



# NEW ENGLAND WAY

PART OF THE W 1/2, SE 1/4 & W 1/2, NE 1/4, SEC. 27-T16N-R1E  
WASHINGTON AND LINCOLN TOWNSHIPS, HENDRICKS COUNTY, INDIANA

**CERTIFICATE OF PLAN COMMISSION**

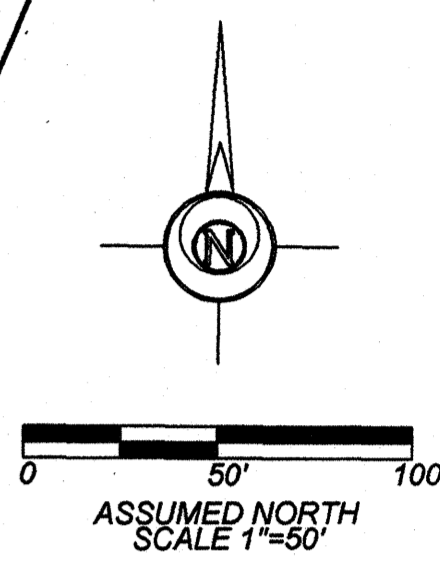
Under authority provided by section IC 36-7-4-700 ET. SEQ. and all amendments thereto, the undersigned hereby certifies that public notice of the hearing by the Hendricks County Plan Commission of the aforesaid owner's application for approval of this plat, was duly given as required by section IC 36-7-4-706 and all amendments thereto, and that said plat has been duly approved by said Commission with the majority of the members of said Commission concurring in such approval.

Dated AUGUST 26, 2005.

President Richard Whicker  
Secretary Don F. Reitz, AICP

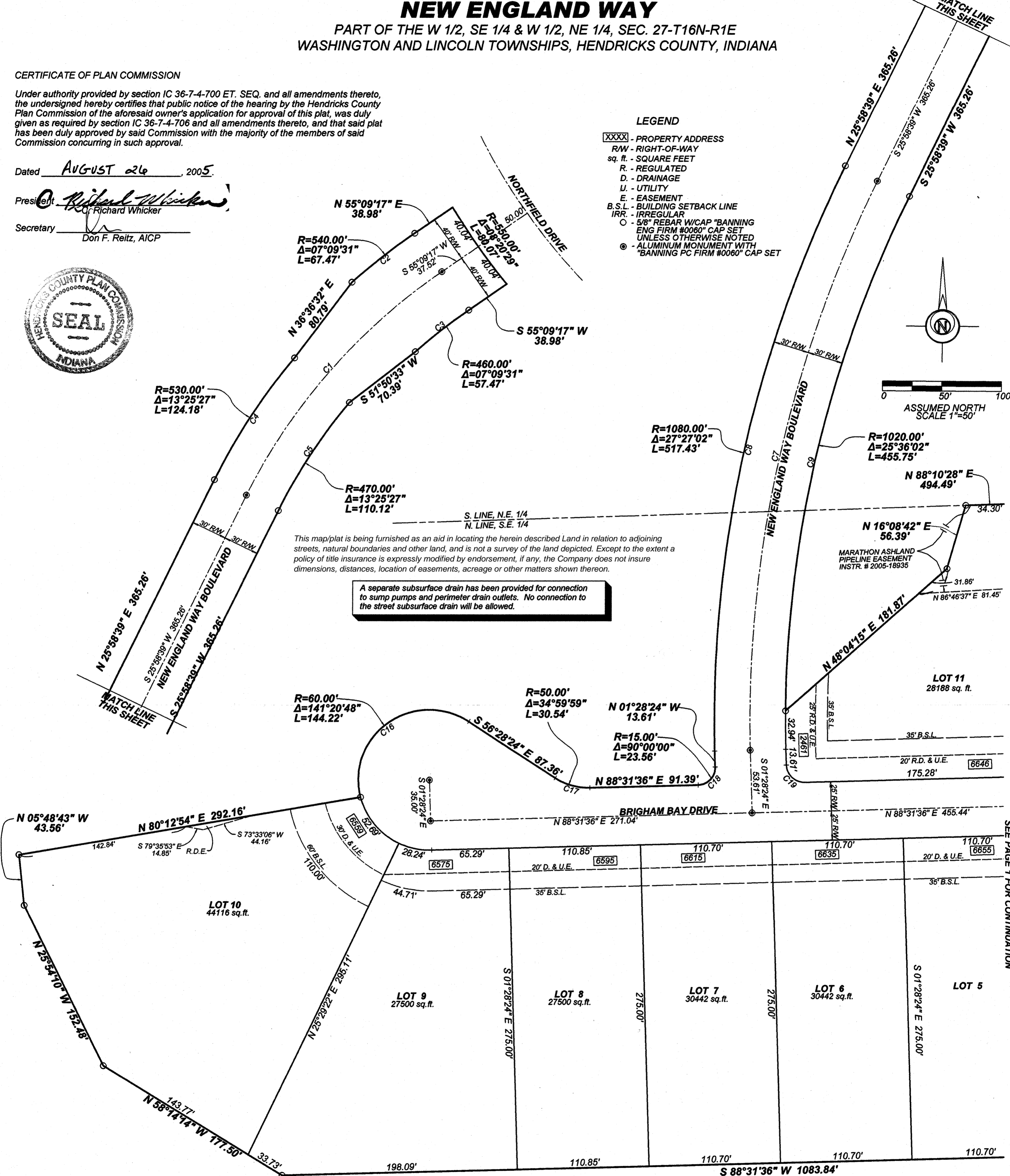


- LEGEND**
- XXXX - PROPERTY ADDRESS
  - RW - RIGHT-OF-WAY
  - sq. ft. - SQUARE FEET
  - R. - REGULATED
  - D. - DRAINAGE
  - U. - UTILITY
  - E. - EASEMENT
  - B.S.L. - BUILDING SETBACK LINE
  - IRR. - IRREGULAR
  - - 5/8" REBAR W/CAP "BANNING ENG FIRM #0060" CAP SET UNLESS OTHERWISE NOTED
  - - ALUMINUM MONUMENT WITH "BANNING PC FIRM #0060" CAP SET



This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

A separate subsurface drain has been provided for connection to sump pumps and perimeter drain outlets. No connection to the street subsurface drain will be allowed.



Witness my signature this 26 day of January, 2007

Signature Brian L. Haggard  
Brian L. Haggard Registered Land Surveyor - Indiana - #LS29800001

**BANNING ENGINEERING**  
853 COLUMBIA ROAD, SUITE #101  
PLAINFIELD, IN 46168  
BUS. (317) 707-3700, FAX (317) 707-3800  
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Revisions	PRELIMINARY PLAT		FINAL PLAT		RECORDING		Drawn:
	Checked:	Date:	Checked:	Date:	Checked:	Date:	ZMP
	BLH	06/09/05				1-31-07	Scale: 1"=50'
							Date: 10/19/2005
							Project: 03076
							Sheet 2 of 3

SEE PAGE 1 FOR CONTINUATION



**DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR  
THE VILLAGE OF HERITAGE HILL**

200700004441  
Filed for Record in  
HENDRICKS COUNTY IN  
PAUL T HARDIN  
02-21-2007 At 02:04 pm.  
DECLARATION 50.00

THIS DECLARATION is made this 15<sup>th</sup> day of February, 2007 by Rolling Hills, LLC, an Indiana limited liability company, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, the Declarant is the owner of that certain real property located in Lincoln and Washington Townships, Hendricks County, Indiana, which is more particularly described in Exhibit "A" attached hereto and referred to hereafter as The Village of Heritage Hill; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in The Village of Heritage Hill Property (hereinafter referred to as Subdivision) and for the maintenance of Common Areas and Community Facilities; and to this end, desires to subject the Subdivision to the covenants, conditions, restrictions, and all charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the subsequent owners thereof; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the community described herein, such other property as Declarant may acquire from time to time or wishes to subject to the terms of this Declaration; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the Common Areas and Community Facilities and administering and enforcing the within covenants and restrictions and collecting and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed The Village of Heritage Hill Community Association, Inc., a non-profit Corporation (the "Association") for the purpose of carrying out the aforesaid powers and duties; and

NOW, THEREFORE, the Declarant hereby declares that the Subdivision and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, charges and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of the community, and which shall run with the land comprising the Subdivision and be binding on all parties having any right, title, or interest in the Subdivision or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**DEFINITIONS**

Section 1. Definitions. The following words when used in this Declaration shall have the following meanings:

(a) "Articles" and "Articles of Incorporation" shall mean those Articles, filed with the Secretary of State of Indiana incorporating the Association as a not for profit corporation.

(b) "Association" shall mean and refer to The Village of Heritage Hill Community Association, Inc., and its successors and assigns.

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(c) "Board" and "Board of Trustees" shall mean the Board of Trustees of the Association as provided in the Articles of Incorporation and By-Laws of the Association.

(d) "By-Laws" shall mean the By-Laws or Code of Regulations of the Association, as the same may be amended from time to time, pursuant to the laws of the State of Indiana.

(e) "Common Areas" and "Community Facilities" shall mean and refer to all real property, together with improvements located thereon, owned by or leased to the Association for the benefit, use and enjoyment of its Members including the property identified in any and all recorded plats of property within the Subdivision.

(f) "Declarant" shall mean and refer to Rolling Hills, LLC, an Indiana limited liability company, or its successors and assigns.

(g) "Design Review Committee" shall mean Joseph E. Dorger and Robert R. Carr and/or persons specifically appointed by them, during the Development Period. After the Development Period, the Board of Trustees shall appoint no fewer than three (3) Owners to comprise the committee.

(h) "Development" shall mean and refer to the The Village of Heritage Hill Subdivision and all improvements located or constructed thereon and any other property submitted to the provisions hereof pursuant to Article II.

(i) "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of (a) the day fifteen (15) years after such date, or (b) the day next following the day on which the Declarant owns no part of the Subdivision.

(j) "Living Unit" shall mean and refer to any portion of a building situated upon a Lot designated and intended for use and occupancy as a residence by a single family, including a house, townhouse, condominium unit, or patio or cluster home, whether detached or attached, located within the Development.

(k) "Lot" shall mean and refer to any separate parcel of land shown upon any recorded subdivision plat within the Development or recorded re-subdivision thereof with the exception of the Common Areas and Community Facilities.

(l) "Members" shall mean the Owners who are members of the Association as provided in Article IV hereof.

(m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or undeveloped tract which is a part of the Subdivision, including contract sellers and builders, but excluding those having such interest merely as security for the performance of an obligation.

(n) "Structure" shall mean and refer to anything built, placed upon or constructed upon a Lot, including but not limited to, a Living Unit.

(o) "Trustee" and "Trustees" shall mean that person or those persons serving, at the pertinent time, in the capacity of a member of the Board of Trustees of the Association.

**ARTICLE II**

**PROPERTY DEVELOPMENT**

**Section 1. Property Subject to Declaration.** The real property which is, and shall be held, conveyed, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in and is more particularly described in Exhibit "A" attached hereto.

**Section 2. Additional Development; Annexation.** During the Development Period, Declarant reserves the right to subject additional real property to the provisions of this Declaration. Notwithstanding the above, nothing contained in this Declaration or in the By-Laws shall obligate the Declarant to annex any additional property to the Subdivision and the remainder of The Village of Heritage Hill Property shall remain wholly free from any covenant or restriction herein contained until annexed as hereinafter provided. After the Development Period, additional property may be annexed only with the consent of fifty-one (51%) percent of each class of Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of The Village of Heritage Hill Property

Any annexations made pursuant to this Article II, or otherwise, shall be made by recording a supplement to this Declaration with the Recorder of Hendricks County, Indiana, which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such supplementary declaration may contain such additional covenants, conditions, restrictions, charges and liens as the Declarant or Members shall deem appropriate.

**ARTICLE III**

**ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Members.** Every Owner shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period, the Association shall have Class A Members (being all Owners except Declarant) and a Class B Member (Declarant). After the Class A Members are entitled to elect all of the Board, the Class B membership shall terminate and Declarant, if it is then an Owner, shall become a Class A Member and continue as such so long as it shall remain an Owner.

**Section 2. Voting Members.**

(a) With the exception of Declarant until Class B membership has lapsed, every person, group of persons or entity who is an Owner of a fee interest in any Lot and which is or becomes subject to assessment by the Association shall be a Class A Member of the Association. Class A Members shall be entitled to a total of one vote per Lot in which they hold the fee interest. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for such Lot shall be exercised as they determine among themselves but in no event shall more than one vote be cast with respect to any Lot.

(b) The Class B Member shall be the Declarant and shall be a voting Member of the Association.

(c) At such time as Class B membership shall terminate, Declarant shall be deemed a Class A Member with reference to the Lot or Lots in which Declarant holds the fee interest and Declarant shall be entitled to the voting and all other rights of a Class A Member.

**ARTICLE IV**

**ASSOCIATION AND ASSESSMENTS**

**Section 1. Covenant for Assessments.** Each person, group of persons, or entity who becomes an Owner of a Lot whether or not it shall be expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the

Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments (collectively the "Assessments"); the Assessments shall be fixed, established and collected from time to time as hereinafter provided. All Assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the Lot of such Owner and shall be a continuing lien upon the Lot against which such Assessment is made.

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**Section 2. Purpose of Annual Assessments.** The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the Owners and for protecting, advancing and promoting the environmental concept of the Subdivision and preserving the aesthetic and scenic qualities of the Hill Property. To carry out these purposes, an Annual Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas and Community Facilities, including, but not limited to, the payment of taxes and insurance and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and, in the discretion of the Association, the areas for which the Annual Assessment may be used may include any entrance roads or adjoining roads or areas, boundary walls, landscaping areas or other public amenities, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association.

**Section 3. Individual Assessments.** In the event an Owner of any Lot shall fail to maintain the Lot and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that which is to be provided by the Association, then the Association, after approval by fifty-one percent (51%) vote of all Members of the Board shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the improvements thereon. The cost of such maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or unit) shall be added to and become part of the total Assessment to which such Lot is subject.

**Section 4. Special Assessments.** In addition to the Annual Assessments authorized by this Article, the Association may levy, in any assessment year, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas or Community Facilities, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment affecting the Common Areas or Community Facilities shall have the approval of fifty-one percent (51%) of the total number of votes held by Class A Members and the vote of the Class B Member. Any Special Assessments levied by the Association pursuant to the provisions of this section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The Special Assessment may be billed in advance on a monthly, quarterly or annual basis.

**Section 5. Determination, Commencement and Payment of Assessments.** The Annual Assessments shall commence on the day of the conveyance of the particular Lot from the Declarant to an Owner. The initial Annual Assessment as determined by the Board shall become a lien on the Lot and due and payable at the time of closing of the conveyance. The Board may, from time to time, alter and determine the amount, manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of the Assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of the Assessment against each Lot for each assessment period and shall prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board. Written notice of the Assessments shall thereupon be sent to the Owner of any Lot subject thereto at least thirty (30) days in advance of the date due. Annual Assessments subsequent to the initial Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the

time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice of such validity.

**Section 6. Assessment of Declarant.** Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Declarant, while it is a Class B Member, shall not be required to pay Assessments.

**Section 7. Assessment Certificates.** The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for the Assessments, a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of the Assessments, i.e., whether the same are paid or unpaid. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A charge not to exceed Ten (\$10.00) Dollars may be levied in advance by the Association for each certificate so delivered.

**Section 8. Non-Payment of Assessment.** Any Assessment levied pursuant to this Declaration which is not paid on the date when due, together with interest thereon at the rate herein provided and cost of collection thereof, shall become a continuing lien upon the Lot, and shall be the personal obligation of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain the personal obligation of the Owner and shall not pass to his successors in title (except as a lien against the Lot) unless expressly assumed by such successors with the consent of the Association.

If the Assessments are not paid within fifteen (15) days after the due date, the Assessments shall bear interest at the rate of ten (10%) percent per annum, and the Association may bring an action against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, in either of which events, interest, costs and reasonable attorney's fees shall be added to the amount of the Assessments. No Owner shall waive or otherwise escape liability for the Assessments by non-use of the Common Areas or Community Facilities or abandonment of his Lot or Living Unit.

In addition to the ten (10%) percent per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any Assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the Assessment which is delinquent by fifteen (15) days.

**Section 9. Subordination of Lien to Mortgage.** The lien of the Assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any tax lien foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessment until such time the Lot is conveyed to an Owner who will utilize the Lot for residential purposes. Such lien shall become effective the day of the conveyance of the particular lot from the Declarant to the Owner.

**Section 10. Right of Association to Remove or Correct Violations.** The Association may, in the interest of the general welfare of the Owners, and after reasonable notice to the affected Owner, enter upon any Lot or the exterior of any Living Unit at reasonable hours for the purpose of removing or correcting any violation or any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Trustees. All charges incurred by the Association obtaining access to any Lot or Living Unit covered under this section and any charges incurred by the Association in correcting the violation (including court costs and reasonable attorney's fees) shall constitute an Individual Assessment.

**Section 11. Public Assessments.** The Village of Heritage Hill Property as a whole may be subject to certain assessments for public improvements made in and around The Village of Heritage Hill Property. Any such assessments will be contained within the tax bill from the Hendricks County Treasurer's Office. Each individual Lot Owner is responsible for the paying of any such public assessments directly to the Hendricks County Treasurer.

**Section 12. Separately Assessed Sections.** The Association, at its election, may declare that certain sections of The Village of Heritage Hill Property will be separately maintained and assessed with respect to all or a portion of the



maintenance, repair and replacement expenses related thereto (an "Assessment Section"). At the election of the Association, each such Assessment Section shall pay its own Annual Assessment attributable to the maintenance, repair and replacement costs and other services related exclusively to the facilities located on such Assessment Section. In addition, each Assessment Section shall pay a separate portion of any Annual Assessment attributable to any expense shared with other association sections or other portions of the Property as determined by the Association. The Association shall also have the right and authority to establish separate reserves for the use of each Assessment Section.

## ARTICLE V

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### INSURANCE

**Section 1. Liability Insurance.** The Association shall obtain and maintain a comprehensive policy of public liability insurance covering the Common Areas and Community Facilities, insuring the Association, Trustees, and Owners and members of their respective families, tenants and occupants in an amount of not less than five hundred thousand dollars (\$500,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a residential Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

**Section 2. Other Insurance.** In addition, the Association may obtain and maintain casualty insurance, Trustees' and Officers' liability insurance and such other insurance as the Board deems desirable from time to time.

**Section 3. Insufficient Insurance.** In the event the improvements forming a part of the Lots, Common Areas or Community Facilities or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which the amount was so advanced, and such Assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of Assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

## ARTICLE VI

### COMMITTEES

**Section 1. Finance and Budget Committee.** The Board of Trustees may appoint a Finance and Budget Committee composed of Members as set forth in the By-Laws of the Association. This Committee shall prepare the annual budget of the Association for submission to the Board of Trustees. The Committee shall also determine the needs, repairs and monetary requirements for the property subject to the Annual Assessment for the following year and make recommendations to the Board of Trustees as to the type of work to be performed by the Association for the following year consistent with the purposes of the Annual Assessment. The Committee shall further have such additional duties as may be assigned to it from time to time by the Board of Trustees.

**Section 2. Design Review Committee.** No building, fence, wall or other Structure shall be commenced, erected, or maintained upon Common Areas or Community Facilities or upon any Lot or property upon which is located all or part of a Living Unit, nor shall any exterior addition to or change or alteration in a Living Unit or Structure be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been

submitted to and approved in writing, as to harmony of external design, color and location in relation to surrounding Structures and topography, by the Design Review Committee.

## ARTICLE VII

### DESIGN REVIEW

**Section 1. Purpose; Variation in Front Setbacks.** Declarant desires to provide a uniquely aesthetically pleasing development. Each Structure in the single family subdivisions of Ansdale, New England Way and The Hamptons shall be unique, and it is the purpose of the Design Review Committee to ensure unique qualities of each Structure as well as ensuring that each Structure is built to high quality standards. The Design Review Committee shall ensure that no Structure is the same color as any surrounding Structures. The Design Review Committee shall also ensure that Structures on abutting Lots are not constructed at the same front setback distance. The Design Review Committee shall require a variation of front setbacks of up to twenty-five (25) feet greater than the minimum front setback designated on the plat. The Design Review Committee can require variations in colors and features, including, but not limited to, dormers, gables, windows, etc). to ensure each Structure is unique.

**Section 2. Design Review Guidelines.** In order to facilitate initial development of the Subdivision, Design Review Guidelines have been adopted by the Declarant. The Design Review Guidelines may be amended, modified, revoked or replaced by the Declarant during the Development Period and by the Board of Trustees thereafter. In the event the lender or lenders who provide acquisition and development financing for The Village of Heritage Hill Property acquire title to the Property through foreclosure or deed in lieu of foreclosure, such lender shall be deemed the Declarant for purposes of the Design Review Guidelines.

**Section 3. Submission of Plans and Specifications.** No Structure on any Lot shall be remodeled or altered in any way which materially changes the exterior appearance thereof, involves the erection of a new Structure or otherwise increases the area under roof of any Structure (including garage area) unless detailed Plans and Specifications therefore shall have been submitted to and approved by the Design Review Committee as set forth in Article VI, §2. Such Plans and Specifications shall be in such form and shall contain such information as the Declarant and Association may reasonably require but shall, at minimum unless waived by the Declarant and Association, include:

(a) a site plan showing the location of all proposed and existing Structures on the Lot, the approximate size in square footage of the first or ground floor of the Structure(s), the square footage of the entire Lot, and setbacks;

(b) contours reflecting existing topography and a grading plan showing finished contours, existing environmental features and significant tree stands,

(c) any proposed retaining walls;

(d) proposed fencing;

(e) proposed landscaping, including existing trees and shrubs, if any;

(f) architectural plans including structural cross-section, floor plan, decks or balconies, and elevations clearly depicting the design and exterior appearance including specification of materials, color scheme, trim and other details affecting the exterior appearance of the proposed Structures.

Prior to submission of detailed Plans and Specifications for any Structure proposed for any Lot, the Design Review Committee may require, and any applicant may submit for tentative approval by the Design Review Committee, schematic or preliminary Plans and Specifications for any phase or stage thereof. The Design Review Committee shall either (i) approve the Plans and Specifications, (ii) disapprove them or (iii) approve them with conditions or qualifications.

**Section 4. Approval of Plans and Specifications.** The Design Review Committee shall approve any Plans and Specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Declaration of Covenants, Conditions, Restrictions, (b) meet the approved plat of The Village of Heritage Hill by the Hendricks County Plan Commission, and (c) conform to the Design Review Guidelines then in effect and any additional standards or policies promulgated by Declarant or the Board. Upon final approval thereof, a written approval letter shall be given to the Owner or Owner's designated agent or representative. The copy of the detailed Plans and Specifications submitted for review as well as a final copy if any changes were made thereto shall be deposited and kept for permanent record with the Design Review Committee. After the receipt of final approval by the applicant, the Design Review Committee shall not revoke such approval. Approval by the Design Review Committee of detailed Plans and Specifications with respect to any Lot shall not impair the right of the Board or the Design Review Committee subsequently to approve a requested amendment of such Plans and Specifications relating to such Lot (subject to the requirements of this Article and the Design Review Guidelines then in effect).

**Section 5. Disapproval of Plans and Specifications.** If Plans and Specifications (whether schematic, preliminary or detailed) submitted to the Design Review Committee with respect to any Lot do not comply with the requirements of this Article as to the information required to be included in the Plans and Specifications, the Design Review Committee shall either disapprove such Plans and Specifications or approve them subject to such conditions and qualifications as the Design Review Committee may deem necessary to achieve compliance.

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**Section 6. Failure of the Design Review Committee to Act.** If the Design Review Committee shall fail to act upon any Plans and Specifications submitted to it within thirty (30) after submission thereof, such Plans and Specifications shall be deemed to have been disapproved.

**Section 7. Time Limitation for Construction.** A building permit shall be obtained and construction of the Structure(s) shall be commenced within one (1) year from the date of the conveyance of title (the dated date of the conveyance deed) to the Lot to the Owner. Owner shall submit plans to the Design Review Committee no later than ten (10) months after said conveyance. Within one (1) year from the date of issuance of the building permit, construction of the Structure(s) shall be completed, including, but not limited to landscaping as approved by the Design Review Committee; and the Owner shall have received an Occupancy Permit from the proper governmental officials.

Any structure that is externally damaged by fire, tornado or other disaster shall be repaired or removed within six (6) months of such occurrence.

**Section 8. Rules, Regulations and Policy Statements.** The Board may, from time to time, adopt, amend, and enforce reasonable rules and regulations pertaining to its and the Design Review Committee's authorized duties and activities under this Declaration, and may, from time to time, issue statements of policy with respect to Plans and Specifications (whether schematic, preliminary or detailed) and such other matters as it is authorized to act on. Upon the adoption of any such rule, regulation or policy statement, or any amendment thereof, the Board shall file in its records a copy thereof, and the same shall become effective on the date of such filing. No rule, regulation or policy statement, or any amendment thereof, shall operate to revoke any detailed Plans and Specifications previously approved by the Design Review Committee.

The Board shall maintain a copy of the rules, regulations and policy statements and of each amendment thereof as a permanent record and shall make copies thereof available to any interested person at a reasonable cost.

**Section 9. Violations.** If any Structure situated upon any Lot shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved detailed Plans and Specifications, the Board shall certify a default to the Owner of the Lot involved, provided, however, that the Board may, upon such conditions as it may determine, waive any such default if it finds that such default does not substantially conflict with the policies of the Board.

**Section 10. Right of Entry.** The Board through its authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article, without

the Board or such officers, employees or agents being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

**Section 11. Fees.** The Board may charge reasonable fees for the processing of Plans and Specifications. Such fees shall cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Association.

**Section 12. Approval Not a Warranty or Guarantee.** No approval of Plans and Specifications and no publication of standards shall be construed as representing or implying that such Plans, Specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall not be construed as representing, warranting or guaranteeing that any Living Unit or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Design Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any Plans or Specifications, any loss or damage arising from the non-compliance of such Plans and Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Plans and Specifications.

## ARTICLE VIII

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### RESTRICTIONS APPLICABLE TO ALL LOTS/LIVING UNITS

**Section 1. Land Use.** Lots shall be used only for single-family residential purposes. No structure of any kind on any Lot shall be used for the purpose of carrying on a business, trade or profession except as allowed by the Home Occupation guidelines of the Hendricks County Zoning Ordinance. Notwithstanding the foregoing, Declarant may and the builders of Living Units may allow the use of Living Units as models and as offices in connection with the marketing or sale of Lots or living Units.

**Section 2. Rules Governing Contiguous Lots Having One Owner.** Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of the said Lots as a site for a single-dwelling residential structure, such Lot Owner shall apply in writing to the Design Review Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying this Declaration to said Lots, so long as the Lots remain improved with a one-single dwelling residential structure. However, no such combination of Lots shall reduce any member's vote with the Association (i.e., each Owner will still have one vote for each Lot owned.)

**Section 3. Maintenance of Lots and Improvements.** Each Owner shall at all times maintain the Lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state or repair. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept, except in sanitary containers out of view from the Street, except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash. All Lots, whether improved or not, shall be mowed by the Owner of a Lot, other than Developer, a minimum of once per month during the months of April through October.

**Section 4. Exterior materials, windows and doors.** All materials for the exterior of each Living Unit shall be approved by the Design Review Committee, including, but not limited to, brick, stone, vinyl siding, and front doors. Exterior facia shall have a smooth finish. Roofs shall have metal valleys approved by the Design Review Committee. Windows facing any road within the Development shall have grids.

**Section 5. Fiber Optic Requirement.** Each Owner shall prewire the residence for fiber optic capabilities.

**Section 6. Animals.** The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any Living Unit located in the Subdivision,

except that this shall not prohibit the keeping of dogs, cats and/or caged birds and similar animals kept as domestic pets provided, they are not kept, bred or maintained for commercial purposes. Dogs and cats must be kept within the confines of the Owner's Living Unit or Lot, except when being held on hand leash by person attending animal. Owners and/or harborers of dogs and cats shall be liable for any damage caused by such animals. Subject only to the provisions of Article III, the Association acting through its Board of Trustees may suspend for reasonable length of time the voting rights and the rights to use the Common Areas and Community Facilities of any person who violates this subparagraph 4.

**Section 7. Vehicles, Temporary Structures and Outbuildings.** Except as otherwise provided herein, no structures of a temporary character, recreational vehicles, trailers, tents, shacks, barns or temporary or permanent outbuildings, excepting doghouses not maintained for commercial purposes, shall be kept or used upon the Lots or Common Areas. No car, boat, truck, motor home or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any Lot unless kept within a garage nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. No vehicle of any kind shall park on any road in this subdivision for more than twenty-four (24) hours. The Association may, in the discretion of its Board of Trustees provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Declarant, the builder of a Living Unit and their contractors may, for the purpose of business use in connection with the development of the Lots or construction of Living Units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

**Section 8. Swimming Pools.** No swimming pools where the water level is either partially or completely above ground level shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Prior to erection, such fence shall be approved by the Design Review Committee.

**Section 9. Fences.** No fence or wall of any kind or for any purpose, except a retaining wall, shall be erected, placed or suffered to remain upon any Lot without the specific approval of the Design Review Committee.

**Section 10. Play Equipment.** Children's play equipment, including but not limited to sandboxes, temporary swimming pools having a depth of less than twenty-four (24) inches, swing and slide sets, playhouses and tents shall be permitted without prior approval of the Design Review Committee, provided, however, that such equipment shall not be more than ten (10) feet high, shall be in good repair (including paint) and every reasonable effort shall have been made to screen or shield such equipment from view. With respect to equipment higher than eight (8) feet, prior approval by the Design Review Committee of the design, location, color, material and use shall be required.

**Section 11. Clothes Lines.** Collapsible and removable clothes lines will be permitted by the Design Review Committee so long as they are screened or shielded from the view of neighbors and the street. Permanent clothes lines are not permitted.

**Section 12. Gardens.** No garden shall extend in front of the back of the house.

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**Section 13. Gazebos.** Gazebos are permitted if design and location is approved by the Design Review Committee.

**Section 14. Garages.** Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g., family room(s), bedroom(s), recreation room(s), etc.).

**Section 15. Interference with Easements and Safety.** No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels. Any structure, planting or other material which represents a safety problem (e.g. sight restriction) shall be removed at Owner's expense.

**Section 16. Common Areas.** There shall be no violation of any rules for the use of the Common Areas or Community Facilities which may, from time to time, be adopted by the Board of Trustees and promulgated among the Members by

them in writing, and the Board of Trustees is hereby and elsewhere in this Declaration authorized to adopt or amend such rules.

**Section 17. Mailboxes.** Uniform mail boxes chosen by Declarant shall be installed by and at the expense of the Owner for each Lot and/or Living Unit.

**Section 18. Signs.** No signs, letters, numbers, symbols, markings or illustrations shall be erected, posted, attached, or displayed upon, or on any Lot or Living Unit except:

- (a) street and identification signs installed by the Association or the Declarant;
- (b) one temporary sign, approved by Declarant, informing the public that the real estate is for sale, lease or rent, provided that the sign must not exceed five square feet in area and must be erected upon the real estate to which it refers;
- (c) a post office house number for designation of home location.

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No sign, name plate or postal house number shall be animated or illuminated. This subsection shall not apply to Declarant as long as it is a Class B member, or at any time, to a sign, placed by or on behalf of Declarant, advertising or marketing Hill or any part therein.

**Section 19. Antennas.** No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, or satellite dish shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit.

**Section 20. Lawn Ornaments.** A maximum of three (3) lawn ornaments shall be permitted on any Lot. No more than one (1) lawn ornament shall be a bold color, such as reds, blues, yellows, greens, purples, etc. All other lawn ornaments shall be neutral colors, such as browns and blacks. Lawn ornaments do not include shepherd's hooks which hold flower baskets and other plant baskets.

**Section 21. Hunting and Trapping.** Fishing and boating are permitted in the Common Areas as designated by posted signs and the promulgated policies of the Association. Trapping and hunting are prohibited in this subdivision for all persons.

**Section 22. Driveways.** Residential driveways shall be constructed of cement concrete. Pavements shall be a minimum of four inches (4") thick excluding sub-base material. The driveway shall be completed not later than the completion of the construction of the dwelling.

**Section 23. Sidewalks.** Concrete sidewalks with a minimum of four feet (4') shall be constructed on each side of the street. Owners shall be responsible for the cost of constructing and maintaining the sidewalks on their respective Lots. Sidewalks shall be installed prior to issuance of Certificate of Occupancy. Owners shall keep sidewalks on their respective Lots free of snow and cleared of debris.

**Section 24. Crawl Space and Foundation Drains.** No crawl spaces, eaves troughs, gutters, downspouts, or foundation drains shall be constructed so as to discharge water onto a street. Crawl space drains, foundation drains and basement drains intercepting and carrying only excess ground water may connect to subsurface.

**Section 25. Building lines.** Subject to required variations in front setback lines pursuant to Article VII(1), building setback lines shall be as defined on the final recorded plat for each section of the Development which may be greater than the minimum setbacks required by Ordinance.

**Section 26. Improvement Location Permit.** In addition to the approval of the Committee prior to construction of a dwelling, lot Owners must obtain an Improvement Location Permit from the Hendricks County Plan Commission before any structure, improvement, or land use may be altered, changed, placed, erected, or located in the Development.

**Section 27. Noxious uses.** No noxious or offensive trade or activity shall be carried on upon any Lot or within any Living Unit located in the Subdivision, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of any portion of the Hill Property.

## ARTICLE IX

### ARCHITECTURAL REQUIREMENTS

#### Section 1. Ansdale and New England Way

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The minimum architectural requirements shall be as follows:

1. All houses shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
2. All houses shall have a minimum square footage of interior living area, excluding basements, of 2200 square feet for a single story home, and 2800 for a two-story home with a minimum of 1800 square feet on the ground floor.
3. All houses shall have the following features:
  - a) Dimensional shingle.
  - b) Roof pitches shall be 8/12 minimum, exclusive of porches, bump-outs, or dormers.
  - c) Houses shall have a 12 inch overhang
  - d) Houses shall be designed as much as practicable so as to obscure the view of equipment vents from the street.
  - e) Houses shall be designed as much as practicable to have a side load garage.
  - f) Soffits, gutter boards and windows shall be constructed with wood products.
  - g) Minimum attached three (3) car garage, except on lots with topography that allows only for two (2) car garage.
  - h) The garage door shall comprise no more than 40% of the front façade of the home without requiring the garage to be offset by a minimum of 12 inches.
  - i) Driveways shall be concrete.
  - j) Exterior chimneys shall be brick, masonry, stone or cultured stone.
4. Additionally, all houses shall have at least five (5) of the following features:
  - a) Dormers.
  - b) Reverse gable or hip roof.
  - c) Covered front porch (minimum 24 sq. ft.).
  - d) Decorative door surround, trim molding or header.
  - e) Decorative front door, sidelights or transom.
  - f) Side garage bump-out (minimum 2 feet).
  - g) Shutters on windows.
  - h) Bay or "boxed-out" window.
  - i) Decorative porch railing.
  - j) Decorative columns.
  - k) Decorative trim molding at gutter height.
  - l) Additional wall mounted exterior lights.
  - m) Post mounted decorative yard light as approved by the Design Review Committee.
5. All houses with the rear of the home facing Northfield Drive shall at least three (3) of the following features to the rear elevation:
  - a) Dormers.
  - b) Reverse gable or hip roof.
  - c) Covered porch (minimum 24 sq. ft.).
  - d) Decorative door surround, trim molding or header.
  - e) Shutters on windows.

- f) Bay or "boxed-out" window.
- g) Decorative porch railing.
- h) Decorative trim molding at gutter height

**Section 2. The Hamptons**

The minimum architectural requirements shall be as follows:

1. All houses shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
2. All houses shall have a minimum square footage of interior living area, excluding basements, of 2000 square feet for a single story home, and 2600 for a two-story home with a minimum of 1350 square feet on the ground floor.
3. All houses shall have the following features:
  - a) Dimensional shingle.
  - b) Roof pitches shall be 8/12 minimum, exclusive of porches, bump-outs, or dormers.
  - c) Houses shall have a 12 inch overhang.
  - d) Houses shall be designed as much as practicable so as to obscure the view of equipment vents from the street.
  - e) Soffits, gutter boards and windows shall be constructed with wood products.
  - f) Minimum attached two (2) car garage with a maximum of 40% of the front façade of the home comprising the garage door.
  - g) No houses shall have the same front elevation or exact color scheme within a 3-lot "snapshot" on the same side of the street, or of the home immediately across the street from the center home of the 3-lot "snapshot".
  - h) Driveways shall be concrete.
  - i) Exterior chimneys shall be brick, masonry, stone or cultured stone.
4. Additionally, all houses shall have at least five (5) of the following features:
  - a) Dormers.
  - b) Reverse gable or hip roof.
  - c) Covered front porch (minimum 16 sq. ft.).
  - d) Decorative door surround, trim molding or header.
  - e) Decorative front door, sidelights or transom.
  - f) Side garage bump-out (minimum 2 feet).
  - g) Shutters on windows.
  - h) Bay or "boxed-out" window.
  - i) Decorative porch railing.
  - j) Decorative columns.
  - k) Decorative trim molding at gutter height.
  - l) Additional wall mounted exterior lights.
  - m) Post mounted decorative yard light as approved by the Design Review Committee.
5. All houses with the rear of the home facing Northfield Drive shall at least three (3) of the following features on the rear elevation:
  - a) Dormers.
  - b) Reverse gable or hip roof.
  - c) Covered porch (minimum 16 sq. ft.).
  - d) Finished space "pop out".
  - e) Decorative door surround, trim molding or header.
  - f) Shutters on windows.
  - g) Bay or "boxed-out" window.
  - h) Decorative porch railing.
  - i) Decorative trim molding at gutter height



**Section 3. Carmargo Club**

The minimum architectural requirements are as follows:

1. The condominium Structures shall consist of singles, doubles, triplexes, four-plexes, or 6 - unit buildings or a combination thereof.
2. All Structures shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
3. All condominium Living Units shall have a minimum square footage of interior living area, excluding basements, of 1700 square feet for a single story home, and 2000 for a two-story home with a minimum of 1000 square feet on the ground floor.
4. All Structures shall have dimensional shingles.
5. All Structures shall have a roof pitch of no less than 6/12.
6. All Structures shall have a ten (10) inch overhang.
7. Soffits and gutter boards shall be constructed with wood products.
8. All drives shall be either concrete or asphalt.
9. The exterior chimneys on all Structures shall be brick, masonry, stone or cultured stone.

**Section 4. Legacy Park**

The minimum architectural requirements are as follows:

1. The first two (2) stories of all apartment Structures shall be constructed of ninety percent (90%) masonry materials, excluding upper gables and exterior hallways.
2. The minimum gage for vinyl covering shall be 0.42 dutch lap profile.
3. Each Living Unit shall be furnished with a washer and dryer hook up and there shall be a coin operated washer and dryer in the clubhouse.
4. Each Living Unit shall have either a patio, deck or balcony.
5. All Structures shall have a roof pitch of no less than 8/12 at the hip and 5/12 in the gables.
6. All Structures shall have a minimum of an eight (8) inch overhang
7. There shall be no carports.
8. Garage units shall be constructed with masonry materials, excluding gables.
9. There shall be one (1) trash compactor constructed within the development.
10. At least two (2) school bus shelters shall be constructed within the development.
10. Exterior chimneys on all Structures shall be brick, masonry, stone or cultured stone.

**REPURCHASE OPTION**

Declarant hereby reserves unto itself, its successors and assigns, the first right and option to purchase any unimproved Lot within The Village of Heritage Hill Property which is offered for sale by the Owner thereof, such option to be at the price and upon the terms and conditions of any bona fide offer for such Lot which is acceptable to such Owner and which is made to such Owner by a third party (or any offer made by such Owner that is acceptable to a third party). Upon the receipt (or making) of any such offer by an Owner, such Owner shall promptly submit a copy of the same to Declarant, and Declarant shall have a period of three (3) business days from and after Declarant's actual receipt of such copy from such Owner in which to exercise its purchase option by giving such Owner written notice of such exercise. If Declarant fails to respond or to exercise such purchase option within said three (3) business day period, Declarant shall be deemed to have waived such purchase option. If Declarant declines to exercise such option, Declarant shall execute an instrument evidencing its waiver of its repurchase option, which instrument shall be in recordable form. In the event that Declarant does not exercise its purchase option and a sale to a third party is not consummated on such terms within six (6) months of the date in which the offer is transmitted to Declarant, the terms and limitations of this Article shall again, be imposed upon any sale by such Owner. If Declarant shall elect to purchase such Lot the transaction shall be consummated within sixty (60) days following delivery of written notice by Declarant to such Owner of Declarant's decision to so purchase such Lot. This repurchase option shall terminate at the end of the Development Period.

**ARTICLE XI**

**MISCELLANEOUS**

**Section 1. Duration.** The terms and provisions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, and except where permanent or perpetual assessments or other permanent rights are herein created, the term of the covenants, conditions and restrictions shall be for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument agreeing to terminate the Declaration signed by the then Owners of two-thirds (2/3) of the Lots has been recorded.

**Section 2. Amendment.** The Declaration may be amended, from time to time as follows:

A. **By Declarant:** Declarant reserves the right and power to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, without the approval of the Owners, or to the extent necessary to enable Declarant to meet any other reasonable need or requirement in order to complete the development of The Village of Heritage Hill Property. Any amendment must be recorded and shall take effect only upon recording. Each Owner, by acceptance of a deed to a Lot, consents to such right to amend the Declaration by Declarant.

B. **By Lot Owners.** Except as otherwise provided in this Declaration, this Declaration may be amended at any time by an instrument executed by seventy-five (75%) percent of the Class A Members and, in addition, the Class B Member. Any amendment must be recorded and shall take effect only upon recording.

**Section 3. Declarant's Reservation of Entry Rights.** The Declarant reserves the right for a period of five (5) years after the sale of a Lot by the Declarant to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of The Village of Heritage Hill Property, provided that the Lot shall be restored to a like condition as to pavement, grass or sod which shall have been removed.

**Section 4. Declarant's and Association's Right to Grant Easements.** Notwithstanding any other provision of this Declaration, during the Development Period, the Declarant, and thereafter the Association, is authorized, without the consent of the Members, to grant easements across, through or under any Lot, Common Area, or Community Facility for utilities, public services, walks, trails, signage maintenance and for construction purposes, deemed by the granting party to be necessary or convenient for the enjoyment of The Village of Heritage Hill Property or any part thereof, provided that no easement shall be granted across, through, or under any Living Unit or Structure, which restricts ingress or egress to such Living Unit or Structure.

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**Section 5. Personal Liability.** Nothing in this Declaration, the Articles or the Regulations or By-Laws of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any member of the Board of Trustees or any officer of the Association acting in his capacity as such, for the maintenance, repair or replacement of any Living Unit or of any part of the Common Areas or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct. Each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Trustee, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such said person is covered by insurance and, in such event, the amount of recovery shall be limited to the amount of insurance.

**Section 6. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 7. Enforcement.** Any Owner of any Lot or Lots in this subdivision may initiate any proceeding at law or equity against any person or persons violating or attempting to violate any covenant herein. The successful party to any such action shall recover attorney fees and costs incurred in such action. A violation of any restriction herein will not result in reversion or forfeiture of title.

If any Owner of a Lot in this subdivision shall fail to maintain his Lot and/or any improvements situated thereon, or to keep sight distances or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the Committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean, or perform such other acts as may be reasonable or necessary to make said Lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The cost thereof to the Committee shall be collected in any reasonable manner from the Owner. Neither the Committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any fine so assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot subordinate only to the lien of a first mortgage until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot. Such charge shall bear interest at the rate of eighteen percent (18%) per annum until paid in full. If, in the opinion of the committee, such charge has remained due and payable for an unreasonable long period of time, the committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owed, in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every Owner of a Lot in this subdivision, and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in this subdivision is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay all fines that shall be made pursuant to this paragraph.

Except as provided in Article VIII enforcement of this Declaration shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created or allowed by this Declaration; and the failure or forbearance by the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

**Section 8. Arbitration.** In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party hereof not less than five days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

**Section 9. Severability.** Invalidation of any part of this Declaration by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

**Section 10. Conflicts.** In the case of any conflict between this Declaration and either the Articles of Incorporation or the By-Laws of the Association, the Declaration shall control.

**Section 11. Condemnation.**

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(a) In the event any Lot or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Lot Owner subject to the limitations of a mortgage, if any.

(b) In the event any Common Area or Community Facility or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement + shall be distributed to the Association for the common benefit of the appropriate Members.

**Section 12. Professional Management Contracts.** The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee with no less than ninety (90) days written notice.

**Section 13. Non-Liability of Declarant.** Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted or delegated to it, by or pursuant to, this Declaration, the Articles or the By-Laws, whether or not such claims shall be asserted by an Owner, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Hill Property or any part thereof not being maintained or repaired by reason of any act or neglect of any Owner, the Association or their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Hill Property, or by reason of the failure to furnish or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.) except as provided by any written warranty provided to an Owner or the Association.

**Section 14. Gender and Grammar.** The singular, whenever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other forms of business organizations, or individuals, men or women, shall in all cases be assumed as though in such case fully expressed.

IN WITNESS WHEREOF, Rolling Hills, LLC, an Indiana limited liability company, by Joseph Dorger, Member, has executed this Declaration on the day and year first written above.

Joseph Dorger  
Joseph Dorger, Member  
Rolling Hills, LLC

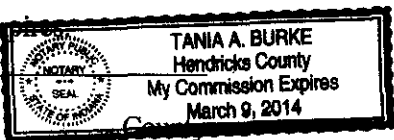
STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

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Before me, a Notary Public, in and for said County and State, personally appeared Joseph Dorger, Member of Rolling Hills, LLC, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 15<sup>th</sup> day of February, 2007.

My Commission Expires



Tania A. Burke  
Notary Public - Signature  
TANIA A. BURKE  
Notary Public - Printed Name

Resident of \_\_\_\_\_

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, Amy Comer Broderick.

This document prepared by Amy Comer Broderick, Attorney-at-Law, Comer Law Office, P.O. Box 207, 71 West Marion Street, Danville, Indiana 46122. (317) 745-4300.

**Exhibit "A"****Legal Description**

Part of Section 27, Township 16, Range 1 East, Hendricks County, Indiana, more particularly as described as follows:

Beginning at a PK nail 1334.90 feet South 00 degrees 00 minutes 00 seconds East (record and measured) of the County referenced Northeast corner of the Northeast quarter, Section 27, in the approximate center line of State Road 267, and running thence South 89 degrees 16 minutes 30 seconds West (record and measured) generally following a wire fence for a distance of 1335.80 feet (1820.0 feet, record) to a 5/8" reinforcing bar; thence North 00 degrees 00 minutes 00 seconds East generally following a wire fence line for a distance of 357.28 feet to a 5/8" reinforcing bar; thence South 89 degrees 48 minutes 22 seconds West generally following a wire fence line for a distance of 660.00 feet (record and measured) to a 5/8" reinforcing bar; thence North 00 degrees 00 minutes 00 seconds East generally following a wire fence line for a distance of 990.00 feet (record & Measured) to a 5/8" reinforcing bar on the northerly line of the northeast quarter; thence South 89 degrees 48 minutes 22 seconds West with said northerly line and generally following a wire fence line and the fence line projected for a distance of 675.70 feet to the calculated northwest corner of the northeast quarter of Section 27, (not monumented); thence South 89 degrees 06 minutes 44 seconds West with the north line of the east half of the northwest quarter, Section 27, and generally following a wire fence line for a distance of 1335.70 feet to a PK nail marking the calculated northwest corner of tile east half of said northwest quarter; thence leaving said fence line and running South 00 degrees 00 minutes 00 seconds East for a distance of 2668.06 feet to the calculated southwest corner of the east half of said northwest quarter (not monumented), said point being 1335.80 feet North 89 degrees 06 minutes 44 seconds West of the County referenced southwest corner of the northwest quarter, Section 27; thence South 00 degrees 06 minutes 37 seconds East for a distance of 1105.50 feet to a 5/8" reinforcing bar; thence North 89 degrees 06 minutes 44 seconds East for a distance of 940.50 feet (record and measured) to a 5/8" reinforcing bar; thence North 00 degrees 06 minutes 37 seconds West for a distance of 379.50 feet to a 5/8" reinforcing bar; thence North 89 degrees 06 minutes 44 seconds East for a distance of 395.20 feet to a point on the east line of the east half of the southwest quarter Section 27, (not monumented); thence North 89 degrees 48 minutes 22 seconds East for a distance of 1335.70 feet to a 5/8" reinforcing bar; thence North 00 degrees 06 minutes 37 seconds West (North 00 degrees 10 minutes 24 seconds West, adjacent record bearing) for a distance of 726.00 feet to a 5/8" reinforcing bar at the calculated southwest corner of the east half of the northeast quarter, Section 27; thence North 89 degrees 48 minutes 22 seconds East generally following a wire fence line for a distance of 1335.70 feet (1333.27 feet record) to the County referenced southeast corner of the northeast quarter, said point being an iron pin in concrete in the approximate center line of State Road 267; thence generally following said center line North 00 degrees 00 minutes 00 seconds for a distance of 1333.16 feet to the place of beginning, containing 242.017 acres, more or less.



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PAUL T HARDIN

HENDRICKS COUNTY RECORDER

07/07/2010 11:43:44AM

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR  
THE VILLAGE OF HERITAGE HILL**



**Comprising Annsdale, New England Way, New England Way South,  
The Hamptons, The Villas and Legacy Park**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (hereinafter referred to as either the "Declaration" or the "Amended Declaration") is made this 30<sup>th</sup> day of June, 2010 by and among ROLLING HILLS, LLC, an Indiana limited liability company ("Rolling Hills"), ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company and LEGACY PARK, LLC, an Indiana limited liability company (collectively, hereinafter referred to as "Declarant") under the following circumstances:

A. Rolling Hills, as the original declarant created a development consisting of several subdivisions collectively known as The Village of Heritage Hill (the "Development") located in Lincoln and Washington Townships, Hendricks County, Indiana, which is more particularly described in on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

B. Rolling Hills subject the Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Clerk's Office (the "Original Declaration"), which Original Declaration restricts the use and occupancy of the Property for the protection of the Property and the future owners of the Property; and

C. Rolling Hills formed The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association"), which was responsible for the maintenance, management, and control of the Common Areas (as defined below); and

D. As provided for under Article XI, Section 2.A. of the Original Declaration, Declarant has reserved the right and power to unilaterally amend the Original Declaration and the other Constituent Documents at any time and from time to time, without the consent of any other Owners (as defined below), to the extent necessary to enable Declarant to meet any other reasonable need or requirement in order to complete the development of the Property; and

E. It is the desire of Declarant to amend and restate the Original Declaration reaffirming the intent in the Original Declaration to provide for the preservation of the values and amenities in said community; and to this end, desires to subject the Property to the amended and restated covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent Owners thereof, in addition to modifying certain other terms, covenants and conditions as contained in the Original Declaration; and

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F. This Declaration amends and supersedes the Original Declaration.

NOW, THEREFORE, the Declarant hereby declares that the Property and such Additional Property as may be subjected to the provisions hereof pursuant to Article 2 below, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, charges and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of the community, and which shall run with the land comprising the Development and be binding on all parties having any right, title, or interest in the Development or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

### **ARTICLE 1** **DEFINITIONS**

**Section 1.1 Definitions.** The following words when used in this Declaration shall have the following meanings:

(a) "Annual Assessment" means the charge established by Article 4 of this Declaration.

(b) "Articles" and "Articles of Incorporation" shall mean those Articles of Incorporation, filed with the Secretary of State of Indiana incorporating the Association as a not for profit corporation.

(c) "Assessments" shall mean the Annual Assessment, Special Assessment, Individual Assessment, Recreational Facilities Assessment and Public Assessment.

(d) "Association" shall mean and refer to The Village of Heritage Hill Community Association, Inc., an Indiana not for profit corporation, and its successors and assigns.

(e) "Board" and "Board of Directors" shall mean the Board of Directors of the Association as provided in the Articles of Incorporation and Bylaws of the Association.

(f) "Bylaws" shall mean the Bylaws or Code of Regulations of the Association, as the same may be amended from time to time, pursuant to the laws of the State of Indiana. A true copy of the Bylaws is shown on **Exhibit "B"** is attached hereto and made a part hereof.

(g) "Class A Members" or "Class A Membership" means those members of the Association consisting of all Owners except, during the Development Period, Declarant and the Class C Member.

(h) "Class B Member" or "Class B Membership" means, during the Development Period, Declarant, as a Member of the Association.

(i) "Class C Member" or "Class C Membership" means the Owner of the Legacy Park Apartment.



(j) "Common Areas" shall mean and refer to all real property, together with improvements and plantings located thereon, owned by Declarant or the Association or leased to the Association for the benefit, use and enjoyment of all or a portion of its Members within the Development.

(k) "Common Expenses" shall mean as defined in Section 4.2 of this Declaration.

(l) "Constituent Documents" mean the Declaration, the Record Plat, the Bylaws, the Articles of Incorporation, the Rules and Regulations, if any, the management agreement, if any, entered into between the Association and any professional manager of the Property, and any other basic documents used to create and govern the Property.

(m) "Declarant" shall mean and refer to Rolling Hills, LLC, an Indiana limited liability company, Rookwood Custom Builders, LLC, an Indiana limited liability company and Legacy Park, LLC, an Indiana limited liability company or their successors and assigns.

(n) "Design Review Committee" shall initially mean Dennis Null and Robert R. Carr and/or persons specifically appointed by them, during the Development Period. After the Development Period, the Board of Directors shall appoint, on an annual basis, no fewer than three (3) Owners to comprise the Design Review Committee.

(o) "Development" shall mean and refer to The Village of Heritage Hill and all improvements located or constructed thereon and any other Additional Property submitted to the provisions hereof pursuant to Article 2 below.

(p) "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of (a) the day fifteen (15) years after such date, or (b) the day next following the day on which the Declarant owns no part of the Property.

(q) "Director" and "Directors" shall mean that person or those persons serving, at the pertinent time, in the capacity of a member of the Board of Directors of the Association.

(r) "Exclusive Common Areas" shall mean and refer to certain portions of the Common Areas which are for the exclusive use and benefit of one (1) or more, but less than all, Neighborhoods, as more particularly described in Article 5 of this Declaration.

(s) "General Common Areas" shall mean and refer to all real property, together with improvements and plantings located thereon, owned by Declarant or the Association or leased to the Association for the benefit, use and enjoyment of all of its Members including the property identified in any and all recorded plats of property within the Development, including but not limited to the Recreational Facilities.

(t) "Individual Assessment" means the charge established by Section 4.4 of this Declaration.

(u) "Legacy Park" shall mean that certain subdivision created under that Plat of Legacy Park recorded on June 6, 2008 as Instrument Number 2008-13836 of the Hendricks County, Indiana Recorder's Office.

(v) "Living Unit" shall mean and refer to any portion of a building situated upon a Lot designated and intended for use and occupancy as a residence by a single family, including a house, townhouse, condominium unit, or patio or cluster home or apartment, whether detached or attached, located within the Development.

(w) "Lot" shall mean and refer to any separate parcel of land shown upon any recorded subdivision plat within the Development or recorded re-subdivision thereof with the exception of the Common Areas.

(x) "Members" shall mean the Owners who are members of the Association as provided in Article 4 below.

(y) "Neighborhood" shall mean and refer to each separately developed residential area comprised of one (1) or more housing types subject to this Declaration, whether or not governed by an additional owners association, in which Owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or Common Areas which are not available for use by all Association Members.

(z) "New England Way" shall mean that certain subdivision created under that Plat of New England Way recorded on August 14, 2007 as Instrument Number 2007-21233, and as amended by a Certificate of Correction recorded on August 17, 2007 as Instrument Number 2007-21672, of the Hendricks County, Indiana Recorder's Office.

(aa) "New England Way South" shall mean that certain subdivision created under that Plat of New England Way South recorded on July 20, 2007 in Plat Cabinet 7, Slide 10, Pages 2A – 2E, of the Hendricks County, Indiana Recorder's Office.

(bb) "Occupant" means any person in possession of a Lot or Living Unit whether or not such possession is lawful and shall include but not be limited to, an Owner's family members, guests, invitees, Tenants and lessees.

(cc) "Open Spaces" means and refers to all open spaces located on the Property as shown on any Record Plat, which are for the benefit of the Owners in the Development.

(dd) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or undeveloped tract which is a part of the Development, including contract sellers and builders, but excluding those having such interest merely as security for the performance of an obligation.

(ee) "Property" shall mean and refer to all of the property located in the Development and all improvements located or constructed or to be constructed thereon and any

other Additional Property submitted to the provisions thereof, which property currently consists of those neighborhoods and apartments identified as Annsdale, New England Way, New England Way South, The Hamptons, The Villas and Legacy Park.

(ff) "Proposed Commercial Property" shall mean as defined in Section 2.2 of this Declaration.

(gg) "Public Assessment" means the charge established by Section 4.7 of this Declaration.

(hh) "Record Plat" means any and all plats for the Neighborhoods which make up The Village of Heritage Hill Property as recorded in the Hendricks County, Indiana Clerk's records, including any subsequent plats or replats, which currently include the Record Plat for The Villas, New England Way, New England Way South and Legacy Park.

(ii) "Recreational Facilities" shall initially mean that certain swimming pool, kids swimming pool, recreational center and fitness center currently located on a portion of the General Common Areas of the Property, along with any other facilities which may be installed on the Property at a later date, which shall be for the benefit of the Owners and Occupants.

(jj) "Recreational Facilities Assessment" means the charge established by Section 4.6 of this Declaration.

(kk) "Rules and Regulations" means any rules and regulations adopted by the Board of Directors from time to time to govern all of the Property or certain Neighborhoods within the Development, which shall be in addition to the terms contained in this Declaration. In the event of a conflict between this Declaration and any Rules and Regulations, this Declaration shall govern.

(ll) "Special Assessment" means the charge established by Section 4.5 of this Declaration.

(mm) "Structure" shall mean and refer to anything built, placed upon or constructed upon a Lot, including but not limited to, a Living Unit.

(nn) "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

(oo) "The Villas" shall mean that certain subdivision formally known as Camargo Club and created under that Plat of Camargo Club, Phase 2 recorded on May 25, 2010 in Plat Cabinet 7, Slide 111, Pages 2A and 2B, of the Hendricks County, Indiana Recorder's Office.

**ARTICLE 2**  
**PROPERTY DEVELOPMENT**

**Section 2.1 Property Subject to Declaration.** The real property which is, and shall be held, conveyed, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in and is more particularly described in **Exhibit "A"** attached hereto and made a part hereof.

**Section 2.2 Additional Development; Annexation; Removal.** Declarant reserves the right, at any time during the Development Period, to remove any portion of the Property from the scope of the Declaration or to make subject to or annex any portion of the Additional Property to the Declaration without the consent of the Members of the Association. Declarant is currently in the process of having that portion of the Property shown on the Site Plan attached hereto as **Exhibit "C"** and made a part hereof (the "Proposed Commercial Property") rezoned from residential use to commercial use. In the event, during the Development Period, Declarant is successful in rezoning the Proposed Commercial Property, then Declarant shall have the right, without the consent of the Members of the Association, to remove all or any portion of the Proposed Commercial Property from the scope of the Declaration or to keep the Proposed Commercial Property a part of this Declaration but modify which Sections of the Declaration are applicable to the Proposed Commercial Property. Notwithstanding the above, nothing contained in this Declaration or in the Bylaws shall obligate the Declarant to annex any Additional Property to the Development and the Additional Property shall remain wholly free from any covenant or restriction herein contained until annexed as provided herein. After the Development Period, Additional Property may be annexed to the Declaration only with the consent of fifty-one (51%) percent of all the Members of the Association. However, any Additional Property so annexed by either Declarant or the Members, as provided above, must be adjacent to or in the immediate vicinity of the Property.

Any annexations or removals made pursuant to this Section 2.2, or otherwise, shall be made by recording a supplement to this Declaration with the Recorder of Hendricks County, Indiana, which supplementary declaration shall either extend the scheme of the within covenants and restrictions to such annexed property or remove such property from the scheme of the within covenants and restrictions. The supplementary declaration may either waive some of the existing covenants, conditions and restrictions or contain additional covenants, conditions, restrictions, easements and liens with respect to that Additional Property being annexed therein as either Declarant, if during the Development Period, or a majority of the Members of the Association shall deem appropriate for the purpose of completing the development of the Property. Owners of Lots subject to such supplemental Declaration shall be Owners as defined by this Declaration.

**ARTICLE 3**  
**ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**Section 3.1 Members.** Every Owner, including the Owner of Legacy Park, shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period, the Association shall consist of Class A Members (being all Owners except for the Owner of Legacy Park and the

Declarant ), a Class B Member (Declarant) and a Class C Member (the Owner of Legacy Park). After the Development Period, there shall only be Class A Members and a Class C Member, with the Class B Membership terminating and Declarant, if it is then an Owner, becoming either or both a Class A Member or Class C Member, respectively, and continuing as such so long as it shall remain an Owner.

**Section 3.2**    **Voting Members.**

(a)    With the exception of the Owner of Legacy Park and Declarant, until the Class B Membership has lapsed, every person, group of persons or entity who is an Owner of a fee interest in any Lot and which is or becomes subject to the Assessments (as defined below) of the Association shall be a Class A Member of the Association. Class A Members shall be entitled to a total of one vote per Lot in which they hold the fee interest. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for such Lot shall be exercised as they determine among themselves but in no event shall more than one vote be cast with respect to any Lot.

(b)    The Class B Member shall be the Declarant and shall be a voting Member of the Association. The Class B Member shall have seven (7) votes for each Lot in which the Declarant holds the interest otherwise required for Class A Membership multiplied by the number of Dwelling Units located or proposed by the Declarant to be located on such Lot, provided, however, that each Class B Membership shall terminate upon the expiration of the Development Period. At such time as Class B Membership shall terminate, the Declarant which, for any Lot, holds an interest therein otherwise required for Class A Membership or Class C Membership, respectfully, shall be deemed a Class A Member or Class C Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member or Class C Member, respectfully.

(c)    The Owners of Legacy Park shall be a Class C Member and shall be entitled to five (5) votes of the membership of the Association.

**ARTICLE 4**  
**ASSOCIATION AND ASSESSMENTS**

**Section 4.1**    **Covenant for Assessments.**    There are hereby created Assessments for the Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in this Section. There may be up to five (5) types of Assessments which are as follows: (1) Annual Assessment; (2) Individual Assessment; (3) Special Assessment; (4) Recreational Facilities Assessment; and (5) Public Assessment. Each person, group of persons, or entity who becomes an Owner of a Lot whether or not it shall be expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the Association these Assessments, except that the Owner of Legacy Park shall not be required to pay the Annual Assessment pursuant to the terms of this Declaration, but rather shall pay an Annual Assessment in accordance with that certain contract between Legacy Park, LLC and the Association. All Assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as

hereinafter provided shall be a charge on the Lot of such Owner and shall be a continuing lien upon the Lot against which such Assessment is made.

**Section 4.2 Purpose of the Annual Assessment.** The Annual Assessment shall be levied by the Association against the Owner of each Lot, as provided in Section 4.3 below (except for the Owner of Legacy Park which is subject to a separate annual assessment), to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the General Common Areas, including, but not limited to, the payment of real estate taxes on those portions of the General Common Areas to which the Association and/or Declarant is the record owner; casualty and liability insurance for the General Common Areas and fidelity bonds; the cost of repairing and maintaining the landscaping in the General Common Areas; the cost of supplying water to the General Common Areas; the cost of snow pushing in the General Common Areas; mowing, edging and fertilization of all grass on the General Common Areas; the cost of spring time mulching of landscape beds; the maintenance and upkeep of the two (2) landfills located on the General Common Areas in accordance with governmental requirements; the costs of operation, maintenance, improvement, and replacement of any and all improvement located on the General Common Areas, including but not limited to the Recreational Facilities and Open Spaces; the cost of reasonable reserves for contingencies, replacements and working capital; management fees; organizational costs; legal costs for the enforcement of liens and covenants in this Declaration and all other costs incurred by Declarant or the Board in the exercise of its powers and duties pursuant to this Declaration; and, in the discretion of the Association, the areas for which the Annual Assessment may be used may include any entrance roads or adjoining roads or areas, boundary walls, landscaping areas or other amenities, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents in the Development, even though not owned by the Association (collectively "Common Expenses"). The initial Annual Assessment shall be Three Hundred and no/100 Dollars (\$300.00) per Lot. The obligation to pay the Annual Assessment shall not in any manner be dependent on or discharged, or otherwise affected by the use or non-use of the General Common Areas or Recreational Facilities, or the actual occupancy of any Lot or Living Unit on the Property.

**Section 4.3 Computation of Annual Assessment.** It shall be the duty of the Board, prior to the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital reserve account for the capital replacement, as needed.

(a) For those Lots that have already been transferred from Declarant to a third party purchaser, the Annual Assessment for these Lots shall commence on the first day of the recording of this Amended Declaration. For all other Lots, the Annual Assessment shall commence on the day of the conveyance of the particular Lot from the Declarant to an individual Owner of a Lot.

(b) The Annual Assessment to be levied against each Lot for the coming year shall be determined by multiplying the total budgeted Common Expenses, including reserves, by a fraction, the numerator of which is the number "1," and the denominator of which is the total number of Lots subject to the Annual Assessment.

(c) The Board shall cause a copy of the Common Expense budget and notice of the amount of the Annual Assessment to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the beginning of the fiscal year. If, in the event the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined by the Board, the budget in effect for the immediately preceding year shall continue

**Section 4.4 Individual Assessments.** In addition to the other Assessments authorized herein, the Association may levy "Individual Assessments" for the following reasons:

(a) In the event an Owner of any Lot shall fail to maintain the Lot and the improvements situated thereon in a manner satisfactory to the Board of Directors and such maintenance is not that which is to be provided by the Association, then the Board, in its sole discretion, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the improvements thereon. The cost of such maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or Living Unit) shall be added to and become part of the total Assessment to which such Lot is subject. Neither the Board nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder.

(b) After approval by a majority of the members of the Board, the Association shall have the right to assess an individual Lot or Living Unit for any costs incurred for maintenance or repair caused through the willful or negligent act of an Owner or Occupant or their family, Tenants, guests or invitees, including attorney fees, court costs and other expenses incurred.

**Section 4.5 Special Assessment.** In addition to the Annual Assessment authorized by this Article, the Association may levy, in any assessment year, a "Special Assessment", applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the General Common Areas, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment affecting the General Common Areas shall have the approval of fifty-one percent (51%) of the total number of votes held by the Members and Declarant, if during the Development Period. Any Special Assessment levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of applicable Lots. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. As determined by the Board, the Special Assessment may be billed in advance on a monthly, quarterly or annual basis.

**Section 4.6 Recreational Facilities Assessment.** Subject to the terms and conditions contained herein, the Declarant has constructed the Recreational Facilities on a portion of the

General Common Areas for the benefit of all Owners in the Development. In exchange for the construction of the Recreational Facilities, the Association has provided to the Declarant a Conditional Promissory Note in the original principal amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) for reimbursement of construction of the Recreational Facilities. The Conditional Promissory Note is or upon the conveyance of the Recreational Facilities by the Declarant to the Association, shall be secured by an Open-End Mortgage in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00). In the event, during the first five (5) years after the recording of this Amended Declaration ("Term of Conditional Promissory Note"), there are excess funds in escrow after the end of any given fiscal year which exceed ten percent (10%) of the total Annual Assessment received by the Association since the recording of the Declaration, then such excess shall be paid to the Declarant for reimbursement of the sums due under the Conditional Promissory Note (the "Recreational Facilities Assessment"). The Conditional Promissory Note shall terminate upon the earlier of (a) the Association's payment to the Declarant any and all sums due under the Conditional Promissory Note; or (b) on the last day of the fifth (5<sup>th</sup>) year after the recording of this Amended Declaration. The Recreational Facilities Assessment shall be due within sixty (60) days after the expiration of any given fiscal year.

**Section 4.7 Public Assessments.** The Property as a whole may be subject to certain assessments for public improvements made in and around the Property. Any such Public Assessment will be contained within the tax bill from the Hendricks County Treasurer's Office. Each individual Lot Owner is responsible for the paying of any such Public Assessment directly to the Hendricks County Treasurer.

**Section 4.8 Payment.** Unless otherwise established by the Board, the Annual Assessment shall be paid in advance in semi-annual installments not more than ten (10) days after the due dates established by the Board. The Board shall have the power at any time to adopt such billing, collection and payment procedures and payment time schedules as it shall deem appropriate. Additionally, any Special Assessment, Individual Assessment or Recreational Facilities Assessment imposed by the Board shall become due upon the date designated in the notice, but not less than thirty (30) days after the mailing of the notice to the Owner by United States mail. Upon the recording of this Amended Declaration, each third party owner of a Lot shall pay a prorate share of the Annual Assessment for the balance of the semi-annual period after the recording of this Amended Declaration. At the time of closing on a Lot from Declarant to a third party purchaser, each third party purchaser of a Lot shall be required to pay a prorate share of the Annual Assessment for the balance of the semi-annual period in which the closing takes place.

**Section 4.9 Assessment of Declarant.** Any provision of this Declaration or of the Articles of Incorporation or Bylaws of the Association notwithstanding, the Declarant, while it is a Class B Member, shall not be required to pay any Assessments.

**Section 4.10 Assessment Certificates.** The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for the Assessments, a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of the Assessments, i.e., whether the same are paid or unpaid. Such certificate shall be conclusive evidence of the



payment of any Assessment therein stated to have been paid. A charge not to exceed Ten (\$10.00) Dollars may be levied in advance by the Association for each certificate so delivered.

**Section 4.11 Common Surplus.** After the first five (5) years of the recording of this Declaration, if the Annual Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the Annual Assessment for the following year; or (c) apply the Common Surplus to the reserve.

**Section 4.12 Non-Payment of Assessment.** Any Assessment levied pursuant to this Declaration which is not paid on the date when due, together with interest thereon at the rate herein provided and cost of collection thereof, shall become a continuing lien upon the Lot, and shall be the personal obligation of the then Owner, his/her heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain the personal obligation of the Owner and shall not pass to his/her successors in title (except as a lien against the Lot) unless expressly assumed by such successors with the consent of the Association.

If any Assessment is not paid within fifteen (15) days after its due date, the Assessment shall bear interest at the rate of ten (10%) percent per annum, and the Association may bring an action against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, in either of which events, interest, costs and reasonable attorney's fees shall be added to the amount of the Assessment.

In addition to the ten (10%) percent per annum interest provided above, the Board of Directors in its discretion, may establish a reasonable late charge to be paid in the event of such Assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the Assessment which is delinquent by fifteen (15) days.

**Section 4.13 Subordination of Lien to Mortgage.** The lien of the Assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any tax lien foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessment until such time the Lot is conveyed to an Owner who will utilize the Lot for residential purposes. Such lien shall become effective the day of the conveyance of the particular lot from the Declarant to the Owner.

**Section 4.14 Right of Association to Remove or Correct Violations.** Notwithstanding anything to the contrary contained in Section 4.4 above, the Board may, in the interest of the general welfare of the Owners, and after reasonable notice to the affected Owner, enter upon any Lot or the exterior of any Living Unit at reasonable hours for the purpose of removing or correcting any violation or any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Directors. All charges incurred by the Association obtaining access to

any Lot or Living Unit covered under this Section and any charges incurred by the Association in correcting the violation (including court costs and reasonable attorney's fees) shall constitute an Individual Assessment.

## **ARTICLE 5** **NEIGHBORHOODS**

**Section 5.1** Living Unit and/or Lots may be located within a Neighborhood, as determined by the Board in its sole and absolute discretion. Living Units and/or within a particular Neighborhood may be subject to additional covenants, Rules and Regulations established by the Board at such time as such Living Units or Lots are annexed to the Property. Such covenants, Rules and Regulations may require that a separate owners association ("Neighborhood Association") be formed to provide for higher levels of service and special services for the benefit of Living Units and/or Lots in such Neighborhood. In which case the Neighborhood Association shall provide such services and the costs of such services shall be assessed against the Lots and/or Living Units within such Neighborhood through a separate assessment not part of any Assessment under this Declaration.

**Section 5.2** The Declarant, during the Development Period and thereafter the Board may declare, in its sole discretion, that certain Neighborhoods established within the Property be required maintain and upkeep those Exclusive Common Areas located in such Neighborhood. In the event such election is made, that Neighborhood shall form a Neighborhood Association which shall be responsible for the maintenance and upkeep of such Exclusive Common Areas. For example, Common Area A, as shown on the Record Plat for Camargo Club, is hereby designated by Declarant as Exclusive Common Area for the sole benefit of the Owners within The Villas. The Association shall have no obligation to maintain this Exclusive Common Area, but rather shall be maintained by the Neighborhood Association incorporated by the Owners of The Villas. Notwithstanding anything herein to the contrary, the Common Areas located on any Record Plat which are contiguous to Northfield Drive and New England Way shall at all times be designated as General Common Areas and shall not be a part of any Exclusive Common Area.

## **ARTICLE 6** **INSURANCE**

**Section 6.1** **Fire, Extended Coverage and Standard "All Risks" Insurance.** The Association shall insure all buildings which are part of the General Common Areas, and may maintain insurance for all other structures and improvements now or hereinafter constructed on the General Common Areas against any loss or damage by such hazards as are ordinarily insured by a comprehensive, extended coverage and "all-risks" policies issued in the amounts at all times sufficient to prevent the Association from becoming co-insurers under the terms of any applicable coinsurance clause or provision and in no event less than the actual replacement cost of such improvements, as determined from time to time by the insurer.

Any such insurance shall be obtained from a fire and casualty insurance company authorized to write such insurance in the State of Indiana which has a general policy holder rating of no less than A, as determined by the then latest edition of the Best's Insurance Reports or its successor guide, and shall be written in the name of the Association for the use and benefit

of the Lot Owners and their mortgagees as their interests may appear. The Board of Directors and/or its authorized representatives shall have the exclusive right to negotiate and adjust all loss claims. Unless the Board of Directors determines otherwise, all such insurance shall contain a waiver of subrogation of rights by the carrier as to the Association, its officers or Directors, and all Lot Owners and Occupants.

**Section 6.2 Use of Fire Insurance Proceeds.** Unless at least sixty-seven percent (67%) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than Declarant) of the individual lots have given their prior written approval, the Association shall not be entitled to use hazard insurance proceeds for losses to the General Common Areas for other than the repair, replacement or reconstruction of such General Common Areas.

**Section 6.3 Liability Insurance.** The Association shall obtain and maintain a comprehensive policy of public liability insurance covering the General Common Areas, insuring the Association, Directors, and Owners and members of their respective families, Tenants and Occupants in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a residential Owner, Tenant or Occupant because of negligent acts of the Association, the Board, or other Owners, Tenants or Occupants.

**Section 6.4 Other Insurance.** In addition, the Board may purchase and maintain contractual liability insurance, Directors' and Officers' liability insurance, and such other insurance as the Board may deem desirable from time to time

**Section 6.5 Insufficient Insurance.** In the event the improvements forming a part of the Lots, General Common Areas or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which the amount was so advanced, and such Assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of Assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

**Section 6.6 Fidelity Bonds.** The Board shall obtain as a Common Expense to the Association fidelity bond coverage with respect to any person who either handles or is responsible for funds held or administered by the Association, in an amount no less than the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force; provided, however, the fidelity bond coverage must at least equal the sum of three months' Assessments on all Living Units on the Property, plus the Association's reserve funds. A management agent handling funds for the Association shall also be covered by its own fidelity bond, naming the Association as an additional obligee, at the sole cost of said agent.

**ARTICLE 7**  
**COMMITTEES**

**Section 7.1 Finance and Budget Committee.** The Board of Directors may appoint a Finance and Budget Committee composed of Members as set forth in the Bylaws of the Association. This Finance and Budget Committee shall prepare the annual budget of the Association for submission to the Board of Directors. The Finance and Budget Committee shall also determine the needs, repairs and monetary requirements for the Property subject to the Annual Assessment for the following year and make recommendations to the Board of Directors as to the type of work to be performed by the Association for the following year consistent with the purposes of the Annual Assessment. The Finance and Budget Committee shall further have such additional duties as may be assigned to it from time to time by the Board of Directors.

**Section 7.2 Design Review Committee.** No building, fence, wall or other Structure shall be commenced, erected, or maintained upon Common Areas or upon any Lot or property upon which is located all or part of a Living Unit, nor shall any exterior addition to or change or alteration in a Living Unit or Structure be made until the plans and specifications (the "Plans and Specifications") showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing, as to harmony of external design, color and location in relation to surrounding Structures and topography, by the Design Review Committee. The decision of a majority of the members of the Design Review Committee shall be deemed a decision of such committee.

**ARTICLE 8**  
**DESIGN REVIEW FOR ANNSDALE, NEW ENGLAND WAY,**  
**NEW ENGLAND WAY SOUTH AND THE HAMPTONS**

**Section 8.1 Design Review Guidelines.** In order to facilitate initial development of the Development, Design Review Guidelines have been adopted by the Declarant for each Neighborhood. The Design Review Guidelines may be amended, modified, revoked or replaced by the Declarant during the Development Period and by the Board of Directors thereafter. In the event the lender or lenders who provide acquisition and development financing for the Property acquire title to the Property through foreclosure or deed in lieu of foreclosure, such lender shall be deemed the Declarant for purposes of the Design Review Guidelines.

**Section 8.2 Submission of Plans and Specifications.** No Structure on any Lot shall be remodeled or altered in any way which materially changes the exterior appearance thereof, involves the erection of a new Structure or otherwise increases the area under roof of any Structure (including garage area) unless detailed Plans and Specifications therefore shall have been submitted to and approved by the Design Review Committee as set forth in Section 7.2. Such Plans and Specifications shall be in such form and shall contain such information as the Design Review Committee may reasonably require but shall, at minimum unless waived by the Design Review Committee, include:

(a) a site plan showing the location of all proposed and existing Structures on the Lot, the approximate size in square footage of the first or ground floor of the Structure(s), the square footage of the entire Lot, and setbacks;

- (b) contours reflecting existing topography and a grading plan showing finished contours, existing environmental features and significant tree stands,
- (c) any proposed retaining walls;
- (d) proposed fencing;
- (e) proposed landscaping, including existing trees and shrubs, if any;
- (f) architectural plans including structural cross-section, floor plan, decks or balconies, and elevations clearly depicting the design and exterior appearance including specification of materials, color scheme, trim and other details affecting the exterior appearance of the proposed Structures.

Prior to submission of detailed Plans and Specifications for any Structure proposed for any Lot, the Design Review Committee may require, and any applicant may submit for tentative approval by the Design Review Committee, schematic or preliminary Plans and Specifications for any phase or stage thereof. The Design Review Committee shall either (i) approve the Plans and Specifications, (ii) disapprove them or (iii) approve them with conditions or qualifications.

**Section 8.3 Approval of Plans and Specifications.** The Design Review Committee shall approve any Plans and Specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Declaration, (b) meet the approved plat of the Development by the Hendricks County Planning Commission, and (c) conform to the Design Review Guidelines then in effect for that particular Neighborhood and any additional standards or policies promulgated by Declarant, during the Development Period or the Board thereafter. Upon final approval thereof, a written approval letter shall be given to the Owner or Owner's designated agent or representative. The copy of the detailed Plans and Specifications submitted for review as well as a final copy if any changes were made thereto shall be deposited and kept for permanent record with the Design Review Committee. After the receipt of final approval by the applicant, the Design Review Committee shall not revoke such approval. Approval by the Design Review Committee of detailed Plans and Specifications with respect to any Lot shall not impair the right of the Board or the Design Review Committee subsequently to approve a requested amendment of such Plans and Specifications relating to such Lot (subject to the requirements of this Article and the Design Review Guidelines then in effect).

**Section 8.4 Disapproval of Plans and Specifications.** If Plans and Specifications (whether schematic, preliminary or detailed) submitted to the Design Review Committee with respect to any Lot do not comply with the requirements of this Article as to the information required to be included in the Plans and Specifications, the Design Review Committee shall either disapprove such Plans and Specifications or approve them subject to such conditions and qualifications as the Design Review Committee may deem necessary to achieve compliance.

**Section 8.5 Failure of the Design Review Committee to Act.** If the Design Review Committee shall fail to act upon any Plans and Specifications submitted to it within thirty (30)

after submission thereof, such Plans and Specifications shall be deemed to have been **disapproved**.

**Section 8.6 Time Limitation for Construction.** A building permit shall be obtained and construction of the Structure(s) shall be commenced within one (1) year from the date of the conveyance of title (the dated date of the conveyance deed) to the Lot to the Owner. Owner shall submit plans to the Design Review Committee no later than ten (10) months after said conveyance. Within one (1) year from the date of issuance of the building permit, construction of the Structure(s) shall be completed, including, but not limited to landscaping as approved by the Design Review Committee; and the Owner shall have received an occupancy permit from the proper governmental officials.

Any structure that is externally damaged by fire, tornado or other disaster shall be repaired or removed within six (6) months of such occurrence.

**Section 8.7 Rules, Regulations and Policy Statements.** The Board may, from time to time, adopt, amend, and enforce reasonable Rules and Regulations pertaining to its and the Design Review Committee's authorized duties and activities under this Declaration, and may, from time to time, issue statements of policy with respect to Plans and Specifications (whether schematic, preliminary or detailed) and such other matters as it is authorized to act on. Upon the adoption of any such rule, regulation or policy statement, or any amendment thereof, the Board shall file in its records a copy thereof, and the same shall become effective on the date of such filing. No rule, regulation or policy statement, or any amendment thereof, shall operate to revoke any detailed Plans and Specifications previously approved by the Design Review Committee.

The Board shall maintain a copy of the rules, regulations and policy statements and of each amendment thereof as a permanent record and shall make copies thereof available to any interested person at a reasonable cost.

**Section 8.8 Violations.** If any Structure situated upon any Lot shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved detailed Plans and Specifications, the Board shall certify a default to the Owner of the Lot involved, provided, however, that the Board may, upon such conditions as it may determine, waive any such default if it finds that such default does not substantially conflict with the policies of the Board.

**Section 8.9 Right of Entry.** The Board through its authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article, without the Board or such officers, employees or agents being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

**Section 8.10 Fees.** The Board may charge reasonable fees for the processing of Plans and Specifications. Such fees shall cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Association.

**Section 8.11 Approval Not a Warranty or Guarantee.** No approval of Plans and Specifications and no publication of standards shall be construed as representing or implying that such Plans, Specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall not be construed as representing, warranting or guaranteeing that any Living Unit or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Design Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any Plans or Specifications, any loss or damage arising from the non-compliance of such Plans and Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Plans and Specifications.

**Section 8.12 Exclusions.** Legacy Park and The Villas are specifically excluded from this Article 8.

#### **ARTICLE 9**

#### **RESTRICTIONS APPLICABLE ONLY TO ANNSDALE, THE HAMPTONS, NEW ENGLAND WAY, NEW ENGLAND WAY SOUTH AND LEGACY PARK**

**Section 9.1 Maintenance of Lots and Improvements.** Each Owner shall at all times maintain the Lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the Development, and by keeping the exterior of all improvements in a good state or repair. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept, except in sanitary containers out of view from the street, except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash. All Lots, if improved with a Living Unit thereon, shall be mowed by the Owner of a Lot, other than Declarant, a minimum of once per week during the months of April through October. All Lots, if unimproved, shall be mowed by the Owner of a Lot, other than Declarant, a minimum of once per month during the months of April through October.

**Section 9.2 Exterior materials, windows and doors.** All materials for the exterior of each Living Unit shall be approved by the Design Review Committee, including, but not limited to, brick, stone, fiber cement siding, vinyl siding, and front doors. Exterior facia shall have a smooth or textured finish.

**Section 9.3 Animals.** The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any Living Unit located in the Development, except that this shall not prohibit the keeping of dogs, cats and/or caged birds and similar animals kept as domestic pets provided, they are not kept, bred or maintained for commercial purposes, subject to the Rules and Regulations, if any, of the Association for each Neighborhood, including, but not limited to, rules regarding number and weight limitations for certain types of pets. Dogs and cats must be kept within the confines of the Owner's Living Unit or Lot, except when being held on hand leash by person

attending animal. Owners and/or harborers of dogs and cats shall be liable for any damage caused by such animals. Subject only to the provisions of Article III, the Association acting through its Board of Directors may suspend for reasonable length of time the voting rights and the rights to use the Common Areas of any person who violates this Section 9.3.

**Section 9.4 Vehicles, Temporary Structures and Outbuildings.** Except as otherwise provided herein, no structures of a temporary character, recreational vehicles, trailers, tents, shacks, barns or temporary or permanent outbuildings, excepting doghouses not maintained for commercial purposes, shall be kept or used upon the Lots or Common Areas. No car, boat, truck, motor home or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any Lot unless kept within a garage with the garage door closed nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. No vehicle of any kind shall park on any road at any time except for holidays and special events immediately after which the street/road parking must cease. Overnight parking on streets/roads is prohibited at all times. The Association may, in the discretion of its Board of Directors provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Declarant, the builder of a Living Unit and their contractors may, for the purpose of business use in connection with the development of the Lots or construction of Living Units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

**Section 9.5 Swimming Pools.** No swimming pools where the water level is either partially or completely above ground level shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Prior to erection, such fence shall be approved by the Design Review Committee.

**Section 9.6 Fences.** No fence or wall of any kind or for any purpose, except a retaining wall, shall be erected, placed or suffered to remain upon any Lot without the specific approval of the Design Review Committee.

**Section 9.7 Play Equipment.** Children's play equipment, including but not limited to sandboxes, temporary swimming pools having a depth of less than twenty-four (24) inches, swing and slide sets, playhouses and tents shall be permitted without prior approval of the Design Review Committee, provided, however, that such equipment shall not be more than ten (10) feet high, shall be in good repair (including paint) and every reasonable effort shall have been made to screen or shield such equipment from view. With respect to equipment higher than eight (8) feet, prior approval by the Design Review Committee of the design, location, color, material and use shall be required.

**Section 9.8 Clothes Lines.** Collapsible and removable clothes lines will be permitted by the Design Review Committee so long as they are screened or shielded from the view of neighbors and the street. Permanent clothes lines are not permitted.

**Section 9.9 Gardens.** No garden shall extend in front of the back of the house or apartment building.



**Section 9.10 Gazebos.** Gazebos are permitted if design and location is approved by the Design Review Committee.

**Section 9.11 Garages.** Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g., family room(s), bedroom(s), recreation room(s), etc.).

**Section 9.12 Interference with Easements and Safety.** No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels. Any structure, planting or other material which represents a safety problem (e.g. sight restriction) shall be removed at Owner's expense.

**Section 9.13 Common Areas.** There shall be no violation of any Rules and Regulations, if any, for the use of the Common Areas which may, from time to time, be adopted by the Board of Directors and promulgated among the Members by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt or amend such Rules and Regulations.

**Section 9.14 Mailboxes.** Uniform mail boxes shall be chosen by Declarant and paid for and installed at the expense of the Owner for each respective Lot. The Owner shall maintain the mail box at Owner's expense.

**Section 9.15 Signs.** No signs, letters, numbers, symbols, markings or illustrations shall be erected, posted, attached, or displayed upon, or on any Lot or Living Unit except:

(a) street and identification signs installed by the Association or the Declarant;

(b) one temporary sign, approved by Declarant during the Development Period and by the Board of Directors thereafter, informing the public that the real estate is for sale, lease or rent, provided that the sign must not exceed five square feet in area and must be erected upon the real estate to which it refers; and

(c) a post office house number for designation of home location.

No sign, name plate or postal house number shall be animated or illuminated. This subsection shall not apply to Declarant as long as it is a Class B Member, or at any time, to a sign, placed by or on behalf of Declarant, advertising or marketing the Property or any part therein.

**Section 9.16 Antennas.** No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit. Satellite dishes are permitted upon approval by the Design Review Committee during the Development Period and the Board of Directors thereafter.

**Section 9.17 Hunting and Trapping.** Fishing and boating are permitted in the Common Areas as designated by posted signs and the promulgated policies of the Association. Trapping and hunting are prohibited in this Development for all persons.

**Section 9.18 Sidewalks.** Concrete sidewalks with a minimum of four feet (4') shall be constructed on each side of the street. Sidewalks shall be installed prior to issuance of Certificate of Occupancy. Owners shall keep sidewalks on their respective Lots maintained in good condition and repair, free of snow and cleared of debris.

**Section 9.19 Crawl Space and Foundation Drains.** No crawl spaces, eaves troughs, gutters, downspouts, or foundation drains shall be constructed so as to discharge water onto a street. Crawl space drains, foundation drains and basement drains intercepting and carrying only excess ground water may connect to subsurface.

**Section 9.20 Building lines.** Building setback lines shall be as defined on the final Record Plat for each subdivision in the Development which may be greater than the minimum setbacks required by Ordinance.

**Section 9.21 Improvement Location Permit.** In addition to the approval of the Design Review Committee, prior to construction of a Living Unit, Lot Owners must obtain an "Improvement Location Permit" from the Hendricks County Plan Commission before any Structure, improvement, or land use may be altered, changed, placed, erected, or located in the Development.

**Section 9.22 Noxious uses.** No noxious or offensive trade or activity shall be carried on upon any Lot or within any Living Unit located in the Development, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the Neighborhood or the other Owners of any portion of the Property.

**Section 9.23 Exclusions.** The Villas are specifically excluded from this Article 9.

**ARTICLE 10**  
**RESTRICTIONS APPLICABLE ONLY TO ANNSDALE, THE HAMPTONS,**  
**NEW ENGLAND WAY AND NEW ENGLAND WAY SOUTH**

**Section 10.1 Land Use.** Lots shall be used only for single-family residential purposes. No structure of any kind on any Lot shall be used for the purpose of carrying on a business, trade or profession except as allowed by the "Home Occupation Guidelines" of the Hendricks County Zoning Ordinance. Notwithstanding the foregoing, Declarant may and the builders of Living Units may allow the use of Living Units as models and as offices in connection with the marketing or sale of Lots or Living Units.

**Section 10.2 Rules Governing Contiguous Lots Having One Owner.** Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of the said Lots as a site for a single-dwelling residential

structure, such Lot Owner shall apply in writing to the Design Review Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying this Declaration to said Lots, so long as the Lots remain improved with a one-single dwelling residential structure. However, no such combination of Lots shall reduce any Member's vote with the Association (i.e., each Owner will still have one vote for each Lot originally owned).

**Section 10.3 Lawn Ornaments.** A maximum of three (3) lawn ornaments shall be permitted on any Lot. No more than one (1) lawn ornament shall be a bold color, such as reds, blues, yellows, greens, purples, etc. All other lawn ornaments shall be neutral colors, such as browns and blacks. Lawn ornaments do not include shepherd's hooks which hold flower baskets and other plant baskets.

**Section 10.4 Driveways.** Residential driveways shall be constructed of cement concrete. Pavements shall be a minimum of four inches (4") thick excluding sub-base material. The driveway shall be completed not later than the completion of the construction of the dwelling.

**Section 10.5 Rental of Living Units.** The Owners of the respective Living Units or any first mortgagees in possession thereof shall have the right to lease the same subject to the covenants and restrictions in the Declaration and the Bylaws and Rules and Regulations, if any. However, neither a Unit Owner nor any first mortgagee in possession shall lease less than an entire Living Unit nor shall any Living Unit be leased for a term of less than six (6) months. The respective Living Unit shall not be rented for transient or hotel purposes, which shall be defined as (i) rental for any period less than six (6) months, or (ii) any rental if the Occupants of the Living Unit are provided customary hotel service such as room service or food and beverage, maid service and furnishing of laundry and linen. All leases of any Living Unit shall be in writing. All such leases shall provide that they are subject to all the provisions of the Declaration, the Bylaws and the Rules and Regulations, if any, and that any failure of the lessee to comply with any such provision shall constitute a default under the lease. A copy of each such lease shall be given to the Association immediately after it is executed

**Section 10.6 Exclusions.** The Restrictions under this Article 10 shall not be applicable to Legacy Park and The Villas.

## **ARTICLE 11** **DESIGN REVIEW GUIDELINES**

The Design Review Guidelines for each Neighborhood shall conform with applicable zoning ordinances, this Declaration, any Rules and Regulations adopted by the Declarant during the Development Period and the Board of Directors thereafter, and any separate declaration of a Neighborhood.

**ARTICLE 12**  
**COMMON AREAS AND EASEMENTS**

**Section 12.1 Description of Common Areas.** The Common Areas in the Development shall include, but not be limited to: the Recreational Facilities and Open Spaces; any easements for open space, landscaping areas and mounding, water retention/detention basins, Common Area utility easements, storm sewer and surface water drainage easements, water main easements, sanitary sewer easements, preservation areas, and private drainage easements; all as are or may be located, described and shown on the Record Plats (collectively, the "Common Areas"). Declarant may also create other Common Areas not now in existence but that might in the future be added, located and shown on any subsequent Record Plat to be recorded and creating additional Lots to be subjected to this Declaration. Declarant represents and warrants to all Owners that within sixty (60) days after subjecting certain land to this Declaration which is designated on the Record Plat as either the Recreational Facilities or Open Spaces, Declarant shall convey to the Association, by limited warranty deed, title to the respective Recreational Facilities and/or Open Spaces, free and clear of all liens, rights to take liens, and encumbrances whatsoever, except (a) that certain Mortgage to the Declarant as provided under Section 4.6 above, (b) the Declaration, the Code of Regulations and the Rules and Regulations of the Association; (b) all easements, covenants and restrictions of record; and (c) real estate taxes and assessments not yet due and payable.

**Section 12.2 Rights of Enjoyment in Common Areas.** Except as herein otherwise provided, each Owner shall have a right and nonexclusive easement for use and enjoyment of the Common Areas, including the Recreational Facilities, and such right and easement shall be appurtenant to, and shall pass with the title to his/her Lot. Each Tenant shall have a nontransferable right to use and enjoy the Common Areas, including the Recreational Facilities, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

(a) The right of the Board to adopt and enforce and from time to time amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Areas, including regulations limiting guests of Owners and Tenants who may use the Common Areas at any one time.

(b) The right of the Board to suspend the right of any Owner or the privilege of any Occupant to use such of the Common Areas that are recreational in nature as determined by the Board for any infraction of the Rules and Regulations relating to the Common Areas for a period not to exceed sixty (60) days for each such infraction, or for nonpayment or delinquency of the Assessments against such Owner's Lot for a period not to exceed the period of such nonpayment or delinquency.

(c) The right of the Declarant or the Association to designate certain Common Areas as Exclusive Common Areas.

(d) Such rights as the Board may have to grant easements or rights of way to any public utility corporation or public agency.

(e) All applicable provisions of valid agreements of the Association relating to the Common Areas.

(f) Such rights as the Board may have under the Declaration to convey or lease all or any part of the Common Areas.

(g) All other easements, restrictions and rights to which the Property is subject.

(h) The right of the Association to grant permits, licenses, and easements over the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

**Section 12.3 Subordination to Mortgage or Other Lien.** The rights and privileges provided in this Section shall be subordinate to any mortgage or other lien given by the Association for the purposes of acquiring, improving or maintaining the Common Areas.

**Section 12.4 Additional Common Areas.** Declarant may from time to time, during the Development Period, convey to the Association for nominal or other appropriate consideration and the Association may accept conveyance of any land owned by Declarant along with any Structure, improvement or other facility including related fixtures, equipment and furnishings located thereon.

**Section 12.5 Conveyance or Lease of Common Areas.** Upon authorization by the Board and upon the approval of the Declarant during the Development Period and sixty-seven percent (67%) of the Class A Members and Class C Member, the Association may at any time convey or lease all or a part of the Common Areas to any public agency, authority, or utility or to any private entity, upon such terms and conditions as shall be agreed upon by the other party and Board, including, without limitation, terms and conditions providing for the use of such Common Areas by the public in general and terms and conditions pertaining to the maintenance and repair of such Common Areas and the assessments of Owners and/or Tenants for the costs of such maintenance and repair.

**Section 12.6 Use of Common Areas by Declarant.** Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Common Areas as the Class A Members and Class C Member during the Development Period, and shall have the right to use the Common Areas for promotional, sales and similar purposes until all of the Living Units have been sold.

**Section 12.7 Easements.**

(a) In the event that, by reason of the construction, settlement or shifting of any of the Living Units or other Structures located on Lots or by reason of the partial or total destruction and rebuilding of the buildings, any part of the Common Areas presently encroach or shall hereafter encroach upon any part of a Lot; or any part of a Living Unit presently encroaches on or shall hereafter encroach upon any part of the Common Areas or any other Lot; or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving

more than one Living Unit presently encroach or shall hereafter encroach upon any part of any Living Unit or Lot, valid easements for the maintenance of each encroachment and for the use of such adjoining space are hereby established. These easements shall exist during the term of this Declaration for the benefit of such Lot or Living Unit and the Common Areas, as the case may be. However, in no event shall a valid easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the willful conduct of said Owner.

(b) The Association may hereafter grant easements for utility purposes for the benefit of the Property, including the right to install, lay, use, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Areas, and each Owner hereby grants the Association an irrevocable power of attorney to execute, acknowledge, deliver and record, for and in the name of such Owner, such instruments as may be necessary to effectuate the foregoing.

(c) Declarant hereby reserves easements and the right to grant easements on, over and across certain Lots for open space, landscaping mounding and monument areas and for the installation, maintenance, use, repair and replacement of underground utilities, public utilities, water detention basins, storm sewer, sanitary sewer and surface water drainage easements, water mains, preservation areas and private drainage easements, and building setbacks, specifically as shown on the Record Plats now or hereinafter recorded for the Development, and to cut and grade slopes in and along Lot boundaries at streets and drives built within the Property. The foregoing easements shall not be used for recreations purposes but are reserved for such aesthetic or utility purposes as indicated by the nature of the easement.

(d) A non-exclusive ingress and egress easement hereby created, for the benefit of all Owners of the Property, on, over and across any and all private roadways now or in the future located on the Property, which roadways shall be part of the Common Areas of the Association.

(e) All Lots shall be subject to and benefited by a maintenance easement in favor of the Association, the Declarant, the Builder and the adjoining Lot Owner(s) for the purposes of maintaining, cleaning, repairing, improving, replacing and otherwise dealing with the Living Unit situated on a Lot ("Maintenance Easement"). Such Maintenance Easement shall encompass the side yard building set back area along all common Lot lines. Said Maintenance Easement shall specifically permit an Owner to temporarily place a ladder or scaffolding within the easement area of the neighboring Lot in order to perform maintenance and repairs on the Owners' Living Unit.

(f) All easements and rights described in the Declaration are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on Declarant, its successors and assigns, and any Owner, purchaser, mortgagee and other party now or hereafter having an interest in the Property, or any part or portion thereof. After the Development Period, the Association shall be deemed to be the successor of Declarant and, as such, shall be deemed to be the grantee of said easements provided in this Section, and shall hold such easements for the use, benefit and enjoyment of all

Lot Owners in the Development. All notes on the Record Plat that are pertinent to the specific easements set forth herein are incorporated herein by reference.

**Section 12.8 Easements to Other Residents.** Declarant may designate that certain owners of real property outside of the Property and such other persons as Declarant may designate, shall have an easement of enjoyment in and over the Common Areas or specific Common Areas, and the facilities located thereon, to the same extent as any Owner, subject to the provisions of Section 12.1. Such individuals shall be subject to the Rules and Regulations of the Association concerning the use of said Common Areas, but shall not be subject to Assessments by the Association. The Association may, if appropriate, and at the sole discretion of the Board of Directors, charge a fee to such individuals for the use of such Common Areas, including the Recreational Facilities.

### **ARTICLE 13** **REPURCHASE OPTION**

Declarant hereby reserves unto itself, its successors and assigns, the first right and option to purchase any unimproved Lot within the Property which is offered for sale by the Owner thereof, such option to be at the price and upon the terms and conditions of any bona fide offer for such Lot which is acceptable to such Owner and which is made to such Owner by a third party (or any offer made by such Owner that is acceptable to a third party). Upon the receipt (or making) of any such offer by an Owner, such Owner shall promptly submit a copy of the same to Declarant, and Declarant shall have a period of three (3) business days from and after Declarant's actual receipt of such copy from such Owner in which to exercise its purchase option by giving such Owner written notice of such exercise. If Declarant fails to respond or to exercise such purchase option within said three (3) business day period, Declarant shall be deemed to have waived such purchase option. If Declarant declines to exercise such option, Declarant shall execute an instrument evidencing its waiver of its repurchase option, which instrument shall be in recordable form. In the event that Declarant does not exercise its purchase option and a sale to a third party is not consummated on such terms within six (6) months of the date in which the offer is transmitted to Declarant, the terms and limitations of this Article shall again, be imposed upon any sale by such Owner. If Declarant shall elect to purchase such Lot the transaction shall be consummated within sixty (60) days following delivery of written notice by Declarant to such Owner of Declarant's decision to so purchase such Lot. This repurchase option shall terminate at the end of the Development Period.

### **ARTICLE 14** **LANDFILL DISCLOSURE**

Declarant hereby discloses to all Owners the existence of two closed landfills within The Village of Heritage Hill, collectively known as the Warrick Sanitary Landfill, as described in the Memorandum of Closure Notification filed in Hendricks County, Indiana, on December 15, 2004, in DR Book 552, Page 1106-1111. The Indiana Department of Environmental Management, Office of Land Quality (IDEM-OLQ), approved a Closure/Post-Closure Plan for the Warrick Sanitary Landfill on August 10, 2000, that includes a 200-foot buffer zone between all houses or other structures and the solid waste boundaries of the closed landfills. The IDEM-

OLQ approved a Closure Certification Report for the Warrick Sanitary Landfill on December 23, 2004. It is the responsibility of the Association to maintain the two closed landfills in accordance with governmental requirements, which shall be a Common Expense of the Association.

## **ARTICLE 15** **PARTY WALLS**

**Section 15.1 General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the Living Units and placed on the dividing line between the Lots and Living Units thereon shall constitute a party wall. To the extent not inconsistent with the provisions of this Section, the general rules of law of the State of Indiana regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 15.2 Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. Owners who make use of an interior party wall shall not be entitled to change or alter in any way said party wall. Owners who make use of an exterior party wall shall not be entitled to change or alter said party wall unless agreed to by the Board and the other Owners who make use of said party wall.

**Section 15.3 Weatherproofing.** Notwithstanding any other provisions of this Article, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 15.4 Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the parties shall be obligated to arbitrate the dispute under the applicable rules of the American Arbitration Association. Unless the parties can agree upon one arbitrator as the rules of the American Arbitration Association otherwise require, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator. The decision of the arbitrators shall be by a majority of all the arbitrators and shall be binding on the parties to the dispute.

## **ARTICLE 16** **REAL ESTATE TAXES AND ASSESSMENTS**

**Section 16.1 Real Estate Taxes.** The Owner of a Lot shall be responsible for and shall pay all taxes and assessments, general and special, levied or imposed upon the Lot and its improvements.

**Section 16.2 Allocation.** Prior to the time the Auditor of Hendricks County, Indiana establishes separate tax parcels for each Lot, Declarant shall allocate the real estate taxes and assessments upon the Property among and against the Lots and against the remainder of the Property in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots as well as the remainder of the Property. The allocation by Declarant made in accordance with the terms hereof shall be binding upon all Owners.



**Section 16.3 General Common Areas.** Taxes and assessments, general and special, charged against the General Common Areas shall be deemed a Common Expense. Assessments, charged against the Property shall be paid by the Owners as set forth in Article 4 hereof.

**ARTICLE 17**  
**MISCELLANEOUS**

**Section 17.1 Duration.** The terms and provisions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, and except where permanent or perpetual assessments or other permanent rights are herein created, the term of the covenants, conditions and restrictions shall be for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument agreeing to terminate the Declaration signed by the then Owners of two-thirds (2/3) of the Lots has been recorded.

**Section 17.2 Amendment or Termination.** Prior to the end of the Development Period, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument executed by Declarant and approved by a vote of sixty-seven percent (67%) of all Members of the Association. After the end of the Development Period, any provision of this Declaration may be amended in whole or in part or terminated by a recorded instrument approved by a vote of sixty-seven percent (67%) of all Members of the Association.

The President of the Board shall determine whether the persons who have approved of any amendments or termination of this Declaration constitute a vote of at least sixty-seven percent (67%) of all Members of the Association. Promptly after the approval of any amendment or termination of any part of this Declaration, the President of the Board shall cause to be recorded the written instrument of amendment or termination executed in properly recordable form by the President of the Association and Declarant, if during the Development Period, and the certificate of the President of the Association that at least sixty-seven percent (67%) of all Members of the Association have approved such instrument.

The Board shall maintain such copies filed with it by the President as a permanent record and shall make copies thereof available to any Owner at a reasonable cost.

Notwithstanding anything above to the contrary, this Declaration may be amended at any time during the Development Period without the vote of Owners by a written instrument executed by Declarant for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; making any changes necessary or desirable to meet the requirements of any institutional lender, Federal National Mortgage Association, or other agency which may insure loans on a Lot; provided, however, that no such amendment shall materially affect any Owner's interest in the Association or right, if any, to use the **Common Areas**. Each Owner and his or her mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration by Declarant as provided in the

immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this paragraph

**Section 17.3 Declarant's Reservation of Entry Rights.** The Declarant reserves the right for a period of five (5) years after the sale of a Lot by the Declarant to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of the Property, provided that the Lot shall be restored to a like condition as to pavement, grass or sod which shall have been removed.

**Section 17.4 Personal Liability.** Nothing in this Declaration, the Articles, the Bylaws of the Association, or any Rules and Regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any member of the Board of Directors or any officer of the Association acting in his/her capacity as such, for the maintenance, repair or replacement of any Living Unit or of any part of the Common Areas or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct. Each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Director, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such said person is covered by insurance and, in such event, the amount of recovery shall be limited to the amount of insurance.

**Section 17.5 Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 17.6 Enforcement.** Any Owner of any Lot or Lots in the Development may initiate any proceeding at law or equity against any person or persons violating or attempting to violate any covenant herein. The successful party to any such action shall recover attorney fees and costs incurred in such action. A violation of any restriction herein will not result in reversion or forfeiture of title.

If any Owner of a Lot in this Development shall fail to maintain his Lot and/or any improvements situated thereon, or to keep sight distances or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the Design Review Committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean, or perform such other acts as may be reasonable or necessary to make said Lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The cost thereof to the Design Review Committee shall be collected in any reasonable manner from the Owner. Neither the Design Review Committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any fine so assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot subordinate only to the lien of a first mortgage until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot. Such charge shall bear

interest at the rate of eighteen percent (18%) per annum until paid in full. If, in the opinion of the Design Review Committee, such charge has remained due and payable for an unreasonable long period of time, the Design Review Committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owed, in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the Design Review Committee in collecting the same. Every Owner of a Lot in this Development, and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in this Development is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay all fines that shall be made pursuant to this paragraph.

Except as provided in Article 10, enforcement of this Declaration shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created or allowed by this Declaration; and the failure or forbearance by the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

**Section 17.7 Arbitration.** In the event of any dispute between Owners regarding the application of this Declaration or any Rules and Regulation, if any, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party hereof not less than five days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

**Section 17.8 Severability.** Invalidation of any part of this Declaration by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

**Section 17.9 Conflicts.** In the case of any conflict between this Declaration and either the Articles of Incorporation, the Bylaws of the Association or the Articles of Incorporation, the Declaration shall control.

**Section 17.10 Condemnation.**

(a) In the event any Lot or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Lot Owner subject to the limitations of a mortgage, if any.

(b) In the event the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the appropriate Members.

**Section 17.11 Professional Management Contracts.** The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee with no less than ninety (90) days written notice.

**Section 17.12 Non-Liability of Declarant.** Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted or delegated to it, by or pursuant to, this Declaration, the Articles or the Bylaws, whether or not such claims shall be asserted by an Owner, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof not being maintained or repaired by reason of any act or neglect of any Owner, the Association or their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to furnish or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.) except as provided by any written warranty provided to an Owner or the Association.

**Section 17.13 Gender and Grammar.** The singular, whenever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other forms of business organizations, or individuals, men or women, shall in all cases be assumed as though in such case fully expressed.

*[The Remainder of this Page is Intentionally Left Blank]*



STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Member of ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 30 day of June, 2010.

My Commission Expires: \_\_\_\_\_  
Alice M Black  
Notary Public – Signature

Resident of \_\_\_\_\_ County

\_\_\_\_\_  
Notary Public – Printed Name



OFFICIAL SEAL  
ALICE M. BLACK  
NOTARY PUBLIC - INDIANA  
HENDRICKS COUNTY  
MY COMM. EXPIRES AUGUST 17, 2011

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R Carr, as Member of LEGACY PARK, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 30 day of June, 2010.

My Commission Expires: \_\_\_\_\_  
Alice M Black  
Notary Public – Signature

Resident of \_\_\_\_\_



OFFICIAL SEAL  
ALICE M. BLACK  
NOTARY PUBLIC - INDIANA  
HENDRICKS COUNTY  
MY COMM. EXPIRES AUGUST 17, 2011  
\_\_\_\_\_  
Notary Public – Printed Name

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, Amy Comer Elliott

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202

**EXHIBIT A**

**Legal Description of the Property**

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the **POINT OF BEGINNING**; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds

East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed to the **POINT OF BEGINNING**, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.



**EXHIBIT B**  
**BYLAWS**  
**OF**  
**THE VILLAGE OF HERITAGE HILL COMMUNITY ASSOCIATION, INC.**

**ARTICLE 1.**  
**NAME AND LOCATION**

The name of the corporation is The Village of Heritage Hill Community Association, Inc., hereinafter referred to as the Association. The principal office of the Association shall be located at 3717 Clarks Creek Road, Plainfield, Indiana 46168, but meetings of Members of the Association and Board of Directors may be held at such places within the State of Indiana as may be designated by the Board of Directors.

**ARTICLE 2.**  
**DEFINITIONS**

Each of the terms used herein shall have the same meaning as set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill ("Declaration") made by Rolling Hills, LLC, an Indiana limited liability, Rookwood Custom Builders, LLC, an Indiana limited liability company and Legacy Park, LLC, an Indiana limited liability company (collectively, the "Declarant") dated June 30, 2010, and to be recorded in the Hendricks County, Indiana Clerk's Office. The Declaration may be, from time to time, amended or supplemented.

**ARTICLE 3.**  
**MEETING OF MEMBERS**

**Section 3.1 Annual Meetings.** The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, on such date as the initial Board shall determine. Each subsequent Annual Meeting of the Members shall be held in the State of Indiana, within the second quarter of each calendar year, upon proper notice, at a date, time and place as may be reasonably set by the Board of Directors (hereinafter referred to as "Board" or "Director"). If the day for the Annual Meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday. Each Annual Meeting shall be open to all Members.

**Section 3.2 Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board. Special meetings shall be called by the President upon written request, delivered to the President in person or by certified mail, of Members having at least one-third (1/3) of the voting power of all Members. Upon receipt of this request, the President shall immediately cause written notice to be given of the special meeting to be held on a date not less than ten (10) nor more than thirty-five (35) days after receipt of this request. If

written notice is not given to the Members within ten (10) days after the delivery of the request, the Members making the request may call the special meeting and give written notice of it.

**Section 3.3 Notice of Meetings.** Written notice of each meeting of the Members shall be given by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days, but no more than thirty-five (35) days before such meeting to each Member entitled to vote thereat. The notice shall be addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the date, time and place of the meeting, and, in the case of a special meeting, the purpose of the meeting. Notice of the date, time and place, and purpose(s) of any meeting of Members may be waived by any Member, before or after the meeting, by a writing filed with the records of the Association. The attendance of any Member at any meeting without protesting, before or at the beginning of the meeting, the lack of proper notice, shall be deemed a waiver by the Member of notice of the meeting.

**Section 3.4 Quorum; Adjournment.** Except as may be otherwise provided by law, the Articles of Incorporation, the Bylaws or this Declaration, there shall be a quorum at any meeting of Members where Members who hold at least twenty percent (20%) of the total voting power of Members in good standing are present, in person or by proxy. For a vote on any matter to be valid, the quorum requirement must be met at the time of completion of that vote. If such quorum shall not be present or represented at any meeting, a majority of the Members entitled to vote thereat, shall have power to adjourn that meeting to a day which is not more than one (1) week from the day the original meeting was called. Notice of the adjournment may not be given if the time and place to which the meeting is adjourned are fixed and announced at the original meeting. When the meeting reconvenes, the quorum requirement shall be lowered to ten percent (10%) of the total voting power of the Members in good standing which must be present, in person or by proxy.

**Section 3.5 Proxies.** At all meetings of Members, each Member may vote in person or by proxy. The person designated a proxy need not be a Lot Owner. All proxies shall be in writing and filed with the Secretary at least twenty-four (24) hours prior to the meeting, except that the Board may waive this time requirement for a particular meeting if the waiver would not delay the meeting and would otherwise be fair and reasonable. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot, except as otherwise provided in the Declaration or the Articles of Incorporation, about the proxy given to the Declarant. If a first mortgagee has been designated a proxy under the terms of a first mortgage covering a Lot, the presentation to the Board of Directors of a copy of the mortgage containing the proxy designation shall be notice of that designation, and, if the mortgage so states, of the irrevocability of that designation. A proxy shall be void if it is not dated or purported to be revocable without notice.

**Section 3.6 Voting by Mail by Association Members.** Any Association Member may cast his/her written vote by mail on any proposal voted upon at any meeting of the Members of the Association by sending such written vote to the Secretary of the Association within the

period seven (7) days before the date of the meeting. Such written votes shall be filed with the records of the Association and, in no event, shall any action be taken or approved by the Association with the approval of any less than the percentage of voting power required by the provisions of the Declaration or without the consent of any party that is required by any of said provisions. Members who have voted by mail shall not be counted in determining whether the quorum has been met at a meeting of the Members.

**Section 3.7 Members.** Every Lot Owner shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period (as defined in the Declaration), the Association shall have Class A Members (being all Owners except Declarant and the Owner of Legacy Park), Class B Member (Declarant) and Class C Member (Owner of Legacy Park). At such time as the Class B Membership shall terminate, the Declarant, if it is then a Lot Owner, shall become either or both a Class A Member or Class C Member, as applicable, and continue as such so long as it shall remain a Lot Owner. Class B Membership shall terminate upon the expiration of the Development Period.

**Section 3.8 Voting.** Each Class A Member shall be entitled to one (1) vote for each Lot owned by such Class A Member and the Class C Member shall be entitled to a total of five (5) votes of membership of the Association; provided that any Class A Member and/or Class C Member, respectively with respect to whom a notice of Default has been issued by the Board pursuant to the Declaration, or who has had his/her right or privilege of use and enjoyment of the Common Areas suspended pursuant to the Declaration, shall not be entitled to vote during any period in which any such Default or suspension continues; and further provided that if a Lot shall be owned by more than one (1) Lot Owner, such Lots Owners shall be deemed to constitute a single Class A Member or Class C Member, respectively, as to such Lot for purposes of this Section. The Class B Member shall have seven (7) votes for each Lot in which the Declarant holds the interest otherwise required for Class A Membership multiplied by the number of Dwelling Units located or proposed by the Declarant to be located on such Lot, provided, however, that each Class B Membership shall terminate upon the expiration of the Development Period. At such time as Class B Membership shall terminate, the Declarant which, for any Lot, holds an interest therein otherwise required for Class A Membership or Class C Membership, shall be deemed either or both a Class A Member and/or Class C Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member or Class C Member.

Unless otherwise expressly set forth by law, the Declaration, the Articles of Incorporation or these Bylaws, the affirmative vote of fifty-one percent (51%) of the voting power of the Members voting on any matter at a meeting of Members shall be sufficient to determine that matter, provided that any quorum requirement is met at the time of completion of that vote.

**Section 3.9 Order of Business.** The order of business at all meetings of Members shall be as follows: (1) calling of meeting to order; (2) roll call, determination of whether there is a quorum; (3) proof of notice of meeting or waiver of notice; (4) reading of minutes of preceding

meeting; (5) reports of Officers; (6) reports of committees; (7) election of the Board of Directors (when appropriate); (8) unfinished and/or old business; (9) new business; (10) adjournment.

**Section 3.10 Action by Association Members Without a Meeting.** Any action which may be authorized or taken at a meeting of the Members may be authorized or taken without a meeting in a writing or writings signed by all Members in good standing which writing or writings shall be filed with the records of the Association. Written notice of any action proposed to be taken by such written consent of Members shall be sent to all parties who are entitled to notices under the Declaration not less than ten (10) days prior to commencing the circulation of the action for written consent among the Members.

**ARTICLE 4.**  
**BOARD OF DIRECTORS-SECTION-TERM OF OFFICE**

**Section 4.1 Number and Term of Office.** Until the Development Period Special Meeting, the initial Board shall consist of three (3) persons appointed by Declarant who shall serve until their respective successors are elected and qualified. Each Declarant shall have the right to appoint one (1) Director to the Board. Directors appointed by the Declarant need not be Members of the Association. However, a Director elected by Class A Members and the Class C Member shall be a Lot Owner or a spouse of a Lot Owner, except that if a Lot Owner is a corporation, partnership, joint venturer, or other entity, the Lot Owner may elect as a Director an officer, partner, joint venturer, or like individual affiliated with this Lot Owner.

Within ninety (90) days after the expiration of the Development Period, the President of the Association shall call a special membership meeting ("Development Period Special Meeting"). At the Development Period Special Meeting, the Board of Directors shall expand from three (3) to seven (7) Directors and all Declarant appointed Directors shall be deemed removed from office, and the Class A Members and Class C Member, including the Declarant if it is then an Owner, shall elect a Director to fill each vacancy on the Board. However, there shall be at least one (1) Director elected from each of the following Neighborhoods: (i) Annsdale; (ii) New England Way; (iii) New England Way South; (iv) The Hamptons; (v) the Villas; and (vi) Legacy Park. The seventh (7<sup>th</sup>) Director may be from any one of the six (6) Neighborhoods referenced in the preceding sentence. At the Development Period Special Meeting, the Directors shall be elected to staggered terms of the following lengths: three (3) Directors shall be elected to a one-year term; two (2) Directors shall be elected to a two-year term; and two (2) Directors shall be elected to a three-year term. The two (2) Directors with the most votes shall be the Directors who shall serve the three-year term and the next two (2) Directors with the most votes shall be elected to a two-year term. A Director elected by the Lot Owners at the Development Period Special Meeting shall serve for the term which he/she has been elected and shall remain a Director until the earlier of: (a) the Annual Meeting of Unit Owners following the expiration of his/her respective term and until a successor is elected, or (b) until the Director's earlier resignation, removal from office or death. After the expiration of the initial term of the Directors elected by the Class B Members and Class C Member at the Development Period Special Meeting, all future Directors, and their successors, shall be elected by the Class A Members and Class C Member for a three (3) year term. Therefore, every year after the Development Period

Special Meeting the term of at least two (2) of the Directors will expire annually and new Directors will be appointed.

Notwithstanding anything above to the contrary, the Class B Member may, by written notice to the Board, at or before any Annual Meeting, relinquish to the Class A Members and Class C member, the Class B Member's right to elect one or more Directors at such Annual Meeting pursuant to this Section.

Section 4.2 Resignation; Removal, Vacancies. A Director may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

A Director appointed by Declarant may be removed by Declarant at any time, with or without cause. An elected Director whose removal has been proposed by a Lot Owner shall be given an opportunity to speak at an annual or special meeting of the Members, after which that Director may be removed, with or without cause, by a majority vote of the Members voting at a meeting of the Members.

If a vacancy is created because of resignation, removal, or death, a successor shall be appointed or elected to serve for the unexpired term of the departed Director. Declarant shall appoint a successor for any appointed Director, and the Members shall elect a successor for any elected Director using the procedure set forth in Section 4.1 above, at any Annual Meeting of the Members or at any special meeting of the Members called for the purpose of filling this vacancy.

Section 4.3 Compensation. No Director shall receive compensation for any service he or she may render to the Association, however, any Director shall be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

## **ARTICLE 5.** **NOMINATION AND ELECTION OF DIRECTORS**

Section 5.1 Nomination. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the Annual Meeting of the Members. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board at least thirty (30) days prior to each Annual Meeting of the Members, to serve from the close of such Annual Meeting until the close of the next Annual Meeting and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations shall be made from among Members or non-members. Notwithstanding the foregoing, as long as Declarant has the right to appoint all Directors, Declarant also has the right to nominate all Directors.

Section 5.2 Election. Elections to the Board shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as

they are entitled to exercise under the provisions of the Declaration and these Bylaws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**ARTICLE 6.**  
**MEETINGS OF DIRECTORS**

**Section 6.1 Annual Organizational Board Meeting.** The Annual Organizational Board Meeting shall take place immediately after each Annual Meeting of the Members, at the time and place fixed from time to time by the Board.

**Section 6.2 Regular Meeting.** Unless waived by the Board regular meetings of the Board shall be held no less than quarterly, on the date and at the time and place fixed from time to time by the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 6.3 Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by a majority of Directors.

**Section 6.4 Notice of Meetings; Attendance by Members.** Notice of the date, time, and place of organizational, regular, and special meetings of the Board shall be given to each Director by personal delivery, mail, facsimile, telegram or telephone at least three (3) days before the meeting. The notice need not specify the purposes(s) of the any meeting. Notice of the date, time and place of any meeting may be waived by a Director, before or after the meeting, by a writing filed with or entered upon the records of the meeting. Attendance of a Director at any meeting without protesting, before or at the beginning of the meeting, the lack of proper notice shall be deemed a waiver by the Director of notice of the meeting.

No notice need be given to non-Director Members of organizational, regular, or special meetings of the Board, however, a non-Director Member may attend any organizational, regular, or special meeting of the Board, but may not participate in any such meeting unless given permission to do so by the President or other officer of the Association who is presiding at the meeting. A non-Director Member may not vote at a meeting of the Board.

**Section 6.5 Waiver of Notice.** Any requirement of notice to a Director provided under this Article 6 may be waived by the Director entitled thereto by written waiver of such notice signed by the Director and filed with the Secretary of the Association. Attendance at a meeting is considered waiver of notice.

**Section 6.6 Quorum; Adjournment.** A simple majority of the Directors then in office shall constitute a quorum for any meeting, provided that the quorum requirement must be met at the time of completion of a vote on any matter for that vote to be valid. Whether or not a quorum is present, a majority of the Directors present at a meeting may adjourn that meeting. Notice of the adjournment need not be given if the time and place to which the meeting is adjourned are fixed and announced at the meeting.

Section 6.7 Voting Power. At any meeting of the Directors at which a quorum is present, all matters shall be determined by a majority vote of those voting on the matter, except as may be otherwise expressly provided in the Declaration and these Bylaws. The President may cast an additional vote to break a tie vote on any matter.

Section 6.8 Action Taken Without a Meeting. Any action which may be taken at a meeting of the Board may be taken without a meeting in a writing or writings signed by all the Directors, which writing(s) shall be filed with the records of the Board. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

**ARTICLE 7.**  
**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 7.1 Powers. The Board shall exercise all powers and authority, under law, and under the provisions of the Declaration, that are not specifically and exclusively reserved to the Members by law or by other provisions thereof, and without limiting the generality of the foregoing, the Board shall have the right, power and authority to:

(a) Adopt and publish Rules and Regulations (as hereinafter defined) governing the use of the Common Areas and the personal conduct of the Members, occupants and their guests thereon, and to establish penalties for the infraction thereof;

(b) Declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(c) Obtain insurance coverage not less than that required pursuant to the Declaration;

(d) Enforce the covenants, conditions and restrictions set forth in the Declaration;

(e) Repair, maintain, and improve the Common Areas;

(f) With the approval of sixty-seven percent (67%) of the Class A Members and Class C Member, and the Class B Member, if during the Development Period, to borrow money for the purpose of constructing, equipping, improving and maintaining the Common Areas and in aid thereof to mortgage the Common Areas;

(g) Execute the Conditional Promissory Note and Open-End Mortgage referenced under Section 4.6 of the Declaration;

(h) Authorize the repayment to the Declarant of any any and all monies lent by such entity to the Association pursuant to the Conditional Promissory Note and Open-End Mortgage;

(i) Suspend the voting rights of a Member during any period in which such Member shall be in Default in the payment of any Assessment levied by the Association, as more fully provided in the Declaration;

(j) Employ a manager, an independent contractor and/or such other employees as it deems necessary, and to prescribe their duties; and

(k) Exercise for the Association all powers, duties and authority vested in or delegated to the Association by provisions of these Bylaws, the Articles of Incorporation, or the Declaration not specifically reserved thereby to others, including any powers necessary or convenient to carry out its duties and authority. The powers of the Board shall be construed to be as broad as possible.

**Section 7.2 Duties.** It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by Members representing thirty percent (30%) of each class of Members who are entitled to vote;

(b) Supervise all Officers, agents and employees of the Association, and to see that their duties are properly performed, with the Board having full power to hire and fire;

(c) As more fully provided in the Declaration, to:

(i) Establish, enforce, levy and collect Assessments as provided in the Declaration;

(ii) Give written notice of each Assessment to every Member subject thereto within the time limits set forth therein;

(iii) Foreclose the lien against any property for which Assessments are not paid within a reasonable time after they are authorized by the Declaration to do so, or bring an action at law against the Member(s) personally obligated to pay the same, or both;

(iv) Pay the Association's Common Expenses through the Assessments and/or the borrowing of funds as provided in the Declaration;

(d) Issue, or to cause an appropriate Officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) Procure and maintain insurance as provided in the Declaration, and as the Board deems advisable;



(f) Cause the property subject to the Association's jurisdiction to be maintained within the scope of authority provided in the Declaration;

(g) Cause the restrictions created by the Declaration to be enforced; and

(h) Take all actions deemed necessary or desirable to comply with all requirements of law and the Declaration.

**Section 7.3 Professional Management Contracts.** The Association may delegate all or any portion of its authority, subject to the Board of Directors supervision, to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

**Section 7.4 Rules and Regulations.** The Board may adopt and amend rules and regulations (hereinafter, "Rules and Regulations") for the maintenance, use, conservation, and beautification of the Property and for the health, comfort, safety, and general welfare of Members and their families, tenants, and invitees. The Board, or any committee created by the Board, may impose fines on a Member who violates, or whose family members, tenants or invitees violate the Rules and Regulations. The Board may establish a schedule of fines for particular violations of the Rules and Regulations to be paid by any Member who violates such Rules and Regulations. Any fines assessed by the Board shall be due and payable on the date the next installment of any Assessment is due. In the event that a Member shall fail to pay when due any fines assessed by the Board under this Section, then the amount of the assessed fines, in addition to any and all expenses incurred by the Board in enforcing this Section, including reasonable attorneys' fees to the extent permitted by Indiana law, may be levied as a Special Assessment against the Lot Owner in question and his or her Lot. The levying of a fine against a defaulting or delinquent Member shall not operate as a waiver of any other rights that the Board may have against such Member pursuant to the Declaration or these Bylaws. In the event such Rules and Regulations shall conflict with any provisions of the Declaration or these Bylaws, the provisions of the Declaration and of these Bylaws shall govern.

**Section 7.5 Annual Review.** The Board may arrange annually for a certified public accountant to review the Association's books. Upon written request, the Board shall provide a first mortgagee with a copy of any annual review report.

## **ARTICLE 8.** **OFFICERS AND THEIR DUTIES**

**Section 8.1 Enumeration of Officers.** The Association may have a President, Vice-President, Secretary and Treasurer. The Board may create other offices from time to time. The President, Vice-President, Secretary and Treasurer shall be Members, or representatives of the Declarant.

**Section 8.2 Election of Officers.** Prior to the Development Period Special Meeting, the Officers of the Association will be elected by the Board of Directors at the Annual

Organizational Board Meetings. Thereafter, the Officers of the Association will be elected by the Board of Directors promptly after the Development Period Special Meeting and at each Annual Organizational Board Meeting and the persons so elected shall take office immediately upon election.

Section 8.3 Term. The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year and until a successor is elected, unless he or she shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 8.4 Special Appointments. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. The Board may remove any Officer at any time, with or without cause, by a majority vote of the Directors. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment of the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he or she replaces.

Section 8.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall hold more than two (2) offices simultaneously. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 8.4 above, or except by resolution of seventy-five (75%) percent of the Board of Directors. No Officer shall execute an instrument in more than one capacity if the signatures of two or more Officers are required by law, the Articles of Incorporation, the Declaration or these Bylaws.

Section 8.8 Duties. The duties of the Officers are as follows:

(a) President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and all meetings of the Board and shall see that orders and resolutions of the Board are carried out. The President may sign all legal instruments authorized by and on behalf of the Association.

(b) Vice-President. The Vice-President shall act in the place of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the names and addresses of

Members; give each Member a copy of any Rules and Regulations or amendments thereto; and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; keep proper books of accounts, specifying the receipts and expenses, together with records showing the allocation, distribution, and collection of the common profits, losses, and expenses among and from the Members; and shall prepare an annual budget and annual statement of income and expenditures to be presented to the Members at the Annual Meeting, with a copy to be mailed or delivered to each Member.

(e) Reliance on Professional Advice. As long as the Directors and the Officers are acting in good faith, the Directors and Officers may rely upon the advice of professionals hired or retained to advise the Association. It is understood that the Directors and Officers will be unpaid volunteers.

#### **ARTICLE 9.** **COMMITTEES**

The Board may appoint and disband such committees as it chooses.

#### **ARTICLE 10.** **INDEMNIFICATION PROVISIONS**

In addition to any other right or remedy to which the persons hereinafter described may be entitled, under the Articles of Incorporation, Bylaws, Declaration, any other agreement, or by vote of the Members or otherwise, the Association shall indemnify any Director or Officer of the Association or former Director or Officer of the Association, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a Director or Officer of the Association, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except as to matters as to which the Director or Officer shall be finally adjudged in this action, suit or proceeding to be liable for willful misconduct or bad faith. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plead of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase insurance in the amount it deems appropriate to provide this indemnification, and the cost of this insurance shall be a Common Expense. In the event of a settlement, indemnification shall be provided only in connection with those matters covered by the settlement as to which the Association is advised

by counsel that the Director or Officer has not been guilty of willful misconduct or bad faith as a Director or Officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which a Director or Officer may be entitled. All liability, loss, damage, cost and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated by the Association as Common Expenses. Nothing in this Section shall be deemed to obligate the Association to indemnify any Member, who is or who has been a Director or Officer, with respect to any duties or obligations assumed or liabilities incurred by the Member as a Member rather than as a Director or Officer.

**ARTICLE 11.**  
**MISCELLANEOUS**

**Section 11.1 Service of Notices on the Board of Directors.** Notice required to be given to the Board of Directors or to the Association may be delivered to any Directors or Officer of the Association either personally or by certified mail addressed to such Director or Officer at his/her residence address.

**Section 11.2 Service of Notices on Devisees and Personal Representatives.** Notice required to be given to any devisee or personal representative of a deceased Owner may be delivered either personally or by certified mail to such party at his, her or its address appearing on the records of the Court within the state of such deceased Owner is being administered.

**Section 11.3 Nondiscrimination.** No Member (including the Declarant) and no employee, agent, or representative of a Member shall discriminate on the basis of sex, race, color, creed, or national origin in sale or lease of any Lot, or in the use of the Common Areas.

**Section 11.4 Nonwaiver of Covenants.** No delay or failure on the part of the Board and/or on the part of any Officer in exercising any right, power or privilege or in failing to enforce a covenant, condition, obligation, or a provision contained in the Declaration, Articles of Incorporation, Bylaws, or Rules and Regulations shall be or be deemed to be a waiver thereof, or be or be deemed to be a waiver of any subsequent exercise of such a right, power, or privilege, or be or be deemed to be a waiver of any subsequent violation or breach of such covenant, condition, obligation, or privilege, nor shall any single or partial exercise of any right, power, or privilege preclude any other or future exercise thereof or preclude the exercise of any other right, power, or privilege. All rights, powers, and privileges given hereunder or at law or in equity are cumulative, and any one or more or all of such rights, owners, and privileges may be exercised simultaneously or consecutively.

**Section 11.5 Board's Power to Bind.** A lawful agreement or determination made by the Board or an Officer, in accordance with procedures established in the Declaration and Bylaws, shall bind all Members, their successors and their assigns.

**Section 11.6 No Act of Business for Profit.** These Bylaws shall not be construed to give the Association authority to conduct any act of business for profit on behalf of one or more Members.

**Section 11.7 Books and Records.** The books, records and papers of the Association shall at all time, during reasonable business hours, be subject to inspection by any Member. The Declaration, Articles of Incorporation, Bylaws and Rules and Regulations, if any, shall be available for inspection by any Member at the principal office of the Association or at such other reasonable place as the Board might direct, where copies may be purchased at reasonable cost.

**Section 11.8 Fiscal Year.** The fiscal year shall begin on the first day of January of every year, except that the first fiscal year of the Association shall begin at the date of incorporation. The commencement date of the fiscal year herein established may be changed by the Board of Directors.

**Section 11.9 Execution of Corporation Documents.** With the prior authorization of the Board of Directors, all notes, contracts and other documents shall be executed on behalf of the Association by either the President or the Vice-President, and all checks and other drafts shall be executed on behalf of the Association by such Officers, agents or other persons as are, from time to time, by the Board, authorized so to do.

**Section 11.10 Conflict.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of conflict between the Declaration and these Bylaws, the Declaration shall control.

**Section 11.11 Amendments.** These Bylaws may be amended from time to time, at any Annual Meeting or special meeting of the Members in accordance with the provisions set forth in the Declaration for amendment thereto. Notwithstanding the foregoing, the Declarant, or any person or entity whom the Declarant has designated, must consent in writing to the amendment before the amendment is effective if the amendment is passed during the Development Period.

**Section 11.12 Governing Law.** The Bylaws shall be interpreted and enforced under the laws of the State of Indiana.

**Section 11.13 Perpetuities; Restraints on Alienation.** If an option, privilege, covenant, or right created by the Bylaws shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) rule restriction restraints on alienation, or (c) any other statutory or common law rule imposing time limits, then that provision shall continue only until twenty-one years after the death of the last survivor of the now living decedents of Barack H. Obama.

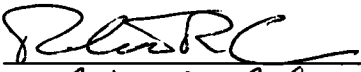
**Section 11.14 Severability.** The invalidity of part or all of any provision of the Bylaws shall neither impair the validity of nor affect in any manner the Declaration, the Articles of Incorporation or the rest of the Bylaws.

**Section 11.15 Heirs, Successors and Assigns.** These Bylaws shall be binding upon and shall inure to the benefit of the Association, the Declarant, Members and the Declarant's and Members' heirs, successors, and assigns.

**Section 11.16 Interpretation.** These Bylaws shall be interpreted reasonably and in good faith. They should not be applied so strictly so as to thwart justice or common sense. Indiana law shall control. If the Bylaws or the Articles of Incorporation are silent on a subject, the Directors may follow the applicable corporation laws of Indiana and shall have all powers given to a board of directors under the applicable corporation laws of Indiana. These Section headings are for convenience only and shall not affect the meaning or construction of the Bylaws. A reference to a specific Section without a further identification of the document containing that Section is a reference to a Section in the Bylaws. Where the context requires masculine, feminine and/or neuter terminology shall include the neuter, feminine and/or masculine. Any capitalized terms used herein which are not otherwise defined, shall have the meanings as defined in the Declaration.

ADOPTED this 30 day of June, 2010.

THE VILLAGE OF HERITAGE HILL  
COMMUNITY ASSOCIATION, INC., an Indiana  
not-for-profit corporation

By:   
Name: Robert R Carr  
Title: President

3462540.1

**EXHIBIT C****Legal Description of Proposed Commercial Property**

That portion of the Northeast Quarter of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Lincoln Township, Hendricks County, Indiana, described as follows:

Considering the East line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

BEGINNING at a brass plug found marking the southeast corner of said Northeast Quarter; thence South 88 degrees 10 minutes 28 seconds West along the south line thereof 971.77 feet to the southeast corner of Camargo Club, Phase 2 as per plat thereof recorded as Instrument Number 201010297 in the Office of the Recorder of said county; thence North 00 degrees 00 minutes 00 seconds East along the east line thereof 273.57 feet; thence North 13 degrees 42 ~~minutes~~ 03 seconds East along said east line 296.34 feet to the south line of Northfield Boulevard per the plat of Legacy Park as recorded as Instrument Number 200813836 in said county records; thence North 88 degrees 12 minutes 09 seconds East along said south line 888.98 feet to the east line of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East along said east line 558.54 feet to the POINT OF BEGINNING, containing 12.154 acres, more or less.



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201232188

THERESA D LYNCH  
HENDRICKS COUNTY RECORDER  
12/07/2012 01:38:49PM

(ABOVE LINE FOR RECORDER'S USE ONLY)

**FIRST AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE VILLAGE OF HERITAGE HILL**

This First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill ("First Amendment"), is made this \_\_\_\_ day of December, 2012, by and among ROLLING HILLS, LLC, an Indiana limited liability company ("Rolling Hills"), ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company and LEGACY PARK, LLC, an Indiana limited liability company (collectively, hereinafter referred to as "Declarant") under the following circumstances:

**W I T N E S S E T H:**

WHEREAS, Rolling Hills, as the original declarant created a development consisting of several subdivisions collectively known as The Village of Heritage Hill (the "Development") located in Lincoln and Washington Townships, Hendricks County, Indiana, which is more particularly described in on Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, Rolling Hills subject the Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Clerk's Office (the "Original Declaration"), which was later amended and restated pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated June 30, 2010 and recorded on July 7, 2010 as Instrument Number 20101200700004441 of the Hendricks County, Indiana Clerk's Office (the "Declaration"); and

642



WHEREAS, as provided for under Article 17, Section 17.2 of the Declaration, Declarant has reserved the right and power to unilaterally amend the Declaration at any time and from time to time, without the consent of any other Owners (as defined below), to the extent necessary to make nominal changes; and

WHEREAS, it is the desire of Declarant to amend the Declaration to make a nominal change, as more fully provided hereinafter; and

NOW, THEREFORE, the Declarant hereby amends the Declaration as follows:

1. All capitalized terms used herein which would not otherwise be capitalized shall have the same meanings ascribed to such terms in the Declaration unless otherwise specifically defined herein.

2. In accordance with the rights reserved by Declarant under Article 17, Section 17.2, Declarant hereby deletes Section 8.6 in its entirety.

3. This First Amendment and all amendments hereto shall be, and shall be construed as, covenants running with the land, shall be binding upon all Lot Owners and/or Occupants of the Property as described in **Exhibit A** attached hereto and made a part hereof and all claiming under each Lot Owner or Occupant, and shall (regardless of whether or not any such beneficiary owns an interest in any Lot) inure to the benefit of and be enforceable by: (i) Declarant; (ii) the Association; and (iv) each Owner and all claiming under each Owner.

4. This First Amendment shall be governed by the laws of the State of Ohio.

5. This First Amendment may be signed in counterparts, each of which shall be an original and all of which taken together constitute one agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart signed by the party to be charged.

6. All provisions of the Declaration and of all exhibits thereto not affected by the foregoing First Amendment shall remain in full force and effect.

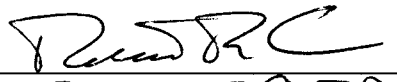
*[The Remainder of this Page is Intentionally Left Blank, Signature Page to Follow]*

The parties have made this First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Eagle's Pointe Subdivision effective as of the day and year first above written.

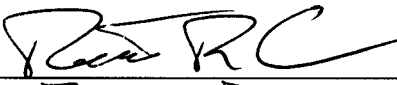
ROLLING HILLS, LLC, an Indiana limited liability company

By:   
Robert R. Carr, Member

ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company

By:   
Name: ROBERT R CARR  
Title: MEMBER

LEGACY PARK, LLC, an Indiana limited liability company

By:   
Name: ROBERT R CARR  
Title: MEMBER

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

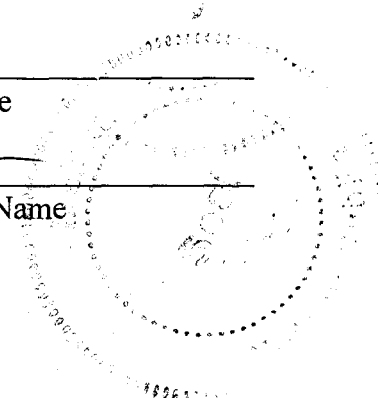
Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, Member of Rolling Hills, LLC, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

My Commission Expires:  
12-26-2016

  
\_\_\_\_\_  
Notary Public - Signature

Resident of Hendricks County

JASON STINETT  
\_\_\_\_\_  
Notary Public - Printed Name

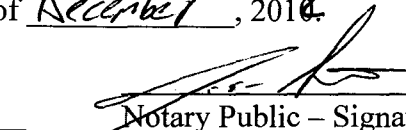


STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Member of ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

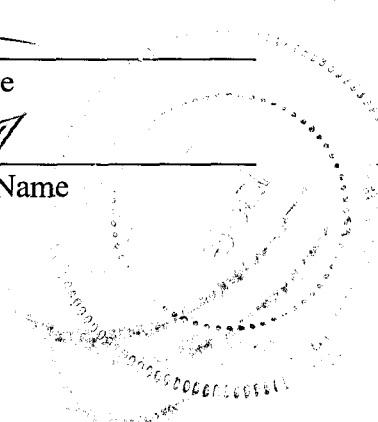
WITNESS my hand and seal this 6 day of December, 2016.

My Commission Expires:  
12-26-2016

  
\_\_\_\_\_  
Notary Public - Signature

Resident of Hendricks County

JASON STINETT  
\_\_\_\_\_  
Notary Public - Printed Name

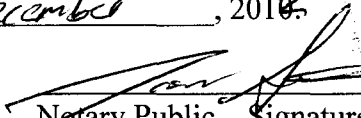


STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R Carr, as Member of LEGACY PARK, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 6 day of December, 2016.

My Commission Expires:  
12-26-2016

  
Notary Public - Signature

Resident of Hendricks County

Jason Stinnott  
Notary Public - Printed Name

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, Robert R. Carr.

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202

EXHIBIT A

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:


Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the **POINT OF BEGINNING**; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed) to the **POINT OF BEGINNING**, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.

201619252 C \$30.00  
08/24/2016 10:54:55AM 8 PGS  
Theresa Lynch  
Hendricks County Recorder IN  
Recorded as Presented  


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(ABOVE LINE FOR RECORDER'S USE ONLY)

**ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS  
UNDER THE AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE VILLAGE OF HERITAGE HILL**

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS UNDER THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (this "Assignment") is made effective this 2<sup>nd</sup> day of August, 2016 by and among ROLLING HILLS, LLC, an Indiana limited liability company ("Rolling Hills") and ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company ("Rookwood", together with Rolling Hills collectively defined as "Assignor") and LEGACY PARK, LLC, an Indiana limited liability company ("Assignee") under the following circumstances:

A. Assignor is one of the co-Declarant's under that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Clerk's Office (the "Original Declaration"), as amended and restated pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Clerk's Office (the "Amended Declaration"), and as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office (the "First Amendment"), together with the Original Declaration and Amended Declaration collectively defined as the "Declaration";

B. Assignee is the other co-Declarant under the Declaration and Assignor desires to assign to Assignee any and all of its right, title, interest and responsibilities as Declarant in the Declaration, Articles of Incorporation for The Village of Heritage Hill Community Association,

Inc., an Indiana non-profit corporation (the "Association"), Bylaws of the Association and the Drawings for The Village of Heritage Hill and any rules and regulations for The Village of Heritage Hill (collectively, the "HOA Documents") as they relate to that certain real estate described on Exhibit A attached hereto and made a part hereof (the "Assigned Property"), and any other real estate (the "Additional Property") which Assignee desires to submit to the Declaration during the Development Period (as defined in the Declaration) and Assignee desires to accept this Assignment and assume all of the duties, obligations and liabilities imposed upon Assignor as the Declarant under the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Assignor represents and warrants that it has full right, power and authority to make the assignment contemplated herein.

2. Assignor hereby assigns to Assignee, as Declarant under the Declaration and the other HOA Documents, all of its right, title and interest in, to and under the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property on and after the date of this Assignment.

3. Assignee hereby accepts this Assignment, the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property and as successor to Assignor assumes and agrees to fulfill all of the obligations of Assignor under the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property on and after the date of this Assignment.

4. Assignor represents and warrants that the Declaration and the other HOA Documents are in full force and effect and have not been further modified or amended.

5. Assignor warrants that it has not previously assigned any of its rights or obligations arising under the Declaration and the other HOA Documents and has not encumbered its rights thereunder in any manner whatsoever.

6. Assignor will hold harmless, indemnify and defend Assignee from and against any and all liabilities, losses, expenses, claims and judgments arising under the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property on or before the date of this Assignment and the other lots in The Village of Heritage Hill that are subject to the Declaration.

7. Assignee will hold harmless, indemnify and defend Assignor from and against any and all liabilities, losses, expenses, claims and judgments arising under the Declaration and the other HOA Documents as they relate to the Assigned Property and Additional Property after the date of this Assignment.

***[The Remainder of this Page is intentionally Left Blank]***



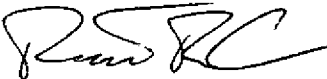
Assignor and Assignee have executed this Assignment as of the day, month and year first written above.

**ASSIGNOR:**

**ROLLING HILLS, LLC**, an Indiana limited liability company


By:   
Robert R. Carr, Member

**ROOKWOOD CUSTOM BUILDERS, LLC**, an Indiana limited liability company

By:   
Name: ROBERT R. CARR  
Title: MEMBER

**ASSIGNEE:**

**LEGACY PARK, LLC**, an Indiana limited liability company

By:   
Name: ROBERT R. CARR  
Title: MANAGING MEMBER

Ohio  
STATE OF INDIANA )  
Clermont ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, Member of Rolling Hills, LLC, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 2<sup>nd</sup> day of August, 2016.

My Commission Expires:



Hamilton County  
LORI FINLEY  
Notary Public, State of Ohio  
My Commission Expires 02-27-2021

[Signature]  
Notary Public - Signature

Lori Finley  
Notary Public - Printed Name

Ohio  
STATE OF INDIANA )  
Clermont ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R Carr, as Member of ROOKWOOD CUSTOM BUILDERS, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 2<sup>nd</sup> day of August, 2016.

My Commission Expires:



Hamilton County  
LORI FINLEY  
Notary Public, State of Ohio  
My Commission Expires 02-27-2021

[Signature]  
Notary Public - Signature

Lori Finley  
Notary Public - Printed Name

STATE OF <sup>Ohio</sup>INDIANA )  
 )  
 ) <sup>Clermont</sup> ) SS:  
 COUNTY OF ~~HENDRICKS~~ )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Managing Member of LEGACY PARK, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 2<sup>nd</sup> day of August, 2016.

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



LORI FINLEY  
 Notary Public, State of Ohio  
 My Commission Expires 02-27-2021

[Signature]  
 Notary Public – Signature

Lori Finley  
 Notary Public – Printed Name

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, \_\_\_\_\_.

This document prepared by:

Jody T. Klekamp, Esq.  
 Keating, Muething & Klekamp, PLL  
 One East Fourth Street  
 Suite 1400  
 Cincinnati, Ohio 45202

## EXHIBIT A

### Legal Description of the Property

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the **POINT OF BEGINNING**; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds

East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed to the **POINT OF BEGINNING**, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.

2

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08/24/2016 10:54:55AM 10 PGS  
Theresa Lynch  
Hendricks County Recorder IN  
Recorded as Presented



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(ABOVE LINE FOR RECORDER'S USE ONLY)

**SECOND AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL**

**Comprising Annsdale, New England Way, New England Way South,  
The Hamptons, The Villas and Legacy Park**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (the "Second Amendment") is made this 2<sup>nd</sup> day of August, 2016 (the "Effective Date"), by LEGACY PARK, LLC, an Indiana limited liability company ("Declarant") under the following circumstances:

A. Rolling Hills, LLC, an Indiana limited liability company ("Rolling Hills"), as the original declarant created a development consisting of several subdivisions collectively known as The Village of Heritage Hill (the "Development") located in Lincoln and Washington Townships, Hendricks County, Indiana, which is more particularly described in on Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

B. Rolling Hills subject the Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Recorder's Office (the "Original Declaration"), which was later amended and restated by Rolling Hills, Rookwood (as defined below) and Declarant pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Recorder's Office (the "Amended Declaration"), as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office (the "First Amendment"), and as such Declarant rights under the Amended Declaration and First Amendment were assigned by Rolling Hills and Rookwood to Declarant by that certain Assignment and Assumption of Declarant Rights Under the Amended and Restated Declaration of Covenants, Conditions and

08/24/2016

Restrictions for The Village of Heritage Hill recorded on August \_\_\_\_, 2016, as Instrument Number 201619252 of the Hendricks County, Indiana Recorder's Office (the "Assignment", together with the Original Declaration, Amended Declaration and First Amendment collectively defined as the "Declaration"), which Declaration restricts the use and occupancy of the Property for the protection of the Property and the future owners of the Property; and

C. Rolling Hills formed The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association"), which was responsible for the maintenance, management, and control of the Common Areas; and

D. The Declaration may be amended in accordance with the provisions of Section 17.2 of the Amended Declaration, upon the consent of the Unit Owners exercising not less than sixty-seven percent (67%) of all Members of the Association.

E. That Declarant and the President of the Association execute this Second Amendment on behalf of the Unit Owners approving the terms of this Second Amendment, which constitutes at least sixty-seven percent (67%) of all Unit Owners located on the Property, as evidenced in the Affidavit of the President attached hereto as **Exhibit B** and made a part hereof.

NOW, THEREFORE, Declarant hereby declares as follows:

1. All terms used in this Amendment which are defined in the Declaration shall have the same meanings as given to them in the Declaration, except as otherwise hereinafter stated.

2. Development. The Development consist of four (4) recorded subdivisions and other undeveloped property, collectively known as the Village of Heritage Hill (the "Development"). The recorded subdivisions were:

(a) New England Way South was created under a plat recorded on July 20, 2007 in Plat Cabinet 7, Slide 10, Pages 2A-2E in the Office of the Recorder of Hendricks County, Indiana.

(b) New England Way was created under a plat recorded on August 14, 2007 as Instrument Number 2007-21233, and as amended by a Certificate of Correction recorded on August 17, 2007 as Instrument Number 2007-21672 in the Office of the Recorder of Hendricks County, Indiana.

(c) Legacy Park was created under a plat recorded on June 6, 2008 as Instrument Number 2008-13836 in the Office of the Recorder of Hendricks County, Indiana.

(d) The Villas (formally known as Camargo Club) was created under that Plat of Camargo Club, Phase 2 recorded on May 25, 2010 in Plat Cabinet 7, Slide 111, Pages 2A and 2B in the Office of the Recorder of Hendricks County, Indiana.

3. Neighborhoods. Declarant desires to establish different Neighborhoods within the Development. Legacy Park shall be known as "Neighborhood A", The Villas shall be known as "Neighborhood B" and New England Way South and New England Way shall be known as "Neighborhood C".

4. Members of the Association and Design Review Committee. Currently under the Declaration, each of the Owners in the Development are members of the Association. The Declarant desires to amend the Declaration such that the only members of the Association will be the Owners in Neighborhood A and any undeveloped property currently subject to the Declaration. The Design Review Committee for the Association will initially continue to mean Dennis Null and Robert R. Carr and/or persons specifically appointed by them during the Development Period, subject to the design review guidelines contained in Articles 8 and 11 of the Amended Declaration.

5. Members of the Villas Association and Design Review Committee. The Villas is subject to that certain Declaration of Covenants, Conditions and Restrictions and Reservations of Easements for The Villas at Heritage Hill dated June 30, 2010 and recorded on July 7, 2010 as Instrument Number 20101380338 in the Office of the Recorder of Hendricks County, Indiana (the "Villas Declaration"). Rookwood Custom Builders, LLC, an Indiana limited liability company ("Rookwood"), as the declarant thereunder, formed The Villas Homeowners' Association, Inc., an Indiana non-profit corporation (the "Villas Association"). The Owners in Neighborhood B will continue to be the sole members of the Villas Association and the Villas Association will be responsible for maintenance and upkeep of the Exclusive Common Elements exclusive to Neighborhood B. The Design Review Committee for the Villas Association will be appointed by the members of the Villas Association, subject to the design review guidelines contained in Articles 8 and 11 of the Amended Declaration.

6. Members of the New England Way Association and Design Review Committee. Declarant has or will form the New England Way Homeowners' Association, an Indiana non-profit corporation (the "New England Way Association") which will be responsible for the maintenance and upkeep of the Exclusive Common Elements exclusive to Neighborhood C. The Owners in Neighborhood C will be the sole members of the New England Way Association. The Design Review Committee for the New England Way Association will be appointed by the members of the New England Way Association, subject to the design review guidelines contained in Articles 8 and 11 of the Amended Declaration.

7. Bylaws of the Association. The Owners in Neighborhood A will continue to be bound by the Bylaws attached as Exhibit B to the Amended Declaration until revised according to the requirements of that document.



8. Bylaws of the Villas Association. The Owners in Neighborhood B will continue to be bound by the Bylaws attached as Exhibit B to the Villas Declaration until revised according to the requirements of that document.

9. Bylaws of New England Way Association. The Owners in Neighborhood C will need to adopt Bylaws for the New England Way Association, to govern the management of the New England Way Association.

10. Article 4 – Association and Assessments. Notwithstanding anything to the contrary contained in Article 4 of the Declaration, this Article is hereby amended such that each Neighborhood Association will be responsible for the maintenance and upkeep of the Exclusive Common Elements specific to each Neighborhood, which are as follows:

(a) Neighborhood A Exclusive Common Elements:

- (i) Recreational Facilities; and
- (ii) Street Lights, Open Space and right-of-way on both sides of Northfield Drive, including the fencing.

(b) Neighborhood B Exclusive Common Elements:

- (i) Street lights, Open Space and right-of-way inside the fence bounding Camargo Club from Northfield Drive and New England Way Boulevard, in addition to the fence bounding Camargo Club from New England Way Boulevard.

(c) Neighborhood C Exclusive Common Elements:

- (i) Street lights, Open Space and fencing along New England Way Boulevard and within the plats of New England Way and New England Way South.

In addition to the foregoing, the cost of maintaining the grounds along New England Way Boulevard outside of the fence bounding Camargo Club from New England Way Boulevard, shall be shared between Neighborhood B and Neighborhood C.

Except as provided herein, the Exclusive Common Elements for each Neighborhood are specific to the respective Neighborhood and cannot be used by the Owners in other Neighborhoods without permission of the respective Neighborhood Association. Each Neighborhood Association shall be responsible for the maintenance and upkeep of the Exclusive Common Elements. Each Owner in a Neighborhood shall be responsible for his/her proportionate share of the Neighborhood Assessment, as well as any Individual Assessment, Special Assessment and Public Assessment assessed by the respective Neighborhood Association. Notwithstanding the foregoing to the contrary, the Owners in Neighborhood B and

Neighborhood C shall have the right to use the Recreational Facilities, provided any such Owner pays a membership fee to be established by Declarant, its successors and assigns.

11. Article 6 – Insurance. It shall be the obligation of each Neighborhood Association to maintain the requisite insurance required under this Article 6 for the Exclusive Common Elements specific to a Neighborhood.

12. Article 9 – Restrictions Applicable only to Annsdale, the Hamptons, New England Way, New England Way South and Legacy Park. It will be the sole responsibility of the Board of Directors for each Neighborhood for Annsdale, the Hamptons, New England Way, New England Way South and Legacy Park to enforce compliance with the covenants, establish appropriate member assessments, collect dues, obtain insurance and perform all other functions necessary to maintain the preservation of property values and the security of their respective Neighborhood. Each Neighborhood Association shall have the ability to change the covenants by a suitable vote of their Members according to the procedures within the covenants and Bylaws for that particular Neighborhood.

13. Villas Declaration. It shall be the sole responsibility of the Board of Directors for the Villas Association to enforce compliance with the covenants, establish appropriate member assessments, collect dues, obtain insurance and perform all other functions necessary to maintain the preservation of property values and the security of the Living Units and Exclusive Common Elements in Neighborhood B, all as provided for in the Villas Declaration. The Villas Association shall have the ability to change the covenants by a suitable vote of their Members according to the procedures within the Villas Declaration and Bylaws for Neighborhood B.

14. Exclusions Applicable to Neighborhood B and Neighborhood C. The following provisions shall apply to Lot Owners in Neighborhood B, Neighborhood C, the Villas Association and the New England Way Association:

(a) Lot Owners in Neighborhood B and Neighborhood C are no longer Members of the Association and its definition of Members in Article 1 of the Amended Declaration is hereby so amended.

(b) Lot Owners in Neighborhood B and Neighborhood C are no longer a part of the Development as defined in Article 1 of the Amended Declaration.

(c) Lot Owners in Neighborhood B and Neighborhood C have no responsibility or obligation for the payment of Assessments described in Article 4 of the Amended Declaration and the provisions of Article 4 have no application to any Lot Owner in Neighborhood B and Neighborhood C.

(d) Lot Owners in Neighborhood B and Neighborhood C have no obligation or responsibility for maintenance of any portion of the Common Areas of the Development other

than as indicated under Section 10 above, nor any responsibility for maintenance of the two closed landfills referred to in Article 14 of the Amended Declaration and the Association shall save and hold harmless each Lot Owner in Neighborhood B and Neighborhood C of and from any claim for payment of costs of maintenance or care of property or land within the Development including those described in Article 14 of the Amended Declaration.

15. Except as set forth herein, all other terms and conditions of the Amended Declaration shall remain in full force and effect.

*[The Remainder of this Page is Intentionally Left Blank, Signature Page to Follow]*

IN WITNESS WHEREOF: The undersigned Declarant has executed this Second Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill on the day and year first above written.

DECLARANT:

LEGACY PARK, LLC, an Indiana limited liability company

By: [Signature]  
Robert R. Carr, Member

Ohio )  
STATE OF INDIANA )  
Clermont ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Member of LEGACY PARK, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 2<sup>nd</sup> day of August, 2016.



Commission Expires:  
LORI FINLEY  
Notary Public, State of Ohio  
My Commission Expires 02-27-2021

[Signature]  
Notary Public - Signature

Lori Finley  
Notary Public - Printed Name

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202  
Return to: Jody T. Klekamp, Esq. at address above

## EXHIBIT A

### Legal Description of the Property

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the **POINT OF BEGINNING**; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds

East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed to the **POINT OF BEGINNING**, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.

**EXHIBIT B**

**Affidavit of the President**


Ohio  
STATE OF INDIANA )  
                          ) SS:  
Clermont )  
COUNTY OF HENDRICKS )

Now comes Robert R. Carr, and after being first duly cautioned and sworn, deposes and says the following:

1. Affiant states that he is the duly elected President of The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation.

2. As required under Section 17.2 of the Declaration for The Village of Heritage Hill, Affiant states that the affirmative vote of sixty-seven percent (67%) of all Unit Owners has approved the terms and conditions of the Second Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill, for which this Affidavit is attached.

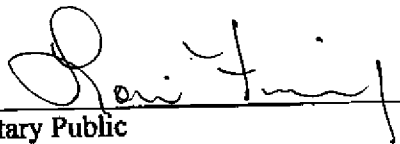
Further Affiant Sayeth Naught.

By:   
Robert R. Carr,  
as President

Sworn to before me and subscribed in the presence this 2<sup>nd</sup> day of August 2016  
2016.



LORI FINLEY  
Notary Public, State of Ohio  
My Commission Expires 02-27-2021

  
Notary Public



---

(ABOVE LINE FOR RECORDER'S USE ONLY)

**THIRD AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL**

THIS THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (the "Third Amendment") is made this 2<sup>nd</sup> day of August, 2016 (the "Effective Date"), by LEGACY PARK, LLC, an Indiana limited liability company ("Declarant") under the following circumstances:

A. Rolling Hills, LLC, an Indiana limited liability company ("Rolling Hills"), as the original declarant created a development consisting of several subdivisions collectively known as The Village of Heritage Hill (the "Development") located in Lincoln and Washington Townships, Hendricks County, Indiana (hereinafter referred to as the "Original Property"); and

B. Rolling Hills subject the Original Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Recorder's Office (the "Original Declaration"), which was later amended and restated by Rolling Hills, Rookwood (as defined below) and Declarant pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Recorder's Office (the "Amended Declaration"), as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office (the "First Amendment"), as such Declarant rights under the Amended Declaration and First Amendment were assigned by Rolling Hills and Rookwood to Declarant by that certain Assignment and Assumption of Declarant Rights Under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619252 of the Hendricks County, Indiana Recorder's Office (the "Assignment"), and as further amended by that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill



recorded on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder's Office (the "Second Amendment", together with the Original Declaration, Amended Declaration, First Amendment and Assignment collectively defined as the "Declaration"), which Declaration restricts the use and occupancy of the Original Property for the protection of the Original Property and the future owners of the Original Property; and

C. Rolling Hills formed The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association"), which was responsible for the maintenance, management, and control of the Common Areas; and

D. As provided in the Second Amendment, the only Members of the Association are the Owners in Neighborhood A as described on Exhibit A attached hereto and made a part hereof ("Parcel A") and the undeveloped real estate located adjacent to Neighborhood A as described in Exhibit B attached hereto and made a part hereof ("Parcel B"); and

E. The Declaration may be amended in accordance with the provisions of Section 17.2 of the Amended Declaration, upon the consent of the Unit Owners exercising not less than sixty-seven percent (67%) of all Members of the Association.

E. That Declarant and the President of the Association execute this Third Amendment on behalf of the Unit Owners approving the terms of this Third Amendment, which constitutes at least sixty-seven percent (67%) of all Unit Owners located on Parcel A and Parcel B, as evidenced in the Affidavit of the President attached hereto as Exhibit C and made a part hereof.

NOW, THEREFORE, Declarant hereby declares as follows:

1. All terms used in this Amendment which are defined in the Declaration shall have the same meanings as given to them in the Declaration, except as otherwise hereinafter stated.

2. Neighborhood A. Neighborhood A currently consists of only Parcel A. Declarant desires to amend the Declaration to subject Parcel B to Neighborhood A, subject to all of the same terms and conditions contained in the Declaration as it relates to Neighborhood A.

3. Section 1.1 – Definitions. Delete the defined term "Class C Member" and "Class C Membership".

4. Section 3.2 - Voting Members. Declarant desires to amend this Section to read as follows:

**“Section 3.2 Voting Members.**

(a) With the exception of Declarant, until the Class B Membership has lapsed, every person, group of persons or entity who is an Owner of a fee interest in any Living Unit located on Parcel A and Parcel B (collectively, Neighborhood A Property”) and which is or becomes subject to the Assessments (as defined below) of the Association shall be a Class A Member of the Association. Class A Members shall be entitled to a total of one vote for each Living Unit in which they hold the fee interest. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Living Unit, then the vote for such Living Unit shall be exercised as they determine among themselves but in no event shall more than one vote be cast with respect to any Living Unit.

(b) The Class B Member shall be the Declarant and shall be a voting Member of the Association. The Class B Member shall have seven (7) votes for each Living Unit in which the Declarant holds the interest otherwise required for Class A Membership multiplied by the number of located or proposed by the Declarant to be located on such Lot, provided, however, that each Class B Membership shall terminate upon the expiration of the Development Period. At such time as Class B Membership shall terminate, the Declarant which, for any Living Unit, holds an interest therein otherwise required for Class A Membership shall be deemed a Class A Member with reference to such Living Unit or Living Units and entitled to the voting and all other rights of such Class A Member or Class C Member, respectfully.”

5. Except as set forth herein, all other terms and conditions of the Amended Declaration shall remain in full force and effect.

*[The Remainder of this Page is Intentionally Left Blank, Signature Page to Follow]*

IN WITNESS WHEREOF: The undersigned Declarant has executed this Third Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill on the day and year first above written.

DECLARANT:

LEGACY PARK, LLC, an Indiana limited liability company

By: [Signature]  
Robert R. Carr, Member

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF HENDRICKS )

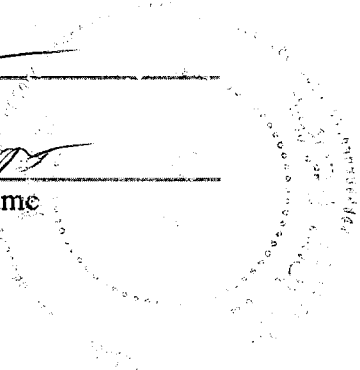
Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Member of LEGACY PARK, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 9 day of September, 2016.

My Commission Expires:  
12-26-2018

Resident of Hendricks County

[Signature]  
Notary Public – Signature  
JASON STINNETT  
Notary Public – Printed Name  
Jason Stinnett



This document prepared by:  
  
Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202  
Return to: Jody T. Klekamp, Esq. at address above

**EXHIBIT A**

**Legal Description of Parcel A**

**EXHIBIT A**

**LEGACY PARK APARTMENTS**

**Parcel No. 014-227611-247001**

**State ID No. 32-07-27-247-001.000-016**

Lot 1 in Legacy Park, being a subdivision in the Northeast  $\frac{1}{4}$  of Section 27, Township 16 North, Range 1 East, Lincoln Township, Hendricks County, Indiana, according to the Plat thereof recorded June 6, 2008 as Instrument No. 2008-13836.

**EXHIBIT B**

**Legal Description of Parcel B**



That portion of the West Half of the Northeast Quarter and East Half of the Northwest Quarter of Section 27, Township 16 north, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows;

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Beginning at an 8" x 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of said East Half of the Northwest Quarter 1331.76 feet to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 672.21 feet; thence South 24 degrees 00 minutes 29 seconds East 248.65 feet to the beginning of a tangent curve to the left having a radius of 350.00 feet and a central angle of 49 degrees 13 minutes 43 seconds; thence southeasterly along the arc of said curve 300.72 feet; thence South 73 degrees 14 minutes 12 seconds East 393.75 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 04 degrees 11 minutes 21 seconds; thence southeasterly along the arc of said curve 40.21 feet; thence South 08 degrees 32 minutes 59 seconds East 90.39 feet; thence South 35 degrees 07 minutes 19 seconds East 72.84 feet; thence South 03 degrees 20 minutes 14 seconds East 683.56 feet; thence South 30 degrees 36 minutes 02 seconds East 112.94 feet; thence South 64 degrees 18 minutes 45 seconds East 113.02 feet; thence North 80 degrees 09 minutes 00 seconds East 120.96 feet; thence North 71 degrees 35 minutes 49 seconds East 38.55 feet; thence North 20 degrees 43 minutes 05 seconds East 59.30 feet; thence North 01 degree 44 minutes 24 seconds West 325.60 feet; thence North 84 degrees 51 minutes 39 seconds East 614.77 feet; thence North 07 degrees 24 minutes 53 seconds East 168.52 feet; thence North 05 degrees 38 minutes 23 seconds East 523.15 feet; thence South 88 degrees 19 minutes 58 seconds West 191.89 feet; thence North 01 degree 40 minutes 02 seconds West 100.00 feet to the beginning of a non tangent curve to the left having a radius of 15 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence northeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 50.00 feet to the beginning of a tangent curve to the left having a radius of 15.00 feet and a central angle of 09 degrees 00 minutes 00 seconds; thence southeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 191.56 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 09 degrees 40 minutes 49 seconds; thence easterly along the arc of said curve 92.92 feet to the intersection of the future southerly right of way line of Northfield Boulevard and the west line of Amenity Center at the Village of Heritage Hills as per plat thereof recorded as Instrument Number 200820838 in the Office of the Recorder of said county; thence North 01 degree 19 minutes 54 seconds West along said west line, being parallel with the east line of

said West Half of the Northeast quarter 1010.45 feet to the north line of said West Half; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet to the point of beginning, containing 69.279 acres, more or less.

**EXHIBIT C**

**Affidavit of the President**


STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HENDRICKS    )

Now comes Robert R. Carr, and after being first duly cautioned and sworn, deposes and says the following:

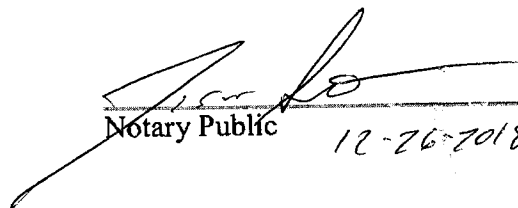
1. Affiant states that he is the duly elected President of The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation.

2. As required under Section 17.2 of the Declaration for The Village of Heritage Hill, Affiant states that the affirmative vote of sixty-seven percent (67%) of all Unit Owners of the Neighborhood A Property has approved the terms and conditions of the Third Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill, for which this Affidavit is attached.

Further Affiant Sayeth Naught.

By:   
Robert R. Carr,  
as President

Sworn to before me and subscribed in the presence this 9 day of September,  
2016.

  
Notary Public      12-26-2018





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(ABOVE LINE FOR RECORDER'S USE ONLY)

**ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS  
UNDER THE AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE VILLAGE OF HERITAGE HILL**

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS UNDER THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (this "Assignment") is made effective this 27 day of October, 2016 (the "Effective Date") by and between LEGACY PARK, LLC, an Indiana limited liability company ("Assignor") and ROLLING HILLS, LLC, an Indiana limited liability company ("Assignor") and under the following circumstances:

A. Assignee was the original Declarant under that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Clerk's Office (the "Original Declaration"), as amended and restated pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Clerk's Office (the "Amended Declaration"), and as further amended by (i) that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office ("First Amendment"); (ii) that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder's Office ("Second Amendment"); and (iii) that certain Third Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on October 24, 2016, as Instrument Number 201624944 of the Hendricks County, Indiana Recorder's Office ("Third Amendment") (the First Amendment, Second Amendment

and Third Amendment, together with the Original Declaration and Amended Declaration collectively defined as the “Declaration”);

B. The Declaration covers the property described on the attached Exhibit A and known as the Village of Heritage Hill (the “Development”);

C. The Development consists of four distinct recorded residential subdivisions as described in the Declaration and collectively known as the Village of Heritage Hill;

D. Assignor is the owner of multi-family property known as Legacy Park that is part of the Development;

E. Assignee is the owner of various parcels in the Development;

F. Assignee was the Declarant under the Original Declaration, and Assignor and Assignee, along with Rookwood Custom Builders, LLC, were Co-Declarants under the Amended Declaration;

G. Assignee and Rookwood previously assigned to Assignor their rights and obligations as Declarant pursuant to the Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants and Restrictions for the Village of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder’s Office (the “Prior Assignment”);

H. Assignor and Assignee, as previous Co-Declarants under the Declaration, and Assignor as the current Declarant under the Declaration, have determined for business reasons, and in order for Assignor to comply with lender requirements, that, notwithstanding the Prior Assignment, Assignee shall be the sole Declarant under the Declaration on and after the Effective Date; and

I. Assignor desires to assign to Assignee any and all of its right, title, interest and responsibilities as Declarant in the Declaration, Articles of Incorporation for The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the “Association”), Bylaws of the Association and the Drawings for The Village of Heritage Hill and any rules and regulations for The Village of Heritage Hill (collectively, the “HOA Documents”), as they relate to the Development and any other real estate (the “Additional Property”) which Assignee desires to submit to the Declaration during the Development Period (as defined in the Declaration), and Assignee desires to accept this Assignment and assume all of the duties, obligations and liabilities imposed upon Assignor as the Declarant under the Declaration and the other HOA Documents as they relate to the Development and Additional Property.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Assignor hereby assigns to Assignee, as Declarant under the Declaration and the other HOA Documents, all of Assignor's right, title and interest in, to and under the Declaration and the other HOA Documents as they relate to the Development and any Additional Property on and after the date of this Assignment.

2. Assignee hereby accepts this Assignment, the Declaration and the other HOA Documents as they relate to the Development and Additional Property, and as successor to Assignor and as a previous Co-Declarant under the Declaration, assumes and agrees to fulfill all of the obligations of the Declarant under the Declaration and the other HOA Documents as they relate to the Development and Additional Property, from and after the Effective Date.

3. Assignor and Assignee acknowledge and agree that the Declaration and the other HOA Documents are in full force and effect and have not been further modified or amended.

4. Assignor represents that it has not previously assigned any of its rights or obligations arising under the Declaration and the other HOA Documents since the date of the Prior Assignment and has not encumbered its rights thereunder in any manner whatsoever. As of the Effective Date, the Prior Assignment shall no longer be in effect, and Assignee shall be the sole Declarant under the Declaration.

5. Assignee will hold harmless, indemnify and defend Assignor from and against any and all liabilities, losses, expenses, claims and judgments arising under the Declaration and the other HOA Documents as they relate to the Development and Additional Property from and after the Effective Date.

***[The Remainder of this Page is intentionally Left Blank]***

Assignor and Assignee have executed this Assignment as of the day, month and year first written above.

ASSIGNOR:

LEGACY PARK, LLC,  
an Indiana limited liability company

By: [Signature]  
Robert R. Carr, Manager

STATE OF Indiana )  
COUNTY OF Hendricks ) SS:

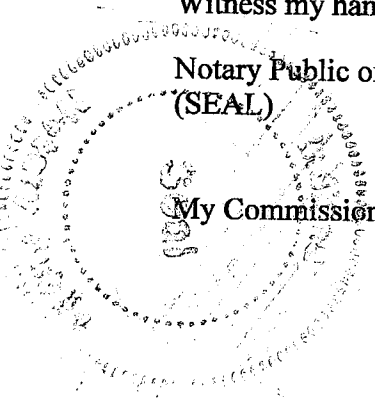
Before me appeared Robert R. Carr, who is personally known by me or has produced a valid driver's license as identification, who being duly sworn, acknowledged himself to be the Manager of Legacy Park, LLC, an Indiana limited liability company, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of Legacy Park, LLC by himself as such officer of the Limited Liability Company.

Witness my hand and seal, this 14<sup>th</sup> day of October, 2016. *and acknowledged*

Notary Public of  
(SEAL)

My Commission expires: 12-26-2018  
Resident of Hendricks County

[Signature] Jason Stinnett  
Signature of Notary Public



**ASSIGNEE:**

**ROLLING HILLS, LLC**, an Indiana limited liability company

By: *Daniel Rolfes*  
Daniel Rolfes, Member

Ohio  
STATE OF ~~INDIANA~~ )  
Hamilton ) SS:  
COUNTY OF ~~HENDRICKS~~ )

Before me, a Notary Public, in and for said County and State, personally appeared Daniel Rolfes, Member of Rolling Hills, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 28 day of October, 2016.

My Commission Expires:  
5/11/2020

*Cheryl M. Adkins*  
Notary Public – Signature

Residence in Vermont County

Cheryl M. Adkins  
Notary Public – Printed Name



I, the undersigned, do hereby certify that I have taken reasonable care to redact each social security number in this document, unless required by law, Jody T. Klekamp.

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street, Suite 1400  
Cincinnati, Ohio 45202

**EXHIBIT A**

**Legal Description of the Property**

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the POINT OF BEGINNING; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds

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East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed to the POINT OF BEGINNING, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.

That portion of the West Half of the Northeast Quarter and East Half of the Northwest Quarter of Section 27, Township 16 north, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows;

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Beginning at an 8" x 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of said East Half of the Northwest Quarter 1331.76 feet to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 672.21 feet; thence South 24 degrees 00 minutes 29 seconds East 248.65 feet to the beginning of a tangent curve to the left having a radius of 350.00 feet and a central angle of 49 degrees 13 minutes 43 seconds; thence southeasterly along the arc of said curve 300.72 feet; thence South 73 degrees 14 minutes 12 seconds East 393.75 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 04 degrees 11 minutes 21 seconds; thence southeasterly along the arc of said curve 40.21 feet; thence South 08 degrees 32 minutes 59 seconds East 90.39 feet; thence South 35 degrees 07 minutes 19 seconds East 72.84 feet; thence South 03 degrees 20 minutes 14 seconds East 683.56 feet; thence South 30 degrees 36 minutes 02 seconds East 112.94 feet; thence South 64 degrees 18 minutes 45 seconds East 113.02 feet; thence North 80 degrees 09 minutes 00 seconds East 120.96 feet; thence North 71 degrees 35 minutes 49 seconds East 38.55 feet; thence North 20 degrees 43 minutes 05 seconds East 59.30 feet; thence North 01 degree 44 minutes 24 seconds West 325.60 feet; thence North 84 degrees 51 minutes 39 seconds East 614.77 feet; thence North 07 degrees 24 minutes 53 seconds East 168.52 feet; thence North 05 degrees 38 minutes 23 seconds East 523.15 feet; thence South 88 degrees 19 minutes 58 seconds West 191.89 feet; thence North 01 degree 40 minutes 02 seconds West 100.00 feet to the beginning of a non tangent curve to the left having a radius of 15 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence northeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 50.00 feet to the beginning of a tangent curve to the left having a radius of 15.00 feet and a central angle of 09 degrees 00 minutes 00 seconds; thence southeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 191.56 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 09 degrees 40 minutes 49 seconds; thence easterly along the arc of said curve 92.92 feet to the intersection of the future southerly right of way line of Northfield Boulevard and the west line of Amenity Center at the Village of Heritage Hills as per plat thereof recorded as Instrument Number 200820838 in the Office of the Recorder of said county; thence North 01 degree 19 minutes 54 seconds West along said west line, being parallel with the east line of

said West Half of the Northeast quarter 1010.45 feet to the north line of said West Half; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet to the point of beginning, containing 69.279 acres, more or less.





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(ABOVE LINE FOR RECORDER'S USE ONLY)

**ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS  
UNDER THE AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE VILLAGE OF HERITAGE HILL**

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT RIGHTS UNDER THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (this "Assignment") is made effective this 10 day of January, 2017 (the "Effective Date") by and between ROLLING HILLS, LLC, an Indiana limited liability company ("Assignor") and HERITAGE HILL, LLC, an Indiana limited liability company ("Assignee") and under the following circumstances:

A. Assignor was the original Declarant under that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Clerk's Office (the "Original Declaration"), as amended and restated pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Clerk's Office (the "Amended Declaration"), and as further amended by (i) that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office ("First Amendment"); (ii) that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder's Office ("Second Amendment"); and (iii) that certain Third Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village Of Heritage Hill recorded on October 24, 2016, as Instrument Number 201624944 of the Hendricks County, Indiana Recorder's Office ("Third Amendment") (the First Amendment, Second Amendment

9x734

and Third Amendment, together with the Original Declaration and Amended Declaration collectively defined as the "Declaration";

B. The Declaration covers the property described on the attached Exhibit A and known as the Village of Heritage Hill (the "Development");

C. The Development consists of four (4) distinct recorded residential subdivisions as described in the Declaration and collectively known as the Village of Heritage Hill;

D. Assignor was the Declarant under the Original Declaration, and Assignor, Rookwood Custom Builders, LLC ("Rookwood") and Legacy Park, LLC ("Legacy"), were Co-Declarants under the Amended Declaration;

E. Assignor and Rookwood previously assigned to Legacy their rights and obligations as Declarant pursuant to the Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants and Restrictions for the Village of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder's Office (the "First Assignment");

F. Legacy later assigned to Assignor its rights and obligations as Declarant pursuant to the Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants and Restrictions for the Village of Heritage Hill recorded on October 31, 2016, as Instrument Number 201625534 of the Hendricks County, Indiana Recorder's Office (the "Second Assignment", together with the First Assignment collectively defined as the "Prior Assignment");

G. Assignor as the current Declarant under the Declaration, has determined for business reasons, that notwithstanding the Prior Assignment, Assignee shall be the sole Declarant under the Declaration on and after the Effective Date; and

H. Assignor desires to assign to Assignee any and all of its right, title, interest and responsibilities as Declarant in the Declaration, Articles of Incorporation for The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association"), Bylaws of the Association and the Drawings for The Village of Heritage Hill and any rules and regulations for The Village of Heritage Hill (collectively, the "HOA Documents"), as they relate to the Development and any other real estate (the "Additional Property") which Assignee desires to submit to the Declaration during the Development Period (as defined in the Declaration), and Assignee desires to accept this Assignment and assume all of the duties, obligations and liabilities imposed upon Assignor as the Declarant under the Declaration and the other HOA Documents as they relate to the Development and Additional Property.

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. Assignor hereby assigns to Assignee, as Declarant under the Declaration and the other HOA Documents, all of Assignor's right, title and interest in, to and under the Declaration and the other HOA Documents as they relate to the Development and any Additional Property on and after the date of this Assignment.

2. Assignee hereby accepts this Assignment, the Declaration and the other HOA Documents as they relate to the Development and Additional Property, and as successor to Assignor and assumes and agrees to fulfill all of the obligations of the Declarant under the Declaration and the other HOA Documents as they relate to the Development and Additional Property, from and after the Effective Date.

3. Assignor and Assignee acknowledge and agree that the Declaration and the other HOA Documents are in full force and effect and have not been further modified or amended.

4. Assignor represents that it has not previously assigned any of its rights or obligations arising under the Declaration and the other HOA Documents since the date of the Second Assignment and has not encumbered its rights thereunder in any manner whatsoever. As of the Effective Date, the Prior Assignment shall no longer be in effect, and Assignee shall be the sole Declarant under the Declaration.

5. Assignee will hold harmless, indemnify and defend Assignor from and against any and all liabilities, losses, expenses, claims and judgments arising under the Declaration and the other HOA Documents as they relate to the Development and Additional Property from and after the Effective Date.

***[The Remainder of this Page is intentionally Left Blank]***

Assignor and Assignee have executed this Assignment as of the day, month and year first written above.

**ASSIGNOR:**

**ROLLING HILLS, LLC**, an Indiana limited liability company

By:   
Robert R. Carr, Manager

**ASSIGNEE:**

**HERITAGE HILL, LLC**, an Indiana limited liability company

By: \_\_\_\_\_  
Daniel R. Rolfes, Member

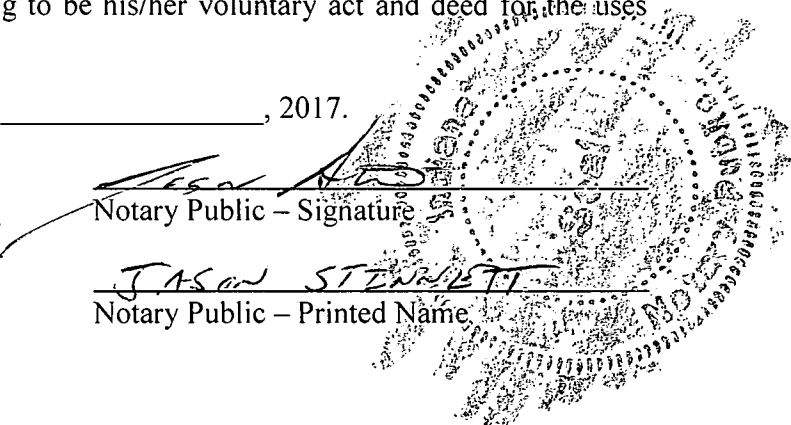
STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HENDRICKS    )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Manager of ROLLING HILLS, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this \_\_\_ day of \_\_\_\_\_, 2017.

My Commission Expires:  
12-26-2018

Resident of Hendricks County



JASON STENHARDT  
Notary Public - Printed Name

Assignor and Assignee have executed this Assignment as of the day, month and year first written above.

**ASSIGNOR:**

**ROLLING HILLS, LLC**, an Indiana limited liability company

By: \_\_\_\_\_  
Robert R. Carr, Manager

**ASSIGNEE:**

**HERITAGE HILL, LLC**, an Indiana limited liability company

By:  \_\_\_\_\_  
Daniel R. Rolfes, Member

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF HENDRICKS )

Before me, a Notary Public, in and for said County and State, personally appeared Robert R. Carr, as Manager of ROLLING HILLS, LLC, an Indiana limited liability company who acknowledged the execution of the foregoing to be his/her voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this \_\_\_ day of \_\_\_\_\_, 2017.

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

\_\_\_\_\_  
Notary Public – Signature

Resident of \_\_\_\_\_ County

\_\_\_\_\_  
Notary Public – Printed Name

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public, in and for said County and State, personally appeared Daniel R. Rolfes, Member of HERITAGE HILL, LLC, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 16 day of January, 2017.

My Commission Expires:

Cheryl M Adkins  
Notary Public - Signature

Resident of Clermont County

Cheryl M Adkins  
Notary Public - Printed Name



Cheryl M Adkins  
Notary Public, State of Ohio  
My Commission Expires May 11, 2020

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, Jody Klekamp.

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202

"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." Jody T. Klekamp

EXHIBIT A

Legal Description of the Property

That portion of Section 27, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East based on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Commencing at a brass plug found marking the northeast corner of said Northeast Quarter; thence South 01 degree 17 minutes 13 seconds East (South 00 degrees 00 minutes 00 seconds East by deed) along the east line of said Quarter Section 1334.90 feet to a Mag nail found at the POINT OF BEGINNING; thence South 87 degrees 59 minutes 17 seconds West 1332.01 feet (South 89 degrees 16 minutes 30 seconds West 1335.80 feet by deed) to a 5/8 inch rebar with "BANNING ENG LS29800001" cap set (herein referred to as "rebar set") on the east line of the West Half of said Northwest Quarter; thence North 01 degree 19 minutes 54 seconds West along said east line 357.84 feet (North 00 degrees 00 minutes 00 seconds East 357.28 feet by deed) to a rebar set; thence South 88 degrees 32 minutes 40 seconds West (South 89 degrees 48 minutes 22 seconds West by deed) parallel with the north line of said Northeast Quarter 660.00 feet to a rebar set; thence North 01 degree 19 minutes 54 seconds West (North 00 degrees 00 minutes 00 seconds East by deed) parallel with said east line 990.00 feet to a rebar set on the north line of said Northwest Quarter; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet (South 89 degrees 48 minutes 22 seconds West 675.70 feet by deed) to an 8" X 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of the East Half of the Northwest Quarter of said Section 1331.76 feet (South 89 degrees 06 minutes 44 seconds West 1335.70 feet by deed) to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 2674.19 feet (South 00 degrees 00 minutes 00 seconds East 2668.06 feet by deed) to a rebar set at the northwest corner of the East Half of the Southwest Quarter of said Section 27; thence South 01 degree 34 minutes 19 seconds East (South 00 degrees 06 minutes 37 seconds East by deed) along the west line thereof 1105.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East (North 89 degrees 06 minutes 44 seconds East by deed) parallel with the north line of said Half Quarter Section 940.50 feet to a rebar set; thence North 01 degree 34 minutes 19 seconds West (North 00 degrees 06 minutes 37 seconds West by deed) parallel with said west line 379.50 feet to a rebar set; thence North 88 degrees 10 minutes 28 seconds East parallel with said north line 397.64 feet (North 89 degrees 06 minutes 44 seconds East 395.20 feet by deed) to the west line of the Southeast Quarter of said Section 27; thence continue North 88 degrees 10 minutes 28 seconds East parallel with the north line of said Southeast Quarter 1331.56 feet (North 89 degrees 48 minutes 22 seconds East 1335.70 feet by deed) to a rebar set on the west line of the East Half of said Southeast Quarter; thence North 01 degree 25 minutes 33 seconds West along said west line 726.01 feet (North 00 degrees 06 minutes 37 seconds West 726.00 feet by deed) to a rebar set at the northwest corner of said Half Quarter Section; thence North 88 degrees 10 minutes 28 seconds East along the north line thereof 1330.93 feet (North 89 degrees 48 minutes 22 seconds

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East 1335.70 feet by deed) to a brass plug found marking the east quarter corner of said Section 27; thence North 01 degree 17 minutes 13 seconds West along the east line of the Northeast Quarter thereof 1333.17 feet (North 00 degrees 00 minutes 00 seconds East 1333.16 feet by deed to the POINT OF BEGINNING, containing 242.551 acres, more or less.

The above description includes Legacy Park, New England Way, Amenity Center at the Village of Heritage Hills, and Camargo Club, Phase 2, as per plats thereof recorded as Instrument Numbers 200813836, 2007-21233, 200820838, and 201010297, respectively, in the Office of the Recorder of Hendricks County, Indiana.

ALSO, New England Way South as per plat thereof recorded as Instrument Number 2007-19002 in the Office of the Recorder of Hendricks County, Indiana, containing 33.744 acres, more or less.

Containing in all 276.295 acres, more or less.



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Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Beginning at an 8" x 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of said East Half of the Northwest Quarter 1331.76 feet to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 672.21 feet; thence South 24 degrees 00 minutes 29 seconds East 248.65 feet to the beginning of a tangent curve to the left having a radius of 350.00 feet and a central angle of 49 degrees 13 minutes 43 seconds; thence southeasterly along the arc of said curve 300.72 feet; thence South 73 degrees 14 minutes 12 seconds East 393.75 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 04 degrees 11 minutes 21 seconds; thence southeasterly along the arc of said curve 40.21 feet; thence South 08 degrees 32 minutes 59 seconds East 90.39 feet; thence South 35 degrees 07 minutes 19 seconds East 72.84 feet; thence South 03 degrees 20 minutes 14 seconds East 683.56 feet; thence South 30 degrees 36 minutes 02 seconds East 112.94 feet; thence South 64 degrees 18 minutes 45 seconds East 113.02 feet; thence North 80 degrees 09 minutes 00 seconds East 120.96 feet; thence North 71 degrees 35 minutes 49 seconds East 38.55 feet; thence North 20 degrees 43 minutes 05 seconds East 59.30 feet; thence North 01 degree 44 minutes 24 seconds West 325.60 feet; thence North 84 degrees 51 minutes 39 seconds East 614.77 feet; thence North 07 degrees 24 minutes 53 seconds East 168.52 feet; thence North 05 degrees 38 minutes 23 seconds East 523.15 feet; thence South 88 degrees 19 minutes 58 seconds West 191.89 feet; thence North 01 degree 40 minutes 02 seconds West 100.00 feet to the beginning of a non tangent curve to the left having a radius of 15 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence northeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 50.00 feet to the beginning of a tangent curve to the left having a radius of 15.00 feet and a central angle of 09 degrees 00 minutes 00 seconds; thence southeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 191.56 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 09 degrees 40 minutes 49 seconds; thence easterly along the arc of said curve 92.92 feet to the intersection of the future southerly right of way line of Northfield Boulevard and the west line of Amenity Center at the Village of Heritage Hills as per plat thereof recorded as Instrument Number 200820838 in the Office of the Recorder of said county; thence North 01 degree 19 minutes 54 seconds West along said west line, being parallel with the east line of

said West Half of the Northeast quarter 1010.45 feet to the north line of said West Half; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet to the point of beginning, containing 69.279 acres, more or less.



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(ABOVE LINE FOR RECORDER'S USE ONLY)

**FOURTH AMENDMENT TO AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL**

THIS FOURTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (the "Fourth Amendment") is made effective as of this 14<sup>th</sup> day of March, 2017 (the "Effective Date"), by HERITAGE HILL, LLC, an Indiana limited liability company ("Declarant") under the following circumstances:

A. Rolling Hills, LLC, an Indiana limited liability company ("Rolling Hills"), as the original declarant created a development consisting of several subdivisions collectively known as The Village of Heritage Hill (the "Development") located in Lincoln and Washington Townships, Hendricks County, Indiana (hereinafter referred to as the "Original Property"); and

B. Rolling Hills subject the Original Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded on February 21, 2007 as Instrument Number 200700004441 of the Hendricks County, Indiana Recorder's Office (the "Original Declaration"), which was later amended and restated by Rolling Hills, Rookwood (as defined below) and Declarant pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on July 7, 2010 as Instrument Number 201013802 of the Hendricks County, Indiana Recorder's Office (the "Amended Declaration"), as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill recorded on December 7, 2012, as Instrument Number 201232188 of the Hendricks County, Indiana Recorder's Office (the "First Amendment"), as such Declarant rights under the Amended Declaration and First Amendment were assigned by Rolling Hills and Rookwood to Declarant by that certain Assignment and Assumption of Declarant Rights Under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on August 24, 2016, as Instrument Number 201619252 of the Hendricks County, Indiana Recorder's Office (the "First Assignment"), as further amended by that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill recorded

on August 24, 2016, as Instrument Number 201619253 of the Hendricks County, Indiana Recorder's Office (the "Second Amendment"), and as further amended by that certain Third Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill recorded on October 24, 2016, as Instrument Number 201624944 of the Hendricks County, Indiana Recorder's Office (the "Third Amendment"), and as such Declarant rights under the Amended Declaration, First Amendment, Second Amendment and Third Amendment were assigned by Rolling Hills to Declarant by that certain Assignment and Assumption of Declarant Rights Under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded on January 30, 2017, as Instrument Number 201702467 of the Hendricks County, Indiana Recorder's Office (the "Second Assignment", together with the Original Declaration, Amended Declaration, First Amendment, First Assignment and Second Amendment collectively defined as the "Declaration"), which Declaration restricts the use and occupancy of the Original Property for the protection of the Original Property and the future owners of the Original Property; and

C. Rolling Hills formed The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association"), which was responsible for the maintenance, management, and control of the Common Areas; and

D. As provided in the Second Amendment, the only Members of the Association are the Owners in Neighborhood A as described on **Exhibit A** attached hereto and made a part hereof ("Parcel A") and the undeveloped real estate located adjacent to Neighborhood A as described in **Exhibit B** attached hereto and made a part hereof ("Parcel B"); and

E. The Declaration may be amended in accordance with the provisions of Section 17.2 of the Amended Declaration, upon the consent of the Unit Owners exercising not less than sixty-seven percent (67%) of all Members of the Association.

E. That Declarant and the President of the Association execute this Fourth Amendment on behalf of the Unit Owners approving the terms of this Fourth Amendment, which constitutes at least sixty-seven percent (67%) of all Unit Owners located on Parcel A and Parcel B, as evidenced in the Affidavit of the President attached hereto as **Exhibit C** and made a part hereof.

NOW, THEREFORE, Declarant hereby declares as follows:

1. All terms used in this Amendment which are defined in the Declaration shall have the same meanings as given to them in the Declaration, except as otherwise hereinafter stated.
2. Article 14 – Landfill Disclosures. This Article is hereby amended by deleting the last sentence in this Article. It will no longer be the responsibility of the Association to maintain the two (2) landfills.

3. Except as set forth herein, all other terms and conditions of the Amended Declaration shall remain in full force and effect.

IN WITNESS WHEREOF: The undersigned Declarant has executed this Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill on the day and year first above written.

DECLARANT:

HERITAGE HILL, LLC, an Indiana limited liability company

By: [Signature]  
Daniel R. Rolfes, Member

STATE OF OHIO )  
 ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public, in and for said County and State, personally appeared Daniel R. Rolfes, as Member of HERITAGE HILL, LLC , an Indiana limited liability company who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 14 day of March, 2017.

My Commission Expires:  
5-11-2020

[Signature]  
Notary Public – Signature

Resident of Clermont County, OH

Cheryl M. Adkins  
Notary Public – Printed Name

This document prepared by:

Jody T. Klekamp, Esq.  
Keating, Muething & Klekamp, PLL  
One East Fourth Street  
Suite 1400  
Cincinnati, Ohio 45202

Return to: Jody T. Klekamp, Esq. at address above



Cheryl M Adkins  
Notary Public, State of Ohio  
My Commission Expires May 11, 2020

**EXHIBIT A**

**Legal Description of Parcel A  
(Legacy Park – Neighborhood A)**

Lot 1 in Legacy Park, being a subdivision in the Northeast  $\frac{1}{4}$  of Section 27, Township 16 North, Range 1 East, Lincoln Township, Hendricks County, Indiana, according to the Plat thereof recorded June 6, 2008 as Instrument No. 2008-13836.

FOR INFORMATIONAL PURPOSES:

Parcel No. 014-227611-247001

State ID No. 32-07-27-247-001.000-016



That portion of the West Half of the Northeast Quarter and East Half of the Northwest Quarter of Section 27, Township 16 north, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows;

Considering the east line of the Northeast Quarter of said Section 27 as bearing South 01 degree 17 minutes 13 seconds East on NAD 83 (1997) Indiana State Plane Coordinates, West Zone, with all bearings contained herein being relative thereto.

Beginning at an 8" x 10" X 12" stone found marking the north quarter corner of said Section 27; thence South 87 degrees 41 minutes 41 seconds West along the north line of said East Half of the Northwest Quarter 1331.76 feet to a PK nail found marking the northwest corner of said Half Quarter Section; thence South 01 degree 10 minutes 59 seconds East along the west line thereof 672.21 feet; thence South 24 degrees 00 minutes 29 seconds East 248.65 feet to the beginning of a tangent curve to the left having a radius of 350.00 feet and a central angle of 49 degrees 13 minutes 43 seconds; thence southeasterly along the arc of said curve 300.72 feet; thence South 73 degrees 14 minutes 12 seconds East 393.75 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 04 degrees 11 minutes 21 seconds; thence southeasterly along the arc of said curve 40.21 feet; thence South 08 degrees 32 minutes 59 seconds East 90.39 feet; thence South 35 degrees 07 minutes 19 seconds East 72.84 feet; thence South 03 degrees 20 minutes 14 seconds East 683.56 feet; thence South 30 degrees 36 minutes 02 seconds East 112.94 feet; thence South 64 degrees 18 minutes 45 seconds East 113.02 feet; thence North 80 degrees 09 minutes 00 seconds East 120.96 feet; thence North 71 degrees 35 minutes 49 seconds East 38.55 feet; thence North 20 degrees 43 minutes 05 seconds East 59.30 feet; thence North 01 degree 44 minutes 24 seconds West 325.60 feet; thence North 84 degrees 51 minutes 39 seconds East 614.77 feet; thence North 07 degrees 24 minutes 53 seconds East 168.52 feet; thence North 05 degrees 38 minutes 23 seconds East 523.15 feet; thence South 88 degrees 19 minutes 58 seconds West 191.89 feet; thence North 01 degree 40 minutes 02 seconds West 100.00 feet to the beginning of a non tangent curve to the left having a radius of 15 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence northeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 50.00 feet to the beginning of a tangent curve to the left having a radius of 15.00 feet and a central angle of 09 degrees 00 minutes 00 seconds; thence southeasterly along the arc of said curve 23.56 feet; thence North 88 degrees 19 minutes 58 seconds East 191.56 feet to the beginning of a tangent curve to the left having a radius of 550.00 feet and a central angle of 09 degrees 40 minutes 49 seconds; thence easterly along the arc of said curve 92.92 feet to the intersection of the future southerly right of way line of Northfield Boulevard and the west line of Amenity Center at the Village of Heritage Hills as per plat thereof recorded as Instrument Number 200820838 in the Office of the Recorder of said county; thence North 01 degree 19 minutes 54 seconds West along said west line, being parallel with the east line of

said West Half of the Northeast quarter 1010.45 feet to the north line of said West Half; thence South 88 degrees 32 minutes 40 seconds West along said north line 672.96 feet to the point of beginning, containing 69.279 acres, more or less.

**EXHIBIT C**


**Affidavit of the President**

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HENDRICKS    )


Now comes Robert R. Carr, and after being first duly cautioned and sworn, deposes and says the following:

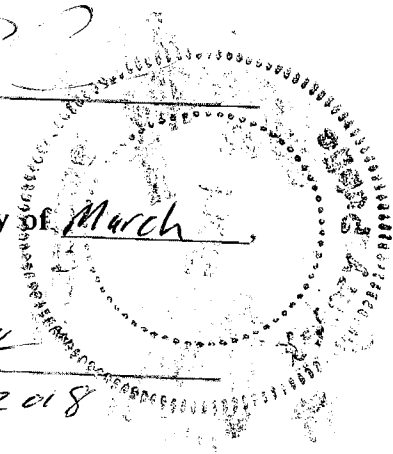
1. Affiant states that he is the duly elected President of The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation.
2. As required under Section 17.2 of the Declaration for The Village of Heritage Hill, Affiant states that the affirmative vote of sixty-seven percent (67%) of all Unit Owners of the Neighborhood A Property has approved the terms and conditions of the Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Village of Heritage Hill, for which this Affidavit is attached.

Further Affiant Sayeth Naught.

By:   
Robert R. Carr,  
as President

Sworn to before me and subscribed in the presence this 14 day of March, 2017.

  
Notary Public 12-26-2018





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(ABOVE LINE FOR RECORDER'S USE ONLY)

**FIFTH AMENDMENT TO  
AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE VILLAGE OF HERITAGE HILL**

THIS FIFTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (this "Fifth Amendment") is made effective as of March 6, 2020 ("Fifth Amendment Effective Date"), by **LEGACY PARK, LLC**, an Indiana limited liability company ("Legacy Park").

RECITALS:

A. Rolling Hills, LLC, an Indiana limited liability company ("Rolling Hills"), as the original declarant, created a development consisting of several subdivisions collectively known as "The Village of Heritage Hill" (hereinafter referred to as the "Development"), located in Lincoln and Washington Townships, Hendricks County, Indiana (hereinafter referred to as the "Original Property"); and

B. Rolling Hills subjected the Original Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded February 21, 2007 as **Instrument No. 200700004441** in the Office of the Recorder of Hendricks County, Indiana (the "Original Declaration"); which was later amended and restated by Rolling Hills, Rockwood Custom Builders, LLC, an Indiana limited liability company ("Rockwood") and Legacy Park pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated June 30, 2010 and recorded July 7, 2010 as **Instrument No. 201013802** in the Office of the Recorder of Hendricks County, Indiana ("A&R Declaration"); as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded December 7, 2012 as **Instrument No. 201232188** in the Office of the Recorder of Hendricks County, Indiana ("First Amendment"); as further amended by that certain Affidavit Regarding Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 21, 2013 and recorded August 28,



2013 as **Instrument No. 201324026** in the Office of the Recorder of Hendricks County, Indiana (“Affidavit”); as such Declarant rights under the A&R Declaration, as amended, were assigned by Rolling Hills and Rockwood to Legacy Park pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded August 24, 2016 as **Instrument No. 201619252** in the Office of the Recorder of Hendricks County, Indiana (“First Assignment”); as further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded August 24, 2016 as **Instrument No. 201619253** in the Office of the Recorder of Hendricks County, Indiana (“Second Amendment”); as further amended by that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded October 24, 2016 as **Instrument No. 201624944** in the Office of the Recorder of Hendricks County, Indiana (“Third Amendment”); as such Declarant rights under the A&R Declaration, as amended, were assigned by Legacy Park to Rolling Hills pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated October 1, 2016 and recorded October 31, 2016 as **Instrument No. 201625534** in the Office of the Recorder of Hendricks County, Indiana (“Second Assignment”); as such Declarant rights under the A&R Declaration, as amended, were assigned by Rolling Hills to Heritage Hill, LLC, an Indiana limited liability company (“Heritage Hill”) pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated January 16, 2017 and recorded January 30, 2017 as **Instrument No. 201702467** in the Office of the Recorder of Hendricks County, Indiana (“Third Assignment”); and as further amended by that certain Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated March 14, 2017 and recorded May 26, 2017 as **Instrument No. 201711911** in the Office of the Recorder of Hendricks County, Indiana (“Fourth Amendment”).

C. The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the “Association”) was formed on December 15, 2006.

D. The Development Period has terminated pursuant to the terms of the A&R Declaration.

E. The A&R Declaration may be amended in accordance with the provisions of Section 17.2 of the A&R Declaration by a recorded instrument approved by a vote of sixty-seven percent (67%) of all Members of the Association.

F. Legacy Park executes this Fifth Amendment on behalf of the Members approving this Fifth Amendment, which constitutes at least sixty-seven percent (67%) of all owners of Living Units, as evidenced in the Affidavit of the President of the Association attached hereto as Exhibit B.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing, Legacy Park hereby declares as follows:

1. All capitalized terms used in this Fifth Amendment which are defined in A&R Declaration shall have the meanings as given to them in the A&R Declaration, except as otherwise herein stated.

2. **DEVELOPMENT PERIOD.** The Development Period has terminated pursuant to the terms of the A&R Declaration and Heritage Hill, as Declarant, and any predecessor Declarant, including, but not limited to Rolling Hills, Rockwood and Legacy Park shall not have any further rights or interests under the A&R Declaration as a Declarant, including, but not limited to the right to manage the Recreational Facilities. Notwithstanding the foregoing, Legacy Park shall retain all rights under the A&R Declaration as a Member of the Association.

3. **THE PROPERTY.** Exhibit A of the A&R Declaration, as amended, is hereby deleted in its entirety and replaced with Exhibit A attached hereto. Exhibit C attached to the A&R Declaration and Exhibit B attached to the Third Amendment and Fourth Amendment are hereby deleted in their entirety. For avoidance of doubt, the only Property subject to the A&R Declaration, as amended, is the Property set out on Exhibit A attached to this Fifth Amendment.

4. **RECREATIONAL FACILITIES.** The rights of the Owners in Neighborhood B and Neighborhood C to use the Recreational Facilities, provided any such Owner pays a membership fee to be established by Declarant, its successors and assigns, pursuant to Article 4(c)(i) of the A&R Declaration and Section 10 of the Second Amendment is hereby terminated.

5. **EFFECT OF AMENDMENT.** The provisions contained herein shall serve to supplement and amend the provisions of the A&R Declaration as specified herein. To the extent that the terms of this Fifth Amendment conflict with the terms of the A&R Declaration, First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Affidavit, First Assignment, Second Assignment and/or Third Assignment, the provisions of this Fifth Amendment shall control in all respects with respect to such terms. All other terms and provisions of the A&R Declaration shall not change and be in full force and effect and are hereby ratified and affirmed.

6. **COUNTERPARTS.** This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which when taken together shall be one and the same agreement.

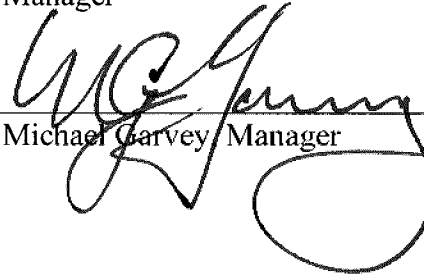
IN WITNESS WHEREOF, Legacy Park has executed and delivered this Fifth Amendment to the A&R Declaration as of the date and year first written above.

**“LEGACY PARK, LLC”**

LEGACY PARK, LLC,  
an Indiana limited liability company

By: Legacy Park Apartment Associates, LLC,  
an Indiana limited liability company

Its: Manager

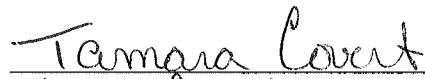
By:   
Michael Garvey Manager

STATE OF INDIANA     )  
  ) SS:  
COUNTY OF HAMILTON )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Michael Garvey, the Manager of Legacy Park Apartment Associates, LLC, an Indiana limited liability company, the Manager of Legacy Park, LLC, an Indiana limited liability company, who acknowledged execution of the foregoing Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill for and on behalf of said entity, and who, having been duly sworn, stated the representations therein contained are true.

Witness my hand and Notarial Seal this 02 day of March, 2020.

My Commission Expires:  
06-06-2024

  
Tamara Covert, Notary Public  
(Printed)

Resident of Marion County, Indiana

This instrument was prepared by: Julie M. Elliott, Esq., Krieg DeVault LLP, 12800 N. Meridian Street, Suite 300, Carmel, IN 46032.

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. Julie M. Elliott



EXHIBIT A

**THE PROPERTY**

LOT 1 IN LEGACY PARK, BEING A SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 16 NORTH, RANGE 1 EAST, LINCOLN TOWNSHIP, HENDRICKS COUNTY, INDIANA, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 6, 2008 AS INSTRUMENT NO. 200813836.

**AND:**

A PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 16 NORTH, RANGE 1 EAST, LINCOLN TOWNSHIP, HENDRICKS COUNTY, INDIANA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS PLUG FOUND MARKING THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER SECTION; THENCE SOUTH 01 DEGREE 17 MINUTES 13 SECONDS EAST ALONG THE EAST LINE OF SAID QUARTER SECTION 1334.90 FEET TO A MAG NAIL FOUND; THENCE SOUTH 87 DEGREES 59 MINUTES 17 SECONDS WEST ON AND ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27 A DISTANCE OF 1332.01 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 01 DEGREE 19 MINUTES 54 SECONDS EAST 210.82 FEET; THENCE SOUTH 72 DEGREES 01 MINUTE 14 SECONDS WEST 82.70 FEET TO A POINT ON A CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 16 DEGREES 40 MINUTES 25 SECONDS AND A RADIUS OF 175.00 FEET; THENCE CONTINUING SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 50.75 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING SOUTH 26 DEGREES 18 MINUTES 58 SECONDS EAST HAVING A LENGTH OF 50.93 FEET); THENCE SOUTH 34 DEGREES 39 MINUTES 11 SECONDS EAST 60.82 FEET; THENCE SOUTH 42 DEGREES 04 MINUTES 43 SECONDS WEST 44.96 FEET; THENCE SOUTH 63 DEGREES 55 MINUTES 52 SECONDS WEST 99.88 FEET TO A POINT ON A CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 16 DEGREES 29 MINUTES 16 SECONDS AND A RADIUS OF 450.00 FEET THENCE; CONTINUING NORTHERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 129.49 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 17 DEGREES 49 MINUTES 30 SECONDS WEST HAVING A LENGTH OF 129.05 FEET); THENCE NORTH 09 DEGREES 34 MINUTES 52 SECONDS WEST 155.84 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE CONCAVE WESTERLY HAVING A CENTRAL ANGLE OF 72 DEGREES 24 MINUTES 20 SECONDS AND A RADIUS OF 550.00 FEET; THENCE CONTINUING NORTHERLY AND WESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 695.04 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 45 DEGREES 47 MINUTES 02 SECONDS WEST HAVING A LENGTH OF 649.71 FEET); THENCE NORTH 01 DEGREE 19 MINUTES 54 SECONDS

WEST 20.44 FEET; THENCE NORTH 88 DEGREES 32 MINUTES 40 SECONDS EAST 660.00 FEET; THENCE SOUTH 01 DEGREE 19 MINUTES 54 SECONDS EAST 357.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, AND CONTAINING 4.74 ACRES, MORE OR LESS.

**ALSO KNOWN A:**

AMENITY CENTER AT THE VILLAGE OF HERITAGE HILLS AS PER PLAT THEREOF RECORDED SEPTEMBER 3, 2008 AS INSTRUMENT NUMBER 200820838 IN PLAT CABINET 7, SLIDE 60, PAGE 2 IN THE OFFICE OF THE RECORDER OF HENDRICKS COUNTY, INDIANA.

EXHIBIT B

**AFFIDAVIT OF THE PRESIDENT**

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HAMILTON    )

Now comes Debbie Jones, and after being duly cautioned and sworn, deposes and says the following:

1. Affiant is the duly elected President of The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation.
2. As required by Section 17.2 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated June 30, 2010 and recorded July 7, 2010 as Instrument No. 201013802 in the Office of the Recorder of Hendricks County, Indiana, as amended, Affiant states that the affirmative vote of at least sixty-seven percent (67%) of all owners of Living Units located on the Property has approved the terms and conditions of the Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill, to which this Affidavit is attached.

Further Affiant Sayeth Naught.

The Village of Heritage Hill Community Association,  
Inc., an Indiana non-profit corporation

By: *Debbie Jones*  
Debbie Jones, President

BEFORE ME, a Notary Public in and for said County and State, personally appeared Debbie Jones, the President of The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation, who acknowledged execution of the foregoing Affidavit of the President for and on behalf of said entity, and who, having been duly sworn, stated the representations therein contained are true.

Witness my hand and Notarial Seal this 02<sup>nd</sup> day of March, 2020.

My Commission Expires:  
06-06-24

*Tamara Covert*  
Tamara Covert, Notary Public

Resident of Marion County, Indiana (Printed)





**Cross References:** Instrument Nos. 200700004441, 201013802, 201232188, 201324026, 201619252, 201619253, 201624944, 201625534, 201702467, 201711911, and 202005906

**DECLARATION OF RELEASE AND TERMINATION OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE VILLAGE OF HERITAGE HILL**

THIS DECLARATION OF RELEASE AND TERMINATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE OF HERITAGE HILL (this "Termination Release") is made this 10th day of August 2021 (the "Effective Date"), by LEGACY PARK, LLC, an Indiana limited liability company ("Legacy Park").

**RECITALS**

A. Rolling Hills, LLC, an Indiana limited liability company ("Rolling Hills"), as the original declarant, created a development consisting of several subdivisions collectively known as "The Village of Heritage Hill" (the "Development"), located in Lincoln and Washington Townships, Hendricks County, Indiana (the "Original Property").

B. Rolling Hills subjected the Original Property to that certain Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007 and recorded February 21, 2007 as Instrument No. 200700004441 in the Office of the Recorder of Hendricks County, Indiana (the "Original Declaration"); which was later amended and restated by Rolling Hills, Rockwood Custom Builders, LLC, an Indiana limited liability company ("Rockwood") and Legacy Park pursuant to that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated June 30, 2010 and recorded July 7, 2010 as Instrument No. 201013802 in the Office of the Recorder of Hendricks County, Indiana ("A&R Declaration"); as further amended by that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill recorded December 7, 2012 as Instrument No. 201232188 in the Office of the Recorder of Hendricks County, Indiana ("First Amendment"); as further amended by that certain Affidavit Regarding Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 21, 2013 and recorded August 28, 2013 as Instrument No. 201324026 in the Office of the Recorder of Hendricks County, Indiana ("Affidavit"); as such Declarant rights under the A&R Declaration, as amended, were assigned by Rolling Hills and Rockwood to Legacy Park pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded August 24, 2016 as Instrument No. 201619252 in the Office of the Recorder of Hendricks County, Indiana ("First Assignment"); as further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded August 24, 2016 as Instrument No. 201619253 in the Office of the Recorder of Hendricks County, Indiana ("Second").

Amendment"); as further amended by that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated August 2, 2016 and recorded October 24, 2016 as Instrument No. 201624944 in the Office of the Recorder of Hendricks County, Indiana ("Third Amendment"); as such Declarant rights under the A&R Declaration, as amended, were assigned by Legacy Park to Rolling Hills pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated October 1, 2016 and recorded October 31, 2016 as Instrument No. 201625534 in the Office of the Recorder of Hendricks County, Indiana ("Second Assignment"); as such Declarant rights under the A&R Declaration, as amended, were assigned by Rolling Hills to Heritage Hill, LLC, an Indiana limited liability company ("Heritage Hill") pursuant to that certain Assignment and Assumption of Declarant Rights under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated January 16, 2017 and recorded January 30, 2017 as Instrument No. 201702467 in the Office of the Recorder of Hendricks County, Indiana ("Third Assignment"); as further amended by that certain Fourth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated March 14, 2017 and recorded May 26, 2017 as Instrument No. 201711911 in the Office of the Recorder of Hendricks County, Indiana ("Fourth Amendment"); and as further amended by that certain Fifth Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated March 6, 2020 and recorded March 9, 2020 as Instrument No. 202005906 in the Office of the Recorder of Hendricks County, Indiana ("Fifth Amendment" and, collectively with all prior amendments and restatements, amendments and assignments, the "Declaration").

C. The Village of Heritage Hill Community Association, Inc., an Indiana non-profit corporation (the "Association") was formed on December 15, 2006.

D. The Fifth Amendment modified the property subject to the Declaration from the Original Property to the Property defined therein and replicated on Exhibit A attached hereto and incorporated herein by reference (the "Property").

E. The Declaration may be terminated in accordance with the provisions of Section 17.1 of the Declaration by a recorded instrument approved by a vote of sixty-seven percent (67%) of all Owners of the Association.

F. Legacy Park, desiring to terminate, discharge and release the Declaration from the Property as provided for in this Termination Release, executes this Termination Release on behalf of the Owners approving this Termination Release, as Legacy Park is the sole remaining Owner of the Lots under and pursuant to the Declaration.



NOW, THEREFORE, Legacy Park, as the sole remaining Owner within the subject Property, hereby declares as follows:

**AGREEMENT**

1. The Recitals set forth above are hereby incorporated into this Termination Release as if fully set forth herein.

2. Legacy Park hereby declares that the need for the Declaration no longer exists. Accordingly, Legacy Park hereby terminates, discharges and releases the Declaration and any and all rights and obligations under the Declaration from the Property.

3. This Termination Release will be recorded with the Office of the Recorder of Hendricks County, Indiana.

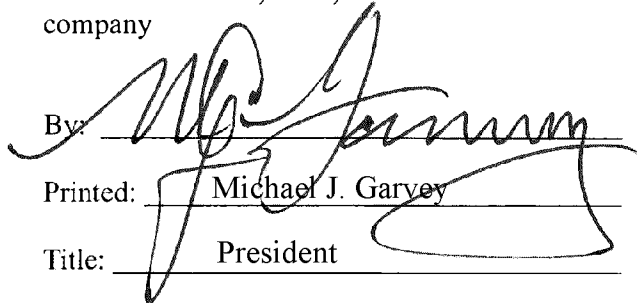
4. This Termination Release releases the Declaration and any encumbrance thereunder against the Property and all present and all future owners of the Property.

[SIGNATURE PAGE FOLLOWS]

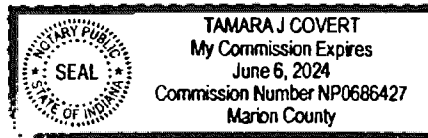
IN WITNESS WHEREOF, the parties have executed this Declaration of Release and Termination of Declaration of Covenants, Conditions and Restrictions for the Village of Heritage Hill on the date of notarization below to be effective as of the Effective Date.

**LEGACY PARK:**

**LEGACY PARK, LLC**, an Indiana limited liability company

By:   
Printed: Michael J. Garvey  
Title: President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HENDRICKS )



Before me, a Notary Public in and for said County and State, personally appeared Michael J. Garvey, the Manager of Legacy Park, LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing instrument for, and on behalf of, said limited liability company.

WITNESS my hand and Notarial Seal this 09 day of August 2021.

  
Notary Public  
Printed: Tamara Covert

My Commission Expires:

06-06-24

My County of Residence:

Marion

My Commission Number:

NP0686427

This instrument prepared by Sarah E. Jones, Attorney at Law, Krieg DeVault LLP, 12800 N. Meridian Street, Suite 300, Carmel, IN 46032.

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. Sarah E. Jones, Esq.

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

LOT 1 IN LEGACY PARK, BEING A SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 16 NORTH, RANGE 1 EAST, LINCOLN TOWNSHIP, HENDRICKS COUNTY, INDIANA, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 6, 2008 AS INSTRUMENT NO. 200813836.

AND:

A PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 16 NORTH, RANGE 1 EAST, LINCOLN TOWNSHIP, HENDRICKS COUNTY, INDIANA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS PLUG FOUND MARKING THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER SECTION; THENCE SOUTH 01 DEGREE 17 MINUTES 13 SECONDS EAST ALONG THE EAST LINE OF SAID QUARTER SECTION 1334.90 FEET TO A MAG NAIL FOUND; THENCE SOUTH 87 DEGREES 59 MINUTES 17 SECONDS WEST ON AND ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27 A DISTANCE OF 1332.01 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 01 DEGREE 19 MINUTES 54 SECONDS EAST 210.82 FEET; THENCE SOUTH 72 DEGREES 01 MINUTE 14 SECONDS WEST 82.70 FEET TO A POINT ON A CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 16 DEGREES 40 MINUTES 25 SECONDS AND A RADIUS OF 175.00 FEET; THENCE CONTINUING SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 50.75 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING SOUTH 26 DEGREES 18 MINUTES 58 SECONDS EAST HAVING A LENGTH OF 50.93 FEET); THENCE SOUTH 34 DEGREES 39 MINUTES 11 SECONDS EAST 60.82 FEET; THENCE SOUTH 42 DEGREES 04 MINUTES 43 SECONDS WEST 44.96 FEET; THENCE SOUTH 63 DEGREES 55 MINUTES 52 SECONDS WEST 99.88 FEET TO A POINT ON A CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 16 DEGREES 29 MINUTES 16 SECONDS AND A RADIUS OF 450.00 FEET THENCE; CONTINUING NORTHERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 129.49 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 17 DEGREES 49 MINUTES 30 SECONDS WEST HAVING A LENGTH OF 129.05 FEET); THENCE NORTH 09 DEGREES 34 MINUTES 52 SECONDS WEST 155.84 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE CONCAVE WESTERLY HAVING A CENTRAL ANGLE OF 72 DEGREES 24 MINUTES 20 SECONDS AND A RADIUS OF 550.00

FEET; THENCE CONTINUING NORTHERLY AND WESTERLY ON AND ALONG SAID CURVE AN ARC DISTANCE OF 695.04 FEET (SAID ARC BEING SUBTENDED BY A CHORD BEARING NORTH 45 DEGREES 47 MINUTES 02 SECONDS WEST HAVING A LENGTH OF 649.71 FEET); THENCE NORTH 01 DEGREE 19 MINUTES 54 SECONDS WEST 20.44 FEET; THENCE NORTH 88 DEGREES 32 MINUTES 40 SECONDS EAST 660.00 FEET; THENCE SOUTH 01 DEGREE 19 MINUTES 54 SECONDS EAST 357.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, AND CONTAINING 4.74 ACRES, MORE OR LESS.

ALSO KNOWN AS:

AMENITY CENTER AT THE VILLAGE OF HERITAGE HILLS AS PER PLAT THEREOF RECORDED SEPTEMBER 3, 2008 AS INSTRUMENT NUMBER 200820838 IN PLAT CABINET 7, SLIDE 60, PAGE 2 IN THE OFFICE OF THE RECORDER OF HENDRICKS COUNTY, INDIANA.