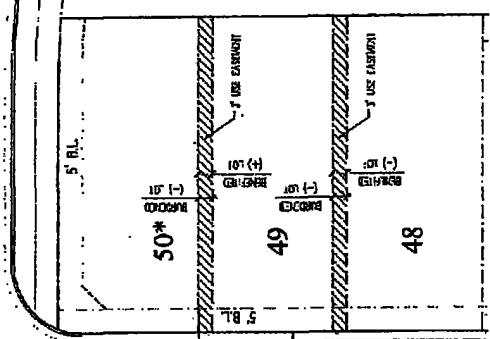
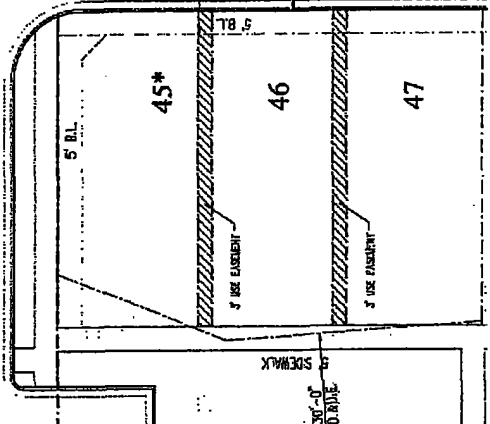
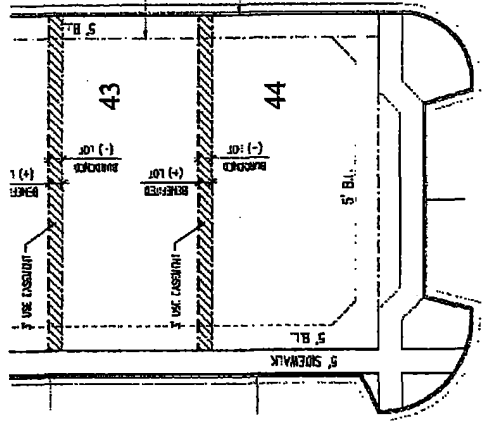
58

LAC

C.A.#3

VAR. D.U.S.  
REJUAL &  
P.A.L.

5' SIDEWALK



2021088241 DECL \$25.00  
12/09/2021 12:54:21PM 9 PGS  
Jennifer Hayden  
Hamilton County Recorder IN  
Recorded as Presented



AMM

Cross Reference: Instrument No. 2018056504, 2020053273

**SECOND SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT**

This Second Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development (this "Supplement") is made effective as of the 2<sup>nd</sup> day of October 2021 by BC GRAMERCY II, LLC, an Indiana limited liability company ("Developer"), and Weekley Homes, LLC, a Delaware limited liability company ("Weekley"). Developer and Weekley are the owners of the Lots subject to the Use Easements herein described.

1. Recitals. Developer previously executed and recorded that certain "Declaration of Covenants, Conditions and Restrictions for Gramercy West Development" that was recorded in the Office of the Recorder of Hamilton County, Indiana on December 4, 2018, as Instrument Number 2018056504 (the "Original Declaration") and that certain "Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development" that was recorded in the Office of the Recorder of Hamilton County, Indiana on August 10, 2020, as Instrument Number 2020053273 (the "First Supplement") (collectively, the "Declaration"). Under Section 2.03 of the Declaration, Developer: (i) created Use Easements as illustrated on Exhibit C attached to the Original Declaration; (ii) reserved the right to add, remove, or otherwise change any Use Easement or the designation of Benefitted Lot or Burdened Lot as to any Lots owned by Developer; and (iii) also granted the right to Builder to add, remove, or otherwise change any Use Easement or the designation of Benefitted Lot or Burdened Lot as to any Lots owned by Builder. Weekley is a Builder under the Declaration. Exhibit C to the Original Declaration was deleted and replaced by Exhibit C attached to the First Supplement. All of the Benefitted Lots and Burdened Lots set forth on Exhibit C attached to this Supplement are owned by Developer or Weekley.

2. Supplement and Amendment. Exhibit C attached to this Supplement creates additional Use Easements and designates additional Lots as Burdened Lots and/or Benefitted Lots. Exhibit C attached hereto consists of (i) a table listing the Burdened Lots and Benefitted Lots, and (ii) depictions of the location of the Use Easements upon the Burdened Lots. Developer, with respect to the Benefitted Lots and Burdened Lots set forth on Exhibit C owned by Developer, and Weekley, with respect to the Benefitted Lots and Burdened Lots set forth on Exhibit C owned by Weekley, hereby subject each such Burdened Lots to a Use Easement as depicted on Exhibit C, which Use Easement consists of a three foot (3') wide strip along the entire common property line shared by the Burdened Lot and the Benefitted Lot.

3. No Further Amendments: Incorporation of Definitions. Except as set forth in this Supplement, the Declaration shall be unaffected and unchanged and shall remain in full force and effect in accordance with its terms. Any references to capitalized terms not otherwise defined in this Supplement shall have the meanings set forth in the Declaration.

*[Signatures of Developer and Builder appear on the next 2 pages.]*

IN WITNESS WHEREOF, Developer and Weekley have executed this Supplement on the dates set forth in the acknowledgements below to be effective as of the date first set forth above.

BC GRAMERCY II, LLC,  
an Indiana limited liability company

By: [Signature]  
Name: Christopher W. Myrvold  
Its: Authorized Representative

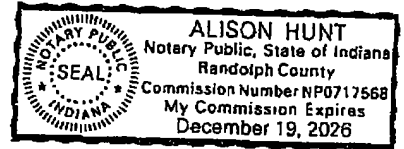
STATE OF INDIANA )  
 ) SS:  
COUNTY OF Marion )

Before me, a notary public in and for said County and State personally appeared Christopher W. Myrvold, Authorized Representative of BC Gramercy II, LLC, an Indiana limited liability company, who having first been duly sworn, acknowledged the execution of the foregoing instrument in such capacity on behalf of said limited liability company.

Witness my hand and notarial seal on this 19<sup>th</sup> day of November, 2021.

My Commission Expires:  
12/19/2024  
My County of Residence:  
Marion

Alison Danielle Hunt  
(Signature)  
Alison Danielle Hunt  
(printed name) Notary Public



EXECUTED AND DELIVERED in my presence:

[Signature]  
Witness: Andrew Klineman

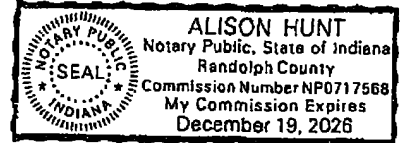
STATE OF INDIANA )  
 ) SS:  
COUNTY OF Marion )

Before me, a Notary Public in and for said County and State, personally appeared Andrew Klineman [Witness Name], being known or proved to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Christopher W. Myrvold, Authorized Representative of BC Gramercy II, LLC in the foregoing witness' presence.

Witness my hand and Notarial Seal this 19<sup>th</sup> day of November, 2021.

My Commission Expires:  
12/19/2024  
My County of Residence:  
Marion

Alison Danielle Hunt  
(Signature)  
Alison Danielle Hunt  
(printed name) Notary Public



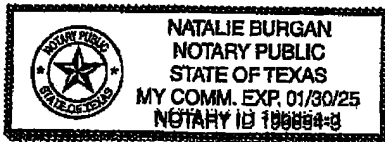
WEEKLEY HOMES, LLC,  
a Delaware limited liability company

By: [Signature]  
Name: John Burchfield  
Its: Vice President and General Counsel

STATE OF TEXAS        )  
                                  ) SS:  
COUNTY OF HARRIS    )

Before me, a notary public in and for said County and State personally appeared John Burchfield, Vice President and General Counsel of Weekley Homes, LLC, a Delaware limited liability company, who having first been duly sworn, acknowledges the execution of the foregoing instrument in such capacity on behalf of said limited liability company.

Witness my hand and notarial seal on this 1<sup>st</sup> day of December ~~October~~ 2021.



[Signature]  
Notary Public  
Printed: \_\_\_\_\_  
County of Residence: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

EXECUTED AND DELIVERED in my presence:

[Signature]  
Witness: Hannah Walker

STATE OF TEXAS        )  
                                  ) SS:  
COUNTY OF HARRIS    )

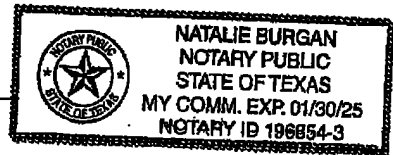
Before me, a Notary Public in and for said County and State, personally appeared Hannah Walker [Witness Name], being known or proved to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by John Burchfield, the General Counsel of Weekley Homes, LLC in the foregoing witness' presence.

Witness my hand and Notarial Seal this 1<sup>st</sup> day of December ~~October~~, 2021.

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

[Signature]  
(Signature)



\_\_\_\_\_  
(printed name)                      Notary Public

After recording please return to: Weekley Homes, LLC, 1111 N. Post Oak Road, Houston, Texas 77055.

I affirm under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Richard K. Anderson

This instrument was prepared by Richard K. Anderson, Associate General Counsel of Weekley Homes, LLC, 1111 N. Post Oak Road, Houston, Texas 77055.

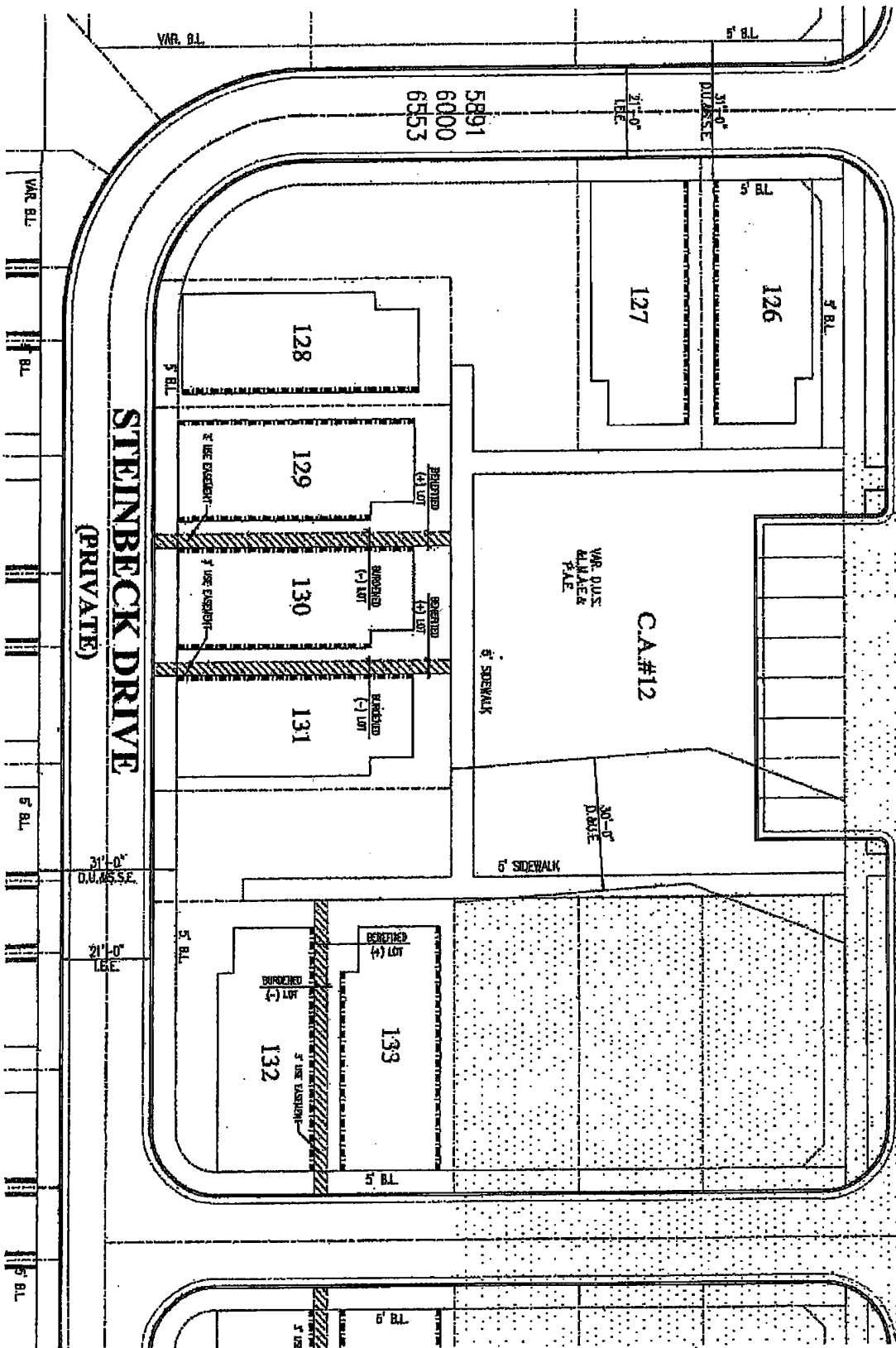
EXHIBIT C TO SECOND SUPPLEMENT

**Gramercy West Section 2**

**Use Easement Burden/Benefit Lots**

<b>Burdened Lot</b> Easement limits use of area within the platted lot	<b>Benefited Lot</b> Easement grants use of area outside the platted lot
Lot 130	Lot 129
Lot 131	Lot 130
Lot 132	Lot 133
Lot 135	Lot 134
Lot 138	Lot 137
Lot 139	Lot 138
Lot 140	Lot 139
Lot 141	Lot 140
Lot 70	Lot 71
Lot 71	Lot 72
Lot 72	Lot 73
Lot 75	Lot 74
Lot 76	Lot 75
Lot 77	Lot 76
Lot 78	Lot 77
Lot 79	Lot 80
Lot 82	Lot 81
Lot 83	Lot 82
Lot 86	Lot 85
Lot 87	Lot 86
Lot 88	Lot 87

EKKERLID DRIVE



5891  
6000  
6553

STEINBECK DRIVE  
(PRIVATE)

CA#12

VAR. DUST  
METER  
FILE

5' SIDEWALK

5' SIDEWALK

31'-0" x 35'-0"  
D.U. 2552

21'-0" x 31'-0"  
129

128

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130

131

132

133

126

127

VAR. BL.

5' BL.

VAR. BL.

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31'-0" x 35'-0"  
DUSTMETER

31'-0" x 35'-0"  
126

5' BL.

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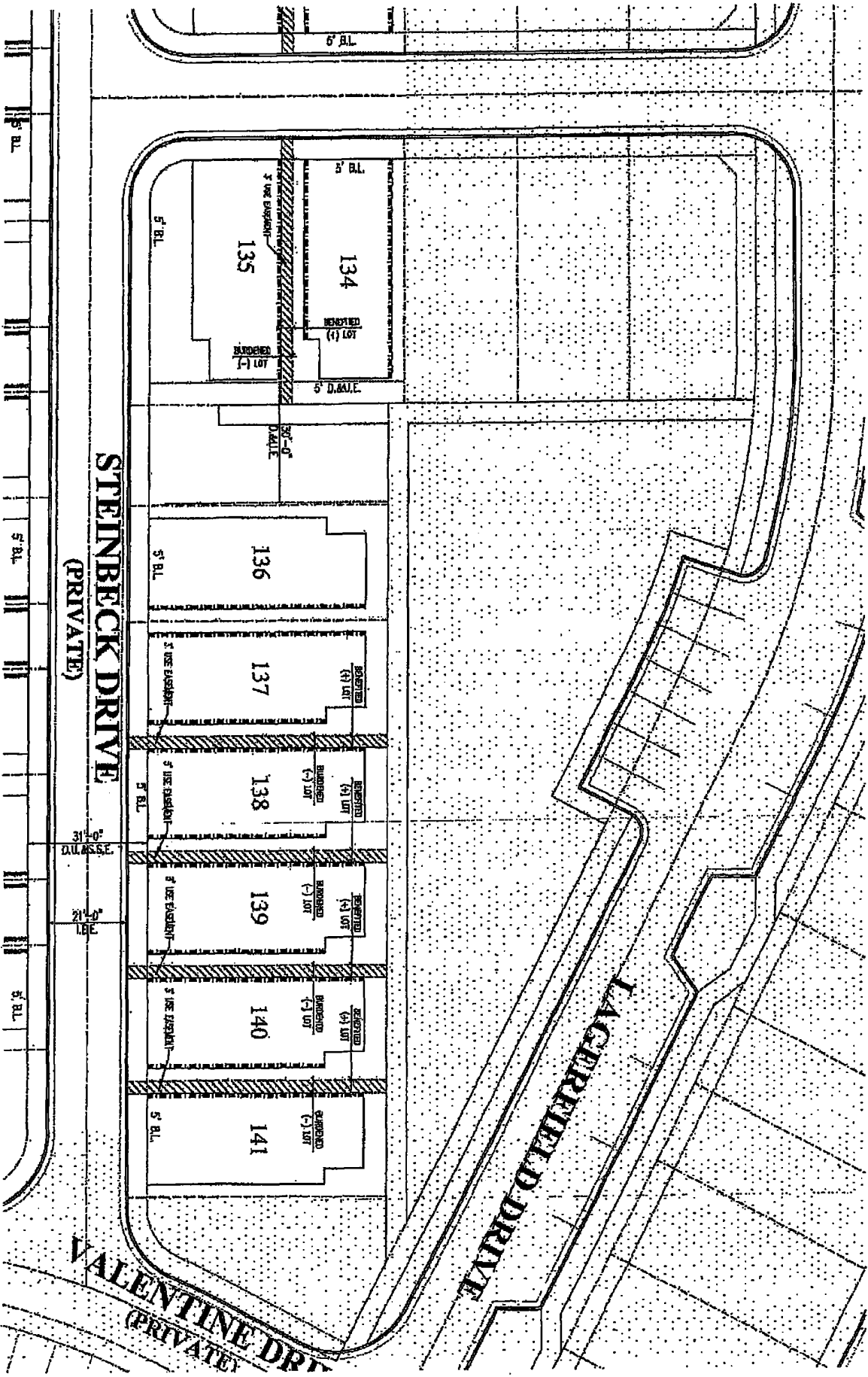
5' BL.

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STEINBECK DRIVE  
(PRIVATE)

LACERRIED DRIVE

VALENTINE DRIVE  
(PRIVATE)

5' BL

5' BL

5' BL

5' BL

6' BL

5' BL

5' BL

5' BL

5' USE EASEMENT

5' BL

5' USE EASEMENT

5' USE EASEMENT

5' BL

134

136

137

138

139

140

141

135

RESERVED (2) LOT

RESERVED (1) LOT

RESERVED (4) LOT

RESERVED (4) LOT

RESERVED (4) LOT

RESERVED (4) LOT

RESERVED (3) LOT

5' USE EASEMENT

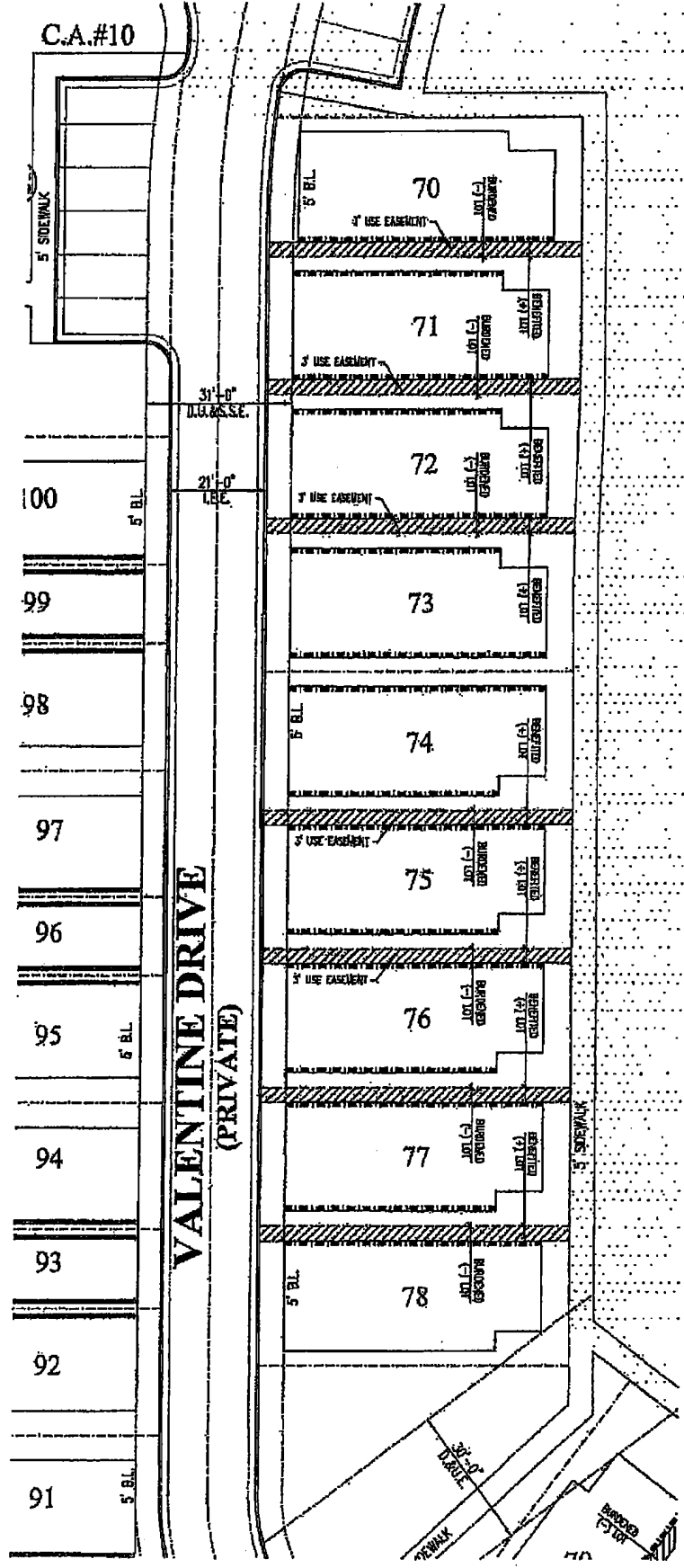
5' D.M.A.E.

5' D.M.A.E.

31'-0" D.U. EASEMENT

3'-0" R.L.E.

C.A.#10



100

99

98

97

96

95

94

93

92

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71

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75

76

77

78

VALENTINE DRIVE  
(PRIVATE)

31'-0"  
D.C. & S.E.

21'-0"  
L.E.

31'-0"  
D.C. & S.E.

5' SIDEWALK

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

5' B.L.

JUNCTION BOX

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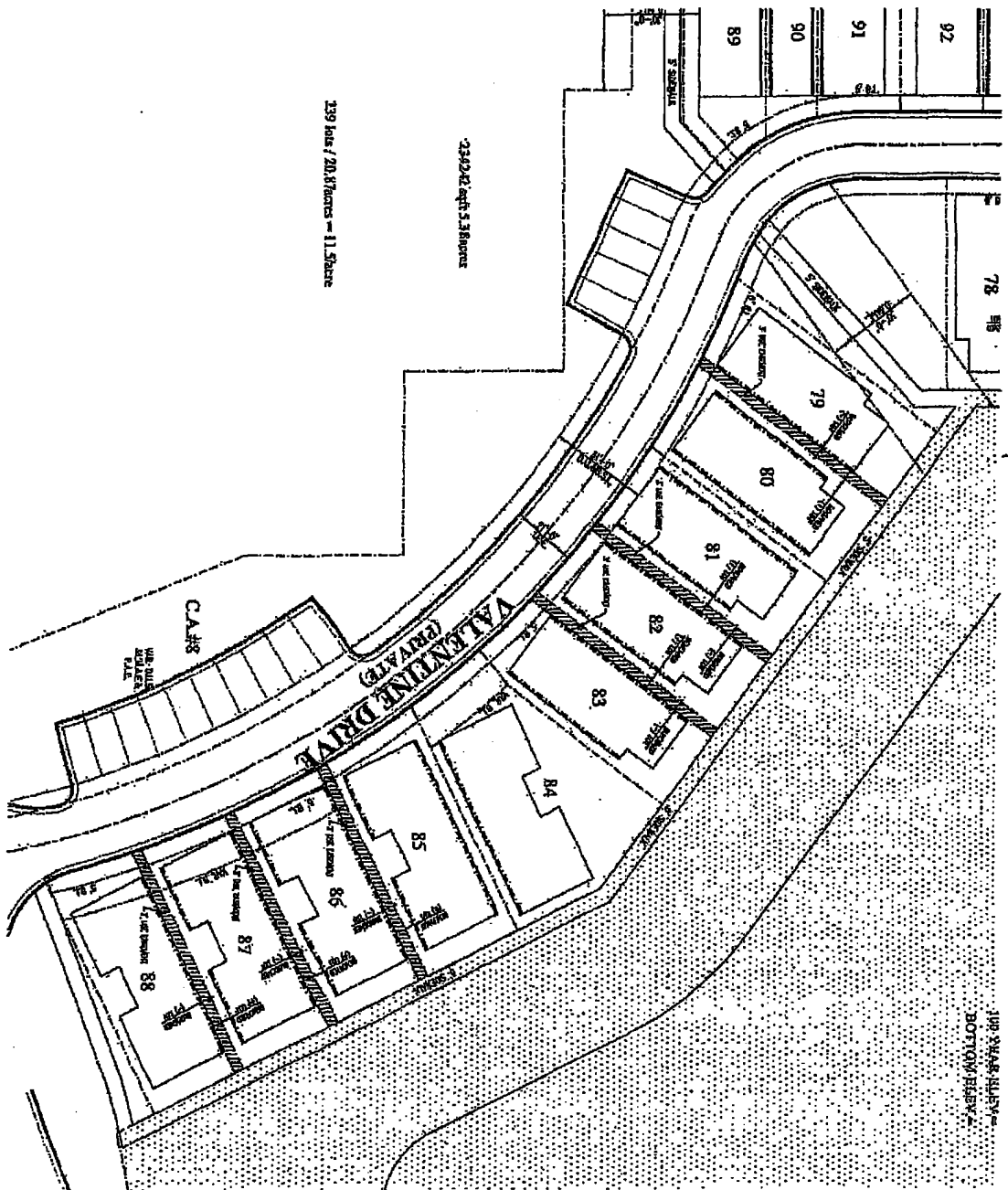
JUNCTION BOX

HANDING CLOSURE

31'-0"  
D.C. & S.E.

5' SIDEWALK

HANDING CLOSURE



139 lots / 20.8 Homes - 11 Space

2342 sqm with 5.86 acres


THE SHARPLESS  
BOTTOM BASSIN

**AFFIDAVIT**  
 Regarding: Grammercy West Section 4

I hereby certify that pertaining to the plat of Grammercy West Section 4 recorded as instrument #2023032349 in Plat Cabinet #6, Slide #431 in the Office of the Recorder for Hamilton County, Indiana, the following are true and correct:

- 1) I am a Professional Land Surveyor registered in the State of Indiana.
- 2) I am the surveyor of record and prepared the above-mentioned plat.
- 3) Field work for the plat corner monumentation was completed on February 8th, 2023 and to the best of my knowledge and belief, were set in accordance with the Indiana Administrative Code (IAC) Title 865, Chapter 1, Rule 12-18 at the locations shown on the aforementioned plat.
- 4) 4" X 4" Concrete Monuments were installed at the locations as shown on said plat, except as shown and noted on the monument exhibit on Page 2 herein.

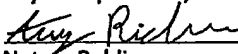
Witnessed by my hand and seal this 26th day of September, 2023.

  
 DENNIS D. OLMSTEAD  
 Professional Land Surveyor  
 No. 900012  
 Stoepfelwerth & Associates, Inc.  
 7965 East 106th Street  
 Fishers, Indiana 46038  
 Phone (317) 849-5935



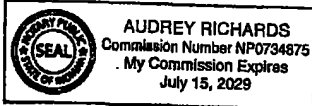
STATE OF INDIANA     )  
   )SS:  
 County of Hamilton     )


Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dennis D. Olmstead, Professional Land Surveyor, who acknowledged the execution of the foregoing affidavit, and who, being duly sworn, stated that the representations contained herein are true.

Witnessed by my hand and seal this 26th day of September, 2023.  
  
 Notary Public  
 Audrey Richards  
 Printed Name

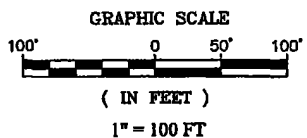
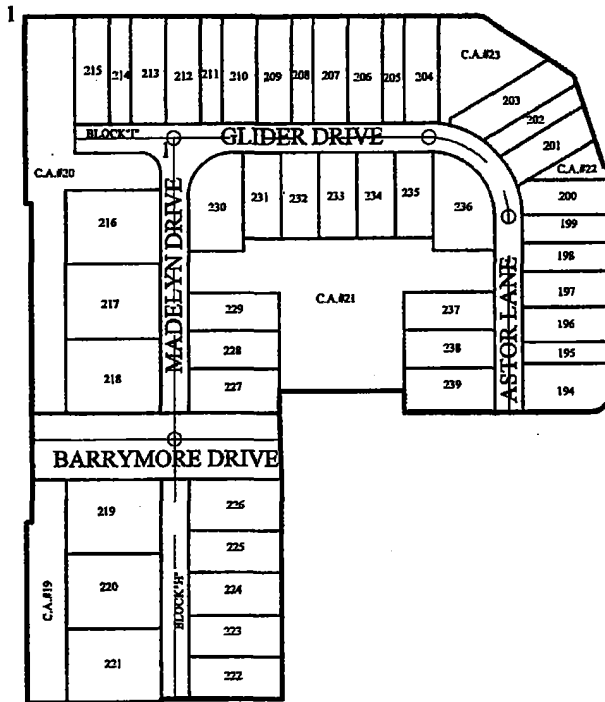
My Commission Expires: 07/15/2029  
 My County of Residence: Marion

This document prepared by  
 Dennis D. Olmstead, P.L.S.  
 I affirm, under the penalties for perjury, I have taken reasonable care to redact each social security number in the document, unless required by law. Dennis D. Olmstead, P.L.S.



 <p><b>STOEPPELWERTH</b></p> <p>ALWAYS ON</p> <p>7965 East 106th Street, Fishers, IN 46038-2505              phone: 317.849.5935 fax: 317.849.5942</p>	JOB NO. 65840BKM-S4	PAGE <b>1</b> OF 2 SHEETS
	DRAWN BY: JDB	
	CHECKED BY: DDO	
	DATE DRAWN: 02/08/23	
	FIELDWORK DATE: 02/08/23	

Gramercy West, Section 4  
Monuments Exhibit



Monument Table		
Code	Number of Instances	Description
1	1	Rebar set in lieu of concrete monument due to proximity to path

THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SURVEYOR LOCATION REPORT.

<p>STOEPPELWERTH</p> <p>ALWAYS ON</p> <p>7945 East 106th Street, Fishers, IN 46038-2505 phone: 317.849.5935 fax: 317.849.5942</p>	JOB NO. 65840BKM-S4	<p>PAGE</p> <p><b>2</b></p> <p>OF 2 SHEETS</p>
	DRAWN BY: JDB	
	CHECKED BY: DDO	
	DATE DRAWN: 02/08/23	
	FIELDWORK DATE: 02/08/23	

Billing #65840BKM-S4

**AFFIDAVIT**  
 Regarding: Gramercy West Section 4

JMZ

I hereby certify that pertaining to the plat of Gramercy West Section 4 recorded as Instrument #2023032349 in Plat Cabinet #6, Slide #431 in the Office of the Recorder for Hamilton County, Indiana, the following are true and correct:

- 1) I am a Professional Land Surveyor registered in the State of Indiana.
- 2) I am the surveyor of record and prepared the above-mentioned plat.
- 3) Field work for the lot corner monumentation was completed on July 12th, 2023 and to the best of my knowledge and belief, were set in accordance with the Indiana Administrative Code (IAC) Title 865, Chapter 1, Rule 12-18 at the locations shown on the aforementioned plat.
- 4) 5/8" Reinforcing bars with yellow caps stamped "S&A FIRM #0008" were installed at the locations as shown on said plat.

Witnessed by my hand and seal this 26th day of September, 2023.



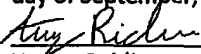
DENNIS D. OLMSTEAD  
 Professional Land Surveyor  
 No. 900012  
 Stoepelwerth & Associates, Inc.  
 7965 East 106th Street  
 Fishers, Indiana 46038  
 Phone (317) 849-5935

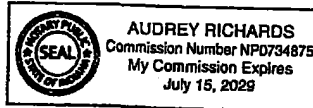


STATE OF INDIANA     )  
   )SS:  
 County of Hamilton     )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dennis D. Olmstead, Professional Land Surveyor, who acknowledged the execution of the foregoing affidavit, and who, being duly sworn, stated that the representations contained herein are true.

Witnessed by my hand and seal this 26th day of September, 2023.


  
 Notary Public  
 Audrey Richards  
 Printed Name



My Commission Expires: 07/15/2029  
 My County of Residence: Marion

This document prepared by  
 Dennis D. Olmstead, P.L.S.

I affirm, under the penalties for perjury, I have taken reasonable care to redact each social security number in the document, unless required by law. Dennis D. Olmstead, P.L.S.

 <p style="text-align: center;"><b>STOEPPELWERTH</b></p> <p style="text-align: center;">ALWAYS ON</p> <p style="text-align: center;">7965 East 106th Street, Fishers, IN 46038-2585              phone: 317.849.5935 fax: 317.849.5942</p>	JOB NO. 65840BKM-S4	PAGE
	DRAWN BY: JDB	<b>1</b>
	CHECKED BY: DDO	
	DATE DRAWN: 07/12/23	
	FIELDWORK DATE: 07/12/23	
		OF 1 SHEETS

Billing #65840BKM-S4

**AFFIDAVIT**  
Regarding: Gramercy West Section 4

I hereby certify that pertaining to the plat of Gramercy West Section 4 recorded as Instrument #2023032349 in Plat Cabinet #6, Slide #431 in the Office of the Recorder for Hamilton County, Indiana, the following are true and correct:

- 1) I am a Professional Land Surveyor registered in the State of Indiana.
- 2) I am the surveyor of record and prepared the above-mentioned plat.
- 3) Field work for the centerline monumentation was completed on June 23rd, 2023 and to the best of my knowledge and belief, were set in accordance with the Indiana Administrative Code (IAC) Title 865, Chapter 1, Rule 12-18 at the locations shown on the aforementioned plat.
- 4) Aluminum welds stamped "S&A Firm #0008" were installed at the street centerline control points as shown on said plat.

Witnessed by my hand and seal this 26th day of September, 2023.



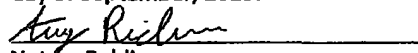
DENNIS D. OLMSTEAD  
Professional Land Surveyor  
No. 900012  
Stoepelwerth & Associates, Inc.  
7965 East 106th Street  
Fishers, Indiana 46038  
Phone (317) 849-5935



STATE OF INDIANA )  
 )SS:  
County of Hamilton )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dennis D. Olmstead, Professional Land Surveyor, who acknowledged the execution of the foregoing affidavit, and who, being duly sworn, stated that the representations contained herein are true.

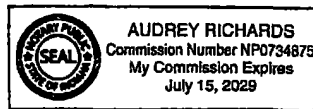
Witnessed by my hand and seal this 26th day of September, 2023.


  
Notary Public  
Audrey Richards  
Printed Name

My Commission Expires: 07/15/2029  
My County of Residence: Marion

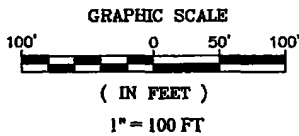
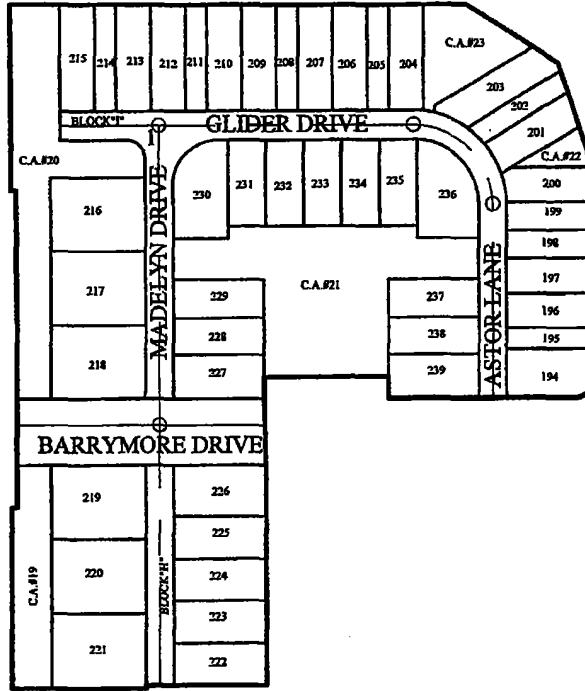
This document prepared by  
Dennis D. Olmstead, P.L.S.

I affirm, under the penalties for perjury, I have taken reasonable care to redact each social security number in the document, unless required by law. Dennis D. Olmstead, P.L.S.



 <p><b>STOEPPELWERTH</b></p> <p>ALWAYS ON</p> <p>7965 East 106th Street, Fishers, IN 46038-2505 phone: 317.849.5935 fax: 317.849.5942</p>	JOB NO. 65840BKM-S4	PAGE
	DRAWN BY: JDB	<p><b>1</b></p> <p>OF 2 SHEETS</p>
	CHECKED BY: DDO	
	DATE DRAWN: 07/12/23	
	FIELDWORK DATE: 06/23/23	

Gramercy West, Section 4  
Monuments Exhibit



Monument Table		
Code	Number of Instances	Description
1	1	Copperweld set in lieu of aluminum weld

THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SURVEYOR LOCATION REPORT.

<p><b>STOEPPELWERTH</b></p> <p>ALWAYS ON</p> <p>7965 East 186th Street, Fishers, IN 46038-2505 phone: 317.849.5935 fax: 317.849.5942</p>	JOB NO. 65840BKM-S4	<p>PAGE</p> <p><b>2</b></p> <p>OF 2 SHEETS</p>
	DRAWN BY: JDB	
	CHECKED BY: DDO	
	DATE DRAWN: 07/12/23	
	FIELDWORK DATE: 06/23/23	

2023042457 AMEN \$25.00  
11/08/2023 08:47:31AM 7 PGS  
Trini Beaver  
Hamilton County Recorder IN  
Recorded as Presented



EJC

Cross Reference: Instrument No. 2018056504

**FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
GRAMERCY WEST DEVELOPMENT**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT (“**Amendment**”), is made this 7th day of November, 2023, by BC GRAMERCY II, LLC, an Indiana limited liability company (“**Developer**”).

WHEREAS, on December 4, 2018, Developer, as “Developer”, recorded that certain Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, as Instrument No. 2018056504 in the office of the Recorder of Hamilton County, Indiana (the “**Original Declaration**”), as amended by that certain Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of August 6, 2020, and recorded August 10, 2010, as Instrument No. 2020053273 (the “**First Supplement**”), and that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of October 2, 2021, and recorded December 9, 2021, as Instrument No. 2021088241 (the “**Second Supplement**”, and together with the Original Declaration and the First Supplement, the “**Declaration**”);

WHEREAS, the Development Period is currently in effect pursuant to the Declaration, and Developer currently maintains control of the Association;

WHEREAS, pursuant to Section 4.11 of the Original Declaration, Developer has the right prior to the Development Period to add to the Real Estate and subject to the Declaration all or any part of the Additional Real Estate by recording a Supplementary Declaration;

WHEREAS, Developer desires to subject the portion of the Additional Real Estate more particularly described on Exhibit A attached hereto and incorporated herein (the “**Section Two Real Estate**”) to the Declaration and intends that this Amendment be a Supplementary Declaration in accordance with Section 4.11 of the Original Declaration;

WHEREAS, Developer also desires to make further amendments to the Declaration as more particularly set forth herein; and

WHEREAS, capitalized terms used in this Amendment and not otherwise defined shall have the meanings ascribed to such terms in the Declaration.

NOW, THEREFORE, for the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. The following sections are added to Article I of the Original Declaration to read as follows:

“1.05 No noxious or offensive activity shall be carried on or permitted to be carried on upon the Real Estate, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood. Nothing shall be done or kept or permitted to be done or kept by an Owner in any Residence, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance paid by the Association or any other Owner. No Owner shall permit anything to be done or kept in

his, her or its Residence or on his, her or its Lot which will result in a cancellation of insurance on any part of the Common Area or any other Owner, or which would be a violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau. No Residence or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the Association or the Subdivision or which might be a nuisance, annoyance, or inconvenience, or which might cause damage, to other Owners and occupants of Residences or neighboring property, including, without limiting the generality of the foregoing, noise by the use of any musical instrument, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machinery. No exterior lighting on a Lot shall be directed outside the boundaries of the Lot.

1.06 Excessive barking of dog(s) or vicious animals shall constitute a nuisance and may be ordered removed from the Real Estate by the Association. Pets will not be permitted outside of a Residence unless on a leash and any Owner walking a pet within the Subdivision or on any Common Areas will immediately clean up any solid animal waste and properly dispose of the same. Failure to remove any solid animal waste shall subject the Owner to a fine per occurrence in an amount as determined from time to time by the Board upon notice to each Owner. Law enforcement and animal control personnel shall have the right to enter the Real Estate to enforce local animal control ordinances.

1.07 No inoperable, junk, unregistered or unlicensed vehicle shall be kept within the Subdivision. No portion of the Subdivision shall be used for the repair of a vehicle. Except upon the prior written approval of the Architectural Control Committee, no commercial or industrial vehicle, including, but not limited to, moving vans, trucks, tractors, trailers, vans, wreckers, tow trucks, hearses and buses, shall be parked overnight or regularly or habitually parked within the Subdivision, nor shall any such vehicle be located within the Subdivision for longer than twenty-four (24) hours. No recreational vehicles or equipment, including, but not limited to, boats, boating equipment, jet-skis, wave runners, travel trailers, fuel tanks, camping vehicles or camping equipment, shall be parked within the Subdivision without the prior, written approval of the Architectural Control Committee, as to location, size, screening and other criteria deemed to be relevant by the Architectural Control Committee. The Association shall not be required to provide a storage area for these vehicles. The Board shall have the right to tow any vehicle parked or kept in violation of the covenants contained within this Article 1, upon twelve (12) hours' written, telephonic or verbal notice and at the vehicle owner's sole expense. Any conversion of any garage that will preclude the parking of vehicles within that garage is prohibited. Owners shall keep and maintain their garages at all times in a manner that will permit the usage of such garage for parking of passenger automobiles, vans and/or trucks.

1.08 Reserved.

1.09 The Board shall have the authority to adopt such rules and regulations regarding this Article I, Article VI and Article IX as it may from time to time consider necessary or appropriate."

2. The first sentence of Section 3.15 of the Original Declaration is hereby deleted in its entirety and replaced with the following:

"In addition to the Monthly Assessment set forth above, upon the closing of the initial conveyance of each Lot to the first Owner of the respective Lot, the Owner shall pay to the Association, in addition to any other amount then owed or due to the Association, as a contribution to the working capital of the Association and its start-up fund, an amount equal to three times the then-current Monthly Assessment (the "Initial Operating/Reserve Fund Assessment"), which payment shall be non-refundable and shall not be considered as an advance payment of any other assessments or other charges owed to the Association with respect to such Lot."

3. The following language is added to the end of Section 8.01 of the Original Declaration:

"Without limiting the foregoing, the Board, subject to Section 8.02 hereof, may impose sanctions for violation of the Governing Documents. To the extent permitted by Indiana law, such sanctions may include:

- (A) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot. (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- (B) suspending an Owner's right to vote if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;
- (C) suspending any Owner's right to use the Common Areas; provided, such suspension shall not impair an Owner's right to vehicular and pedestrian ingress and egress to and from its Lot, and the right to park within parking areas;
- (D) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;
- (E) exercising legal self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation; and
- (F) levying special assessments against a Lot to cover costs incurred by the Association to bring such Lot into compliance with the Governing Documents.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity."

4. Reference is hereby made to that certain Gramercy West Section Two Secondary Plat, recorded August 17, 2021, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2021059979 (the "Section Two Plat"), which Section Two Plat is of the Section Two Real Estate. Pursuant to the provisions of Section 4.11 of the Original Declaration, Developer hereby declares that the Section Two Real Estate, as it is owned and shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged or otherwise encumbered, is now annexed into, and is part of, the Real Estate, to be

effective as of August 17, 2021. The Section Two Real Estate shall be subject to and bound by the provisions of the Declaration, and the Section Two Real Estate shall hereafter be deemed within the Real Estate and the Subdivision. Accordingly, pursuant to Section 4.11 of the Original Declaration, the Section Two Plat shall be included within the definition of "Plat" under the Declaration, and any Intended Lots shown on such plat shall be included within the definition of "Lots" under the Declaration. This Amendment and the Declaration shall run with the Section Two Real Estate and shall be binding upon the owners of the Section Two Real Estate and their respective successors and assigns, and upon the parties having or acquiring any interest in the Section Two Real Estate or any part or parts thereof subject to these restrictions.

5. From and after the date of this Amendment the term "Declaration" shall be deemed to mean and refer to, collectively, the existing Declaration as amended by this Amendment. If any term, provision or condition of this Amendment is found to be or rendered invalid or unenforceable, it shall not affect the remaining terms, provisions and conditions of this Amendment or the Declaration, and each and every other term, provision and condition of this Amendment shall be valid and enforceable to the fullest extent permitted by law.

6. This Amendment shall be governed, construed, applied and enforced in accordance with the laws of the State of Indiana.

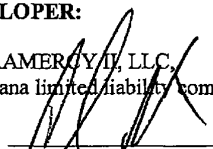
7. Except as expressly amended herein, all other terms, covenants and conditions of the Declaration shall remain in full force and effect.

[The rest of this page has been intentionally left blank.]

IN WITNESS WHEREOF, Developer has executed this First Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development as of the day and year first above written.

**DEVELOPER:**

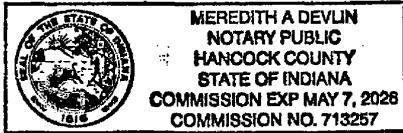
BC GRAMERCY II, LLC,  
an Indiana limited liability company

By:   
Christopher W. Myrvold, Authorized Representative

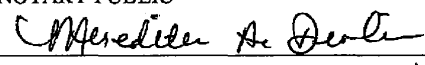
STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

Before me, a Notary Public in and for said county and state, personally appeared Christopher W. Myrvold, the Authorized Representative of BC Gramercy II, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing for an on behalf of said limited liability company.

Witness my hand and Notarial Seal this 7<sup>th</sup> day of November, 2023.



NOTARY PUBLIC



Printed: Meredith A. Devlin

My Commission Expires:

5/7/26

County of Residence:

Hancock

This instrument prepared by, and should be returned to, Gregory Touney, Esq., ICE MILLER, LLP, One American Square, Suite 2900, Indianapolis, IN 46282-0200.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Gregory C. Touney

Exhibit A

**Section Two Real Estate**

Beginning at the northwest corner of Lot 45 in Gramercy West, Section One, recorded as Instrument number 2018057148, Plat Cabinet 5, Slide 910 in the Office of the Recorder for Hamilton County, Indiana; the following nineteen (19) courses being on and along the boundary of said Gramercy West, Section One: 1) South 00 degrees 00 minutes 00 seconds West 90.25 feet; 2) North 90 degrees 00 minutes 00 seconds East 153.00 feet; 3) South 00 degrees 00 minutes 00 seconds West 3.99 feet; 4) South 89 degrees 49 minutes 46 seconds East 197.69 feet 5) South 00 degrees 10 minutes 14 seconds West 65.50 feet to a point on the North R/W of Steinbeck Place; 6) North 89 degrees 49 minutes 46 seconds West 16.14 feet along said North R/W; 7) South 00 degrees 10 minutes 14 seconds West 21.00 feet to the point of curvature of a curve concave southwesterly, the radius point of said curve being South 00 degrees 10 minutes 14 seconds West 19.50 feet from said point said point also being a point on the South R/W of Steinbeck Place; 8) southeasterly along said curve 33.86 feet to the point of tangency of said curve, said point being South 80 degrees 20 minutes 04 seconds East 19.50 feet from the radius point of said curve said point also being a point on a curve concave easterly, the radius point of said curve being South 80 degrees 20 minutes 04 seconds East 210.50 feet from said point said point also being on the East R/W of Valentine Lane; 9) southerly along said curve 11.18 feet along said R/W to a point on said curve, said point being North 83 degrees 22 minutes 43 seconds West 210.50 feet from the radius point of said curve; (10) South 83 degrees 22 minutes 43 seconds East 21.00 feet to a point on the East right-of-way line of Valentine Lane, said point also being a point on a curve concave easterly, the radius point of said curve being South 83 degrees 22 minutes 43 seconds East 189.50 feet from said point; (11) northerly along said curve 5.25 feet along said R/W to a point on said curve, said point being North 81 degrees 47 minutes 28 seconds West 189.50 feet from the radius point of said curve; 12) South 80 degrees 06 minutes 31 seconds East 30.02 feet; 13) North 89 degrees 47 minutes 06 seconds East 25.35 feet; 14) South 62 degrees 44 minutes 37 seconds East 10.84 feet; 15) South 00 degrees 12 minutes 56 seconds East 52.44 feet; 16) South 01 degree 54 minutes 18 seconds West 28.77 feet; 17) South 00 degrees 12 minutes 54 seconds East 165.79 feet; 18) South 52 degrees 56 minutes 51 seconds East 192.74 feet; 19) South 26 degrees 09 minutes 46 seconds East 169.46 feet to a point on a curve concave southerly, the radius point being South 14 degrees 29 minutes 14 seconds East 200.00 feet from said point, said point also being on the boundary of land owned by Mohawk WB, LLC recorded as Instrument #2014-001787 and Instrument #2014-001788 in the aforesaid Recorder's Office; the following eleven (11) courses being on and along the boundary of said Mohawk WB, LLC land: 1) westerly along the aforesaid curve 23.72 feet to the point of tangency of said curve, said point being North 21 degrees 17 minutes 02 seconds West 200.00 feet from the radius point of said curve; 2) South 68 degrees 42 minutes 58 seconds West 128.50 feet; 3) North 21 degrees 17 minutes 02 seconds West 100.53 feet; 4) North 00 degrees 18 minutes 57 seconds East 49.46 feet; 5) North 90 degrees 00 minutes 00 seconds West 56.67 feet; 6) North 00 degrees 06 minutes 27 seconds West 51.00 feet; 7) South 89 degrees 47 minutes 06 seconds West 86.77 feet; 8) North 00 degrees 12 minutes 54 seconds West 21.58 feet; 9) South 89 degrees 47 minutes 06 seconds West 70.00 feet; 10) North 00 degrees 12 minutes 54 seconds West 322.29 feet; 11) North 89 degrees 49 minutes 46 seconds West 560.36 feet to a point on the East right-of-way of East Auman Drive as shown on the plat of Auman's Addition recorded as Instrument #53-3365 D.B. 138, page 273 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 302.43 feet to a point on the boundary of land owned by Mohawk WB, LLC recorded as Instrument #2014-001786 in the aforesaid Recorders Office; the following three (3) courses being on and along said boundary: 1) North 90 degrees 00 minutes 00 seconds East 192.21 feet to a point on the West Right-of-Way of Templeton Drive; 2) North 00 degrees 00 minutes 00 seconds East 19.75 feet along said Right-of-Way; 3) North 90 degrees 00 minutes 00 seconds East 45.75 feet to a point on the boundary of the aforesaid Gramercy West, Section 1, said point also being on the East Right-of-Way of Templeton Drive; the following two (2) courses being on and along said boundary: 1) South 00 degrees 00 minutes 00

seconds West 69.75 feet; 2) North 90 degrees 00 minutes 00 seconds East 50.00 feet to the place of beginning, containing 5.457 acres. more or less.

2023043483 AMEN \$25.00  
11/16/2023 08:37:44AM 5 PGS  
Trini Beaver  
Hamilton County Recorder IN  
Recorded as Presented



TGR

Cross References: Instrument No. 2018056504  
Instrument No. 2023042457

**SECOND AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
GRAMERCY WEST DEVELOPMENT**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAMERCY WEST DEVELOPMENT (“**Amendment**”), is made this 9th day of November, 2023, by BC GRAMERCY II, LLC, an Indiana limited liability company (“**Developer**”).

WHEREAS, on December 4, 2018, Developer, as “Developer”, recorded that certain Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, as Instrument No. 2018056504 in the office of the Recorder of Hamilton County, Indiana (the “**Original Declaration**”), as amended by that certain Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of August 6, 2020, and recorded August 10, 2010, as Instrument No. 2020053273 (the “**First Supplement**”), that certain Second Supplement to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of October 2, 2021, and recorded December 9, 2021, as Instrument No. 2021088241 (the “**Second Supplement**”), and that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development, dated as of November 7, 2023, and recorded November 8, 2023, as Instrument No. 2023042457 (the “**First Amendment**”), and together with the Original Declaration, the First Supplement and the Second Supplement, the “**Declaration**”);

WHEREAS, the Development Period is currently in effect pursuant to the Declaration, and Developer currently maintains control of the Association;

WHEREAS, pursuant to Section 4.11 of the Original Declaration, Developer has the right prior to the Development Period to add to the Real Estate and subject to the Declaration all or any part of the Additional Real Estate by recording a Supplementary Declaration;

WHEREAS, Developer desires to subject the portion of the Additional Real Estate comprised of the “**Section Three Real Estate**” and the “**Section Four Real Estate**”, as more particularly described on Exhibit A attached hereto and incorporated herein to the Declaration and intends that this Amendment be a Supplementary Declaration in accordance with Section 4.11 of the Original Declaration; and

WHEREAS, capitalized terms used in this Amendment and not otherwise defined shall have the meanings ascribed to such terms in the Declaration.

NOW, THEREFORE, for the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Reference is hereby made to that certain Gramercy West Section Three Secondary Plat, recorded August 23, 2023, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2023032348 (the “**Section Three Plat**”), which Section Three Plat is part of the Section Three Real Estate, and that certain Gramercy West Section Four Secondary Plat recorded August 23, 2023, in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2023032349 (the “**Section Four Plat**”), which Section Four Plat is part of the Section Four Real Estate. Pursuant to the provisions of Section 4.11 of the Original Declaration, Developer hereby declares that the Section Three Real Estate and the Section Four Real Estate, as it is owned and shall be owned, held, transferred, sold, conveyed,

used, occupied, mortgaged or otherwise encumbered, is now annexed into, and is part of, the Real Estate, to be effective as of August 23, 2023. The Section Three Real Estate and the Section Four Real Estate shall be subject to and bound by the provisions of the Declaration, and the Section Three Real Estate and the Section Four Real Estate shall hereafter be deemed within the Real Estate and the Subdivision. Accordingly, pursuant to Section 4.11 of the Original Declaration, the Section Three Plat and the Section Four Plat shall be included within the definition of "Plat" under the Declaration, and any Intended Lots shown on such plat shall be included within the definition of "Lots" under the Declaration. This Amendment and the Declaration shall run with the Section Three Real Estate and the Section Four Real Estate and shall be binding upon the owners of the Section Three Real Estate and the Section Four Real Estate and their respective successors and assigns, and upon the parties having or acquiring any interest in the Section Three Real Estate and the Section Four Real Estate or any part or parts thereof subject to these restrictions.

2. From and after the date of this Amendment the term "Declaration" shall be deemed to mean and refer to, collectively, the existing Declaration as amended by this Amendment. If any term, provision or condition of this Amendment is found to be or rendered invalid or unenforceable, it shall not affect the remaining terms, provisions and conditions of this Amendment or the Declaration, and each and every other term, provision and condition of this Amendment shall be valid and enforceable to the fullest extent permitted by law.

3. This Amendment shall be governed, construed, applied and enforced in accordance with the laws of the State of Indiana.

4. Except as expressly amended herein, all other terms, covenants and conditions of the Declaration shall remain in full force and effect.

[The rest of this page has been intentionally left blank.]

IN WITNESS WHEREOF, Developer has executed this Second Amendment to Declaration of Covenants, Conditions and Restrictions for Gramercy West Development as of the day and year first above written.

**DEVELOPER:**

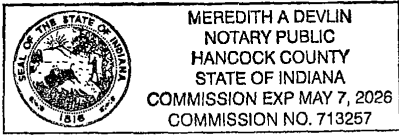
BC GRAMERCY II, LLC,  
an Indiana limited liability company

By: *[Signature]*  
Christopher W. Myrvold, Authorized  
Representative

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MARION     )

Before me, a Notary Public in and for said county and state, personally appeared Christopher W. Myrvold, the Authorized Representative of BC Gramercy II, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing for an on behalf of said limited liability company.

Witness my hand and Notarial Seal this 9<sup>th</sup> day of November, 2023.



NOTARY PUBLIC  
*[Signature]*  
Printed: Meredith A. Devlin

My Commission Expires:  
5/7/26

County of Residence:  
Hancock

This instrument prepared by, and should be returned to, Meredith A. Devlin, Buckingham Companies, 941 N. Meridian St., Indianapolis, IN 46204

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Meredith A. Devlin

Exhibit A

**Section Three Real Estate**

Part of the Northwest Quarter of Section 31, Township 18 North, Range 4, East, Clay Township, Hamilton County, Indiana being more particularly described as follows:

Beginning at the northeast corner of Lot 33 in Gramercy West Section One recorded as Instrument Number 2018057148 in the Office of the Recorder for Hamilton County, Indiana; the following eight (8) courses being on and along the boundary of said Gramercy West Section One as follows: 1) North 90 degrees 00 minutes 00 seconds West 67.00 feet; 2) North 00 degrees 00 minutes 00 seconds West 12.71 feet; 3) North 90 degrees 00 minutes 00 seconds West 21.00 feet to the point of curvature of a curve concave westerly, the radius point of said curve being North 90 degrees 00 minutes 00 seconds West 14.50 feet from said point; 4) southerly along said curve 3.66 feet to a point on said curve, said point being South 75 degrees 31 minutes 22 seconds East 14.50 feet from the radius point of said curve; 5) North 90 degrees 00 minutes 00 seconds West 69.79 feet; 6) North 00 degrees 00 minutes 00 seconds East 23.87 feet; 7) North 90 degrees 00 minutes 00 seconds West 45.75 feet; 8) South 00 degrees 00 minutes 00 seconds East 402.37 feet to a point on the boundary of Gramercy West Section Two recorded as Instrument Number 2021059979 in the aforesaid Recorder's Office, the following three (3) courses being on and along said boundary as follows: 1) North 90 degrees 00 minutes 00 seconds West 45.75 feet; 2) South 00 degrees 00 minutes 00 seconds West 19.75 feet; 3) North 90 degrees 00 minutes 00 seconds West 192.21 feet to a point on the East right-of-way line of East Aumen Drive in Auman's Addition recorded in Deed Book 138, Page 273, Instrument Number 53-3365 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 586.25 feet; thence North 90 degrees 00 minutes 00 seconds East 101.60 feet; thence North 00 degrees 00 minutes 00 seconds East 2.50 feet; thence North 90 degrees 00 minutes 00 seconds East 91.25 feet; thence North 00 degrees 00 minutes 00 seconds West 165.50 feet; thence North 01 degrees 43 minutes 06 seconds West 50.02 feet; thence North 00 degrees 00 minutes 00 seconds East 16.00 feet; thence South 90 degrees 00 minutes 00 seconds East 94.50 feet; thence South 00 degrees 00 minutes 00 seconds West 16.00 feet; thence North 90 degrees 00 minutes 00 seconds East 141.75 feet to a point on the North right-of-way line of Barrymore Drive, said point also being on the boundary of the aforesaid Gramercy West Section One, the following three (3) courses being on and along said boundary as follows: 1) South 00 degrees 00 minutes 00 seconds East 50.00 feet to a point on the South right-of-way line of said Barrymore Drive, said point also being the point of curvature of a curve concave southwesterly, the radius point of said curve being South 00 degrees 00 minutes 00 seconds West 15.00 feet from said point; 2) southeasterly along said curve 23.56 feet to the point of tangency of said curve, said point being South 90 degrees 00 minutes 00 seconds East 15.00 feet from the radius point of said curve, said point also being on the West right-of-way line of Kinzer Avenue; thence South 00 degrees 00 minutes 00 seconds East along said right-of-way and Section One boundary 350.08 feet; to the place of beginning, containing 5.326 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

#### Section Four Real Estate

Part of the Northwest Quarter of Section 31, Township 18 North, Range 4, East, Clay Township, Hamilton County, Indiana being more particularly described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 31; thence North 89 degrees 50 minutes 15 seconds West along the North line of said Northwest Quarter 663.05 feet; thence South 00 degrees 03 minutes 45 seconds East 50.00 feet to a point on the South right-of-way line of East City Center Drive, said point also being the POINT OF BEGINNING of this description; thence South 89 degrees 50 minutes 15 seconds East along said right-of-way 345.96 feet; thence South 57 degrees 05 minutes 38 seconds East 83.18 feet; thence South 18 degrees 20 minutes 56 seconds East 71.08 feet; thence North 90 degrees 00 minutes 00 seconds East 5.00 feet to a point on the West right-of-way line of Kinzer Avenue and also a point on the boundary of Gramercy West Section One recorded as Instrument Number 2018057148 in the Office of the Recorder for Hamilton County, Indiana; thence South 00 degrees 00 minutes 00 seconds East along said right-of-way and Section One boundary 169.68 feet to the point of curvature of a curve concave northwesterly, the radius point of said curve being South 90 degrees 00 minutes 00 seconds West 15.00 feet from said point; thence southwesterly along said curve and the aforesaid Section One boundary 23.56 feet to the point of tangency of said curve, said point being South 00 degrees 00 minutes 00 seconds West 15.00 feet from the radius point of said curve, said point also being a point on the boundary of Gramercy West Three recorded as Instrument Number 2023032348 in the aforesaid Recorder's Office, the following nine (9) courses being on and along said boundary as follows: 1) North 90 degrees 00 minutes 00 seconds West 141.75 feet; 2) North 00 degrees 00 minutes 00 seconds East 16.00 feet; 3) North 90 degrees 00 minutes 00 seconds West 94.50 feet; 4) South 00 degrees 00 minutes 00 seconds East 16.00 feet; 5) South 01 degrees 43 minutes 06 seconds East 50.02 feet; 6) South 00 degrees 00 minutes 00 seconds East 165.50 feet; 7) North 90 degrees 00 minutes 00 seconds West 91.25 feet; 8) South 00 degrees 00 minutes 00 seconds East 2.50 feet; 9) North 90 degrees 00 minutes 00 seconds West 101.60 feet to a point on the East right-of-way line of East Auman Drive in Auman's Addition recorded in Deed Book 138, Page 273, Instrument Number 53-3365 in the aforesaid Recorder's Office; thence North 00 degrees 03 minutes 45 seconds West along said right-of-way 136.32 feet to a point on the boundary of a parcel of land described in Instrument Number 2012-013068 recorded in the aforesaid Recorder's Office; thence South 89 degrees 50 minutes 15 seconds East along the boundary of said parcel of land 4.25 feet; thence North 00 degrees 05 minutes 45 seconds West along said boundary 240.00 feet; thence continuing on and along said boundary North 89 degrees 51 minutes 11 seconds West 4.11 feet to the southeast corner of lot 64 in the aforesaid Auman's Addition; thence North 00 degrees 03 minutes 45 seconds West along the East line of said lot 64 a distance of 140.00 feet to the place of beginning, containing 3.839 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.