

**MASTER DECLARATION OF COVENANTS,
CONDITIONS, COMMITMENTS, RESTRICTIONS, EASEMENT AND
ASSESSMENTS OF AUBURN MEADOWS, PHASE I, AND SUBSEQUENT SECTIONS
THERETO LEBANON, INDIANA**

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**MASTER DECLARATION OF COVENANTS,
CONDITIONS, COMMITMENTS, RESTRICTIONS, EASEMENTS, AND
ASSESSMENTS OF AUBURN MEADOWS, PHASE I, AND SUBSEQUENT SECTIONS
THERETO LEBANON, INDIANA**

THIS MASTER DECLARATION of Covenants, Conditions, Commitments, Restrictions, Easements, and Assessments, hereinafter referred to as the "Declaration" or the "Covenants," is made this 3rd. day of April, 2006 by Auburn Meadows Development, LLC, an Indiana Limited Liability Company, hereinafter referred to as "Declarant" or "Developer,"

WITNESSETH:

WHEREAS, Declarant is the owner of a certain 23.69 acre parcel of real property, hereinafter referred to as the "Real Estate/Development," as described in Exhibit "A" attached hereto and by reference is made a part hereof;

WHEREAS, Declarant hereby subdivides a portion of said Real Estate into single-family lots known and designates said subdivision as AUBURN MEADOWS, PHASE I, consisting of 60 lots, hereinafter referred to as the "Subdivision", as per plat thereof recorded on the 5th day of December, 2005 under Instrument No. 200500514387 Plat Book 16 Page 35, in the records of the Office of the Recorder of Boone County, Indiana, and by reference made a part hereof; and

WHEREAS, Declarant establishes a system of assessments and charges, hereinafter referred to as the " Assessments," to be borne by Lot Owners (hereinafter referred to as "Owners") of the Development, to provide for maintenance of the Common Property in the Development, for insurance coverage, and for mutual enforcement of the Covenants; and

NOW, THEREFORE, Declarant hereby affirms that the Real Estate described in Exhibit "A" attached hereto and by reference made a part hereof shall be held, subdivided, sold and conveyed subject to the following Covenants which purport to protect the value and desirability of the Development, along with all subsequent Plats and phases recorded hereafter, (Phases II-IV) and which shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

- A. The following are the definitions of terms used in this Declaration:
 - 1. "Assessment" shall mean that share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of Article XVII herein.

2. "Association" shall mean Auburn Meadows Homeowners' Association, Inc. or an organization of similar name, its successors and assigns, and shall be created as an Indiana not-for-profit corporation. Its membership shall consist of Owners who pay mandatory assessments for liability insurance, project sign maintenance, storm water detention area maintenance, maintenance of landscaped areas in landscape easements, management fees and other expenses as determined by the Association.
3. "Builder" shall mean the contractor(s) constructing the first residence on each Lot, which may be the Developer for one or more Lots.
4. "Architectural Committee" shall mean the Auburn Meadows Architectural Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause as long as Developer owns one (1) lot. Developer by appointment shall fill vacancies that may occur from time to time on the Committee until such time as the Subdivision is completely developed, at which time the Association shall appoint the Committee from its membership.
5. "Common Expenses" shall mean the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of the Common Property as hereinafter defined and including, but not limited to, the maintenance of the storm water detention areas, but including normal mowing and cleaning of such areas, etc., and any other costs or expenses incurred by the Association for the benefit of the Common Property, including the cost of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation and completion of streets, utility lines and mains, the drainage system, or other public improvements constructed by Developer.
6. "Common Property/Common Area" shall mean all real and personal property that is in the nature of common or public improvements, including but not limited to private landscape easement areas (entrance landscaping and signage), easements for detention/retention pond(s), recreation area and equipment, and common property. It is anticipated all future sections may have certain additional amenities. On Outlot F there are landscape, utility, storm water, and sign easements, as well as recreational facilities.

Any medians within the public rights-of-way shall be Common Area and shall be maintained by the Association as such.

7. "Dwelling Unit" shall mean a single-family residence, including attached garage, situated upon a Lot in the Development.
8. "Lot" shall mean any residential parcel of Real Estate identified by number and as shown on the Plat of the Development, which is recorded in the Office of the Recorder of Boone County, Indiana. No Lot may be subsequently subdivided for development purposes, except to adjust for minor side yard infractions that may occur.

- 9. "Owner" shall mean a person who acquires any right, title or interest, legal or equitable, in and to a Lot, but shall exclude those persons having such interest merely as security for the performance of an obligation.
- 10. "Plat" shall mean the subdivision plat of the Development identified as the Final Plat of Auburn Meadows, Phase I, recorded on the 5th day of December, 2005, under Instrument Number 200500514387 in the Office of the Recorder of Boone County, Indiana, and any Plats of subsequent Phases recorded thereafter.

ARTICLE II
CHARACTER OF THE DEVELOPMENT

- A. **In General.** Each Lot in the Development shall be a residential lot and shall be used exclusively for single-family residential purposes. No structure shall be erected, placed or permitted to remain upon any Lot except a Dwelling Unit.

No business buildings may be erected on any Lots thereof. No business may be conducted on any Lots thereof, other than those occupations permitted in the Unified Zoning Ordinance of the City of Lebanon, Indiana.

Outlots A, B, C, D, E and F are non-residential Lots; the purpose of these lots is recreational, for drainage and utilities, as well as green space. Ownership is to be deeded to the owners' Association.

- B. **Other Restrictions.** All Lots in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

ARTICLE III
RESTRICTIONS CONCERNING SIZE, PLACEMENT, AND MAINTENANCE
OF DWELLING UNITS AND OTHER STRUCTURES

- A. **Type, Size, and Nature of Construction Permitted and Approvals Required.** No Dwelling Unit, greenhouse, porch, garage, swimming pool, exterior structure, fences, basketball court, tennis court or other recreational facility may be erected, placed or altered on any Lot without the prior written approval of the Architectural Control Committee. Such approval shall be obtained prior to the commencement of construction and shall take into account restrictions as to the type of materials, exterior facade, building elevations, design, layout, location, landscaping and finished grade elevations. Builders may submit sets of Master Plans of typical homes to the Committee. When approved by the Committee, these Master Plans shall not require subsequent approval unless there are changes thereto.

1. Minimum Areas. The following restrictions shall apply: Any Dwelling Unit erected, placed, or altered shall have the following minimum areas, exclusive of garages.
 - a. 1,500 square feet under roof for a one-story dwelling unit; or
 - b. 2,000 square feet under roof for any dwelling higher than one-story with a minimum of 900 square feet on the first floor.
2. Masonry Requirement. All residents shall have a minimum of full (100%) brick or masonry or concrete masonry board on the first floor front exterior wall area, exclusive of doors, windows, gables, and garage doors. All residents shall have a minimum 50% requirement for side and rear yard elevations.
3. Roof Pitch Requirements. No residence or attached garaged shall have less than a 6/12 roof pitch.
4. Attached Garages. Each Dwelling Unit shall have a minimum of a two-car attached garage with no less than a 6/12 roof pitch. No detached garages or carports shall be permitted.
5. Driveways and Off-Street Parking Spaces. There shall be a minimum of two (2) off street parking spaces in each driveway. All driveways shall be constructed of concrete or asphalt material.

A driveway shall not exceed in width the side boundaries of the garage it serves by more than twelve (12) inches. A driveway must be a minimum width of no less than the interior width of the garage door or doors it serves.

Side entry garages are permitted, provided that the entry side of the garage meets the width requirements immediately preceding.

Any other driveway design requires the approval of both Committee and Governmental authorities and must be submitted with site plan.

No additional parking shall be permitted on a Lot other than in the existing driveway.

Builders shall install driveways during original construction of the Dwelling Units.

No inoperative or unlicensed vehicles shall be stored or repaired on the outside on any Lot or on the driveway thereof. No camper, trailer, motor home, mobile home, boat, truck, school bus or other vehicle of like kind may be parked within the subdivision unless such vehicle is kept in the garage, except for personal automobiles, vans, and pick-up trucks. Also, refer to Article V, D.

6. Prohibition of Relocated or Moveable Structures. No Dwelling Unit, garage, out building or other structure of any kind may be moved onto any Lot. No trailer, mobile home, tent, basement, shack, garage, motor home, barn or other structure may be placed or constructed on any Lot at any time for use as either a temporary or permanent

residence or for any other purpose, except as reasonably required in connection with the construction of a Dwelling Unit on a Lot.

7. Time Limits on Construction. The exterior of every Dwelling Unit, garage, or other structure permitted to be constructed or to remain on any Lot shall be completed within six (6) months from the start of construction, including the application of at least one (1) coat of paint, stain or varnish on any exterior wood surfaces.

All structures must be One Hundred Percent (100%) complete, and the site graded, sodded, or seeded and reasonably landscaped within one (1) year from the date of the commencement of construction thereof.

8. Maintenance of Lots During Construction. All Lots shall be kept and maintained in a sightly and orderly manner during the period of construction of any structures on said Lots. No trash or rubbish of any kind shall be permitted to accumulate on any Lot or adjacent Lots. Construction debris shall be placed in dumpsters or wire/plastic trash enclosures which shall be placed on the Lots and not on the streets. The streets shall be kept clear of mud and dirt from water run off and excavation.

9. Basketball Goals and Similar Structures. To preserve the natural quality and aesthetic appearance of the Development, basketball goals or similar structures shall be approved in writing by the Committee for size, location, height, composition, and color prior to installation.

- a. No goal or structure may be installed or maintained such that playing basketball occurs in the street.

No portable goals shall be approved.

Backboards of all basketball goals shall be translucent fiberglass with a black pole (or approved equal). The Committee reserves the right to approve or disapprove the location of all basketball goals.

- b. Play equipment. Children's play equipment such as sandboxes, temporary swimming pools having a depth less than twenty-four (24) inches, swing and slide etc., playhouses and tents shall not require approval by the Committee provided such equipment is not more than six (6) feet high, maintained by the Lot owner in good repair (including painting) and every reasonable effort has been made by the Lot owner to screen or shield such equipment from view of adjacent Lot owners and the equipment shall be located in the rear of the Lot. Equipment higher than six (6) feet shall require approval in writing of design, location, color, material, and use by the Committee.
10. Fences. All fences and masonry landscape walls except those built by the Developer, shall meet the following standards, must be approved in writing by the: Committee prior to installation, and shall comply with the standards of the Unified Zoning Ordinance of the City of Lebanon, Indiana:

- a. Pool fences, where required, shall be a decorative type with some screen landscaping of the sides exposed to the streets. All pool fences must meet requirements of the City Engineer, City of Lebanon, codes and regulations, including, but not limited to, the requirement that all pool fences must be six (6) feet in height.
- b. No solid fence construction shall be permitted without approval of the Committee.
- c. Fences shall be shadow box, split rail, black vinyl clad chain link, or black or white ornamental picket style, unless otherwise approved by the Committee.
- d. The Committee shall require fences to be painted or stained to blend with the color of the respective houses.
- e. For non-corner lots, no fence may be installed between the street and the rear face of a house.

For corner lots, no fence may be installed between the street and the side and the rear corner of the house facing the two respective streets.

Landscaping shall be required along corner lot side-yard fences exposed to the street yard and must be approved by the Committee.

- f. All corner lot fences shall meet the requirements of Article III, Section B of these covenants.
 - g. The height of shadow box fences or pool fences may not exceed six (6) feet. The height of any other type of fence may not exceed four (4) feet. All owners shall maintain their respective fences in good condition including repainting and/or restaining wood fences, removing rust and repainting metal fences, and repairing any structural defects or signs of deterioration.
 - h. Any deviation from the above requirements shall require approval from the Committee.
 - i. The Committee shall have the discretion to allow other fence types, based on the plans submitted under Article III, Section A. and Article VI, Section A.
11. Landscaping. Initial landscaping of each lot will be required by Declarant to include specific numbers of each of the following:
- a. One (1) deciduous shade (overstory) tree in the front yard;
 - b. One (1) deciduous shade (overstory) tree in the back yard;
 - c. One (1) deciduous ornamental (understory) tree in the front yard;

- d. Six (6) shrubs as foundation plantings, 18 to 24 inch spread and 30 to 36 inches in height; and
- e. Each Lot shall have a sod or hydro-seeding requirement, as specified below:
 - i. Front yards shall be sodded or hydro-seeded;
 - ii. Corner side yards shall be sodded or hydro-seeded to the back face of the house; and
 - iii. Non-corner side yards and back yards shall be seeded and strawed (or better)

Builder is to install required planting material as part of the initial construction of the Dwelling Unit on each Lot. All landscaping shall be completed no later than 6 months from the commencement of construction of the home, weather permitting. In any case, any landscaping delayed by winter weather shall be completed by May 1st.

City of Lebanon regulations prohibit trees from being planted in the right-of-way (i.e., specifically, between the curb and sidewalk) of any of the street in the subdivision.

12. Mailboxes. Builders shall install matching Committee-approved and Post Office-approved curbside rural mailboxes during original construction of the Dwelling Units. Each Owner shall maintain and replace his or her mailbox with the same type, unless a change in design and color is approved by the Committee.

The City of Lebanon prohibits permanent structures (example: brick mailboxes) to be constructed in the right-of-way of the streets in the subdivision (i.e., specifically, between the sidewalk and the curb).

13. Storage Tanks. Gasoline or other fuel storage tanks will not be permitted in the Development.
14. Gutters and Downspouts. All gutters and downspouts shall be painted, except if copper gutters are installed.
15. Awnings and Patio Covers. Awnings and patio covers made of metal, fiberglass or similar type materials will not be permitted in the Development. Requests for other types of awnings and patio covers must be submitted to the Committee and be granted written approval.
16. Above Ground Swimming Pools. Above ground swimming pools will not be permitted in the Development.
17. In Ground Swimming Pools. In ground swimming pools shall be permitted in the Development, with the written approval of the Committee.
18. Storage Sheds. All accessory buildings shall be placed on a permanent foundation, shall be constructed of new materials, shall be architecturally and aesthetically compatible with the dwelling unit, shall be constructed with the same or equivalent materials as the

dwelling unit and shall be subject to the written approval of the Committee. Accessory buildings shall not exceed ten (10) feet in width, ten (10) feet in height, and ten (10) feet in length. Only one accessory building shall be permitted per lot.

19. Satellite Dishes and Antennas. Satellite dish antennas exceeding 29 inches in diameter will not be allowed. Satellite dishes 29 inches in diameter or less shall not be visible from the public street; similarly, the satellite dishes shall not be visible from the first floor level of adjoining homes. All antennas and satellite dishes shall be approved in writing by the Committee and shall be screened from view, as required by the Committee. The color of the dish shall blend with the color of the background in such a way that the dish shall become essentially invisible.

Any television or communication antenna shall not extend more than five (5) feet above the highest point of the dwelling unit, shall be new or in like-new condition, and shall be maintained in good condition.

20. Dog kennels or Runs. No dog kennels or dog runs will be allowed in the development.
21. Clothesline. No clothesline fixtures of any type shall be permitted.
22. Solar Heat Panels. Solar heat panels will not be permitted.
23. Utility Lines. All utility lines in the Development shall be placed underground. Utility lines shall be installed under completed streets by jacking or boring methods. Street cuts will not be permitted.
24. Utility Meters and HV AC Units. Wherever possible, all utility meters and HV AC units in the Development shall be located in places not seen from the street or shall be screened, if located in the fronts of the Dwellings.
25. Notice. The Developer shall include a copy of the recorded Plat and a copy of the recorded Declaration with all Builder's Agreements or forward same to Builder as soon as these documents are recorded. The aforesaid Plat and Declaration shall be presented to and reviewed with the Home Buyer by the Builder during the selection of the Lot by the Buyer (prior to the Closing of the Lot).
26. Street Lights. Developer shall enter into a lease agreement for the installation of uniform street lights as a part of the development improvements; the Association shall pay the lease payments and maintain street lights, according to the lease with the supplier.
- B. Sight Distance at Intersections. No fence, wall, hedge, shrub, or landscape planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway. No tree shall be permitted to

remain within such distances of such intersections unless the foliage line is maintained at a height sufficient to prevent obstruction of such sight lines.

- C. Building Setback Lines. Front building setback lines are established as shown on the Plat. Between said lines and the right-of-way lines of the streets no structures may be erected or maintained. Additionally, no structures may be erected or maintained between the side and rear lot lines and the right-of-way lines of the street.
- D. Damaged Structures. No dwelling unit which has been partially or totally destroyed by fire or other catastrophic event shall be allowed to remain in such state for more than thirty (30) days from the date of such occurrence.
- E. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements thereon in such a manner to prevent the Lot and its improvements from becoming unsightly. Specifically, the Owner shall:
 - 1. Establish and mow the grass with reasonable frequency to prevent its growth from exceeding four (4) inches in height. This mowing requirement shall not apply to Lots owned by the Declarant.
 - 2. Keep Lot free of debris and rubbish;
 - 3. Prevent conditions of any kind from evolving which in the Committee's opinion may detract from or diminish in any way the aesthetic value of the Development;
 - 4. Remove dead trees and replace with like species; and,
 - 5. Maintain the exterior of all improvements in a state of good repair.
- F. Requirement to Mow Grass in Public Rights-of-Way. All Owners shall be required to mow the grass in public rights-of-way including the areas between the sidewalk and the curb for their respective Lots and all grass areas in Outlots A,B,C,E and F within the boundaries of the continuation of the property lines of the Owners lot to the rear of the lot.

On Outlot D, Lot 1, and Lots 45 through 94, the grass in the landscape easement shall be maintained by the Association.

ARTICLE IV **EASEMENTS**

The strips of ground shown on the recorded plat of the Development which are marked "D. & U. Ease." (Drainage and Utility Easements) are reserved for the use of public utility companies, including cable television companies and municipal agencies, but not including transportation companies, for the purpose of installing and maintaining drainage swales, ducts, poles, lines, wires, sewers, drains and appurtenances thereto. Said easements shall be perpetual from the date of this Instrument as subscribed to by the Developer, its successors and assigns. No permanent or

other structures may be erected or maintained in said easements except for temporary structures, fences, driveways and walkways. The Owners of Lots in the Development shall take title to said Lots subject to the rights of said companies and agencies and the other owners of said Lots in the Development for purposes of ingress and egress and maintenance and repair in, long and through said easements so reserved.

ARTICLE V
MISCELLANEOUS PROVISIONS AND PROHIBITIONS

- A. Nuisances. No noxious or offensive activities shall be conducted on any Lot in the Development, nor shall anything be done on any Lot which shall be or shall become an unreasonable annoyance or nuisance to the Owners of other Lots in the Development. Nor shall Developer, any officer, agent, employee or contractor thereof, the Association, or any Owner be liable for any damage which may result from enforcement of the provisions of this paragraph.
- B. Signs. No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior written approval of the Committee, except for the sale of a Lot or residence. However, Developer and designated Builders may use for sale and advertising signs during the sale of lots and the construction of houses in the Development.
- C. Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they
1. shall not be kept, bred, or maintained for any commercial purpose;
 2. shall not become a nuisance to other Owners; and
 3. shall be leashed upon leaving Owner's property.

No more than three (3) pets of 20 pounds or less, no more than two (2) pets of 21 to 75 pounds, and no more than 1 pet 76 to 150 pounds shall be permitted to be domiciled in a Dwelling Unit or on a Lot. Pets which exceed 150 pounds shall be approved by the Committee.

- D. Vehicle Parking. No Street Parking; No Semi Tractor-Trailers. No motor vehicle shall be continuously or habitually parked on any street or public right-of-way in the Development. This being the intent of Declarant and this Declaration that vehicles be kept in driveways and garages. No semi tractor-trailers, other large trucks, vans, or other vehicles, as determined by Declarant in its sole discretion, shall be permitted within the Development, except for limited periods as determined by Declarant in its sole discretion for moving vans being utilized by residents for moving in or out of a residence, except for such construction, delivery, or other vehicles as Declarant may permit from time-to time in its sole discretion.

Any motor vehicle that is inoperative and not being used for normal transportation will not be permitted to remain on any street or lot except within a closed garage. Motor vehicles may

not be parked upon grassy or landscaped areas.

Unless otherwise provided by the rules and regulations of the Committee, motor homes, mobile homes, boats, campers, trailers, commercial trucks and similar vehicles may not be parked or stored upon a Lot unless within a closed garage.

All passenger vehicles shall be parked in garages or in driveways. Guest vehicles may be parked on the public streets for a period not to exceed twenty-four (24) hours. Guest vehicle does not include any vehicle which is parked frequently on public streets (i.e., if a vehicle is parked on the street for more than 24 hours per month it does NOT qualify as a guest vehicle). Vehicles may not be placed on blocks or jacks for purposes of repair, except for repairs made inside of garages.

The above restriction does not prohibit the temporary parking of such vehicles for loading and unloading purposes either on the street or in the driveway, as long as, it is removed from the Subdivision within twenty-four (24) hours of its being parked in the Subdivision.

- E. Ditches and Swales. All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales located on their respective Lots. Owners of all Lots in the Development shall comply at all times with the provisions of the Development and Grading Plans for the Plat as approved by the Drainage Board, City of Lebanon, Indiana, and with the requirements of all drainage permits issued for any Lot within the Development. Any field tile or underground drain encountered during the construction of any improvements within the Development shall be perpetuated. All Lot Owners in the Development, their successors, and assigns, shall comply with the Indiana Drainage Code of 1965, and all amendments thereto. No culverts shall be installed by any Lot Owner without the written consent of the City of Lebanon Drainage Board.

No sanitary waste or other wastes shall be permitted to enter the storm drainage system. Discharge from any floor drain shall be permitted to discharge into the sanitary sewer system. Footing drains and downspouts shall not discharge into the sanitary sewer system. Downspouts shall discharge onto the surface at the ground or be connected to yard sub drains or storm drains. With the purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance that may be abated by Developer, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

- F. Annexation to the City of Lebanon. In consideration of the City of Lebanon, Indiana, for permitting the Developer to connect, at its request, to the City sewerage system and for other good and valuable consideration, the Developer, being the fee simple owner of all the real estate to be serviced, for itself and its successors-in-interest, hereby waives all rights to participate in any attempt for dis-annexation of the subdivision from the City of Lebanon.
- G. No Vehicular Access. No vehicular access permitted from Elm Swamp Road from Lots 89 through 94, inclusive, and Lot 1. Also there shall not be any vehicular access permitted from

County Road 300 N. and the proposed John Bart Road extension from lots 45 through 89 inclusive.

This no vehicular access requirement shall be irrevocable by the Association and/or Lot Owners, and is enforceable by the Boone County Area Plan Commission.

- H. Garbage, Trash, and Other Refuse. No owner of a Lot in the Development shall burn or bury out-of-doors, any garbage or refuse. Nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his or her Lot.
- I. Outside Toilets. No outside toilets shall be permitted on any Lot in the Development (except during the period of construction and then only with the consent of Committee).
- J. Regulated Drain. The Development's water surface drainage system, including the public storm sewer pipes, the open channels, and the off-site drainage easements have or will be dedicated to the City of Lebanon as the existing legal tile drains have been vacated by order of the Boone County Drainage Board and merged into the drainage system for the Auburn Meadows Subdivision.
- K. Recreation Areas. Outlot D is platted as a non-residential building site for purpose of recreation. The use of the recreational facilities on Outlot D is restricted to that of the residents of Auburn Meadows. Ownership of Outlot D will be transferred to the Homeowners' Association. Maintenance of Outlot D will be the duty of the Association.
- L. Right to Farm
1. Developers and lot owners acknowledge that the following agricultural uses are permitted in the area surrounding the Real Estate:
 - a. Any activity or impact associated with the production of grain row crops; specialty crop, vegetable, or truck farms; fruit orchards; etc. This includes the operation of farm equipment 24 hours a day if necessary in the fields and on the county roads; application or spraying of typical agricultural fertilizers, including manure; application or spraying of typical agricultural herbicides and pesticides; and the on-farm storage of these crops, including the operation of silos, grain augers, and grain dryers; and facilities for the sorting or distribution associated with said agricultural crops.
 - b. Raising of livestock and the confinement feeding of livestock, including but not limited to hogs, cattle, chickens, and turkeys.
 - c. Agri-Business uses, including but not limited to see research and processing facilities, grain elevators; corporate livestock production; commercial greenhouses; farm implement repair; livestock sale barn; roadside produce stand; plant nursery; and landscape contractor.
 2. Developers and lot owners acknowledge and agree that no agricultural or agri-

business operation in the area surrounding the Real Estate shall be or become a nuisance, private or public, by any changed conditions in the vicinity as long as:

- a. No significant change has occurred in the type of operation since it began to operate and
 - b. The operation is not operated in a negligent way as to cause a health and safety hazard to adjacent properties.
3. Developers and lot owners further agree not to object to the continuation of any such agricultural or agri-business operation in the area surrounding the Real Estate as long as such operation does not constitute a nuisance.
 4. These Commitments are supplemental to the Indiana Right to Farm Law as amended and as such are not subject to the continued effectiveness of such law.

ARTICLE VI

SUBMITTAL AND APPROVAL OF PLANS

- A. Submittal of Plans. No building, wall or other structure, except original construction of buildings by or on behalf of Declarant or an original Builder, may be commenced, erected or maintained in the Development, nor may any exterior additions, changes, or alterations therein or thereto be made until the plans and specifications for said addition, changes or alterations are submitted to and approved in writing by the Architectural Control Committee for harmony of external design and location in relation to surrounding structures and topography.
- B. Approval of Plans. Approvals, determinations, permissions or consents of and for plans required herein shall be deemed granted if given in writing and signed with respect to Developer by an authorized Officer or agent thereof, or with respect to the Committee by two of its authorized designee(s).
- C. Development Control Committee. Upon transfer of control of the Association to the Board of Directors and/or Officers of the Association, Developer will retain the approval of the first Dwelling constructed upon any Lot. All other approvals of plans will be transferred to the Architectural Control Committee.
 1. Power of Architectural Control Committee.
 - a. In General. No building structure or improvement of any type of kind shall be constructed or placed on any Lot in the Development without prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee.

Such written application shall be in the manner and form prescribed from time to

time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing all existing conditions upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of one-quarter (1/4) inch equals one foot (1'), or to such other scales as the Committee may require. There shall also be submitted, where applicable, the permits or plot plans which shall be prepared by either a registered land surveyor, engineer, or architect. Plot plans submitted for Building Permits shall bear the stamp or signature of the Committee acknowledging the approve; thereof.

- b. Power of Disapproval. The Committee may refuse to grant permission to remove trees, repaint, construct, place or make the requested improvement, when:
1. the plans, specifications, drawings, or other material submitted are inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;
 2. the design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or
 3. the proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare, or rights of all or any part of the other Owners.
- c. Developer Improvements. The Committee shall have no power with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans therefore).
- d. Duties of Committee. The Committee shall approve or disapprove the proposed improvements within fifteen (15) days after all required information is received by it. One (1) copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval. In the event that a written approval is not received from the Committee within fifteen (15) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the disapproval of any such plans submitted.

The submitting party can re-submit and if no written approval or denial is received, after the next fifteen (15) days, the no action shall be construed as approval.

- e. In General. Any party to whose benefit these restrictions inure, including Developer, Association and any Owner in the Development, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce, or carry out any of these Restrictions.
- f. Liability of Committee. Neither the Committee nor any agency thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications, or other materials submitted to it, nor for any defects in any work done according thereto.
- g. Inspections. The Committee may inspect work being performed to assure compliance with these Restrictions and applicable regulations.
- h. The failure of the Committee to act in any particular situation with any particular party shall in no way be a waiver of any right of action or enforcement in the future.

ARTICLE VII
RULES GOVERNING BUILDING ON SEVERAL
CONTIGUOUS LOTS HAVING ONE OWNER

Whenever two or more contiguous Lots in the Development are owned by the same Owner, and said Owner proposes to use two or more of said Lots as a site for one (1) Dwelling Unit, said Owner shall apply in writing to the Committee for permission to use said Lots for this purpose. If permission is granted, Owner must comply with all requirements of the Boone County/City of Lebanon Unified Subdivision Ordinance. The Lots constituting the site for said Dwelling Unit shall be treated as a single Lot for the purpose of applying these restrictions while the Lots remain improved with one (1) Dwelling Unit. No two-family dwellings shall be permitted in the Development.

ARTICLE VIII
REMEDIES

- A. Available Remedies. In the event of a violation, or threatened violation, of any of the Covenants herein recited, Declarant, the Owners and all other parties claiming under them ("Interested Parties"), individually or through the Association, shall have the right to enforce the Covenants contained herein, and may pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, and including the right to secure injunctive relief or to secure removal by due process of any structure not in compliance with the Covenants contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.
- B. Government Enforcement. The Boone County Area Plan Commission, its successors and assigns, shall have no right, power or authority to enforce any Covenants contained in this

Declaration other than those Covenants which expressly run in favor of the Boone County Area Plan Commission; provided further, that nothing herein shall be construed to prevent the Boone County Area Plan Commission from enforcing any provisions of the Unified Subdivision Ordinance, as amended, or any conditions attached to approval of the plat of Auburn Meadows, Phase I, by the Plat Committee, and any subsequent sections approved thereafter.

- C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of anyone or more of these Covenants shall be held to be a waiver by that party (or any estoppel of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Covenants.

ARTICLE IX **EFFECT OF BECOMING AN OWNER**

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through, or under them, shall be subject to and shall comply with the provisions of this Declaration and the Articles, the By-Laws, and the rules and regulations adopted by the Board of Directors of the Association as each may be amended or supplemented from time to time. The acceptance of a deed or conveyance of the act of occupancy of any Lot or Dwelling Units shall constitute an agreement that the provisions of this Declaration and the Articles, the By-laws and the rules and regulations of the Association as each may be amended or supplemented from time to time, are accepted and ratified by such owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration and the Articles, the By-Laws, and the rules and regulations of the Association applicable thereto as each may be amended or supplemented from time to time.

ARTICLE X **TITLES**

The underlined titles of the various Articles and Sections of these Covenants are for the convenience of reference only. None of them shall be used as an aid to the construction of any provisions of the Covenants. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

ARTICLE XI **DURATION AND AMENDMENT**

- A. Duration of Declaration This Declaration shall be effective for an initial term of twenty (20) years from the date of its recordation by the Recorder of Boone County, Indiana, and shall automatically renew for additional terms often (10) years each, in perpetuity, unless at the end of any term the Owners' vote pursuant to Article XVII, Section K. to terminate this

Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Amendment of Declaration As long as Developer is a Class B member as defined in Article XV, Section B.2., Developer hereby reserves the right to make such amendments to this Declaration as Developer may deem necessary or appropriate without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or any agency guaranteeing, insuring, or approving mortgages, or to change or modify Covenants for amendments to the Plat or Article III Restrictions which would apply to future construction, provided that Developer shall not be entitled to make any amendment which will have a materially adverse effect on the rights of any Mortgagee, nor which will substantially impair the benefits of the Covenants to any Owner or substantially increase the obligations imposed by the Covenants on any Owner without the written approval of said Owners as provided for under Article XVII, Section K.

Upon conversion of Class B membership to Class A membership as provided in Article XV, Section B.2, the Covenants may be amended as provided for under Article XVII, Section K.

Amendments to this Declaration shall require HUD/VA prior approval as long as there is a Class B membership, except for Amendments due to typographical and clerical errors.

ARTICLE XII
SEVERABILITY

The within Covenants shall run with the land and shall be binding on all parties claiming under them. Invalidation or unenforceability of any of the Covenants by Judgment or Court Order shall in no way affect the validity or enforceability of any of the other provisions, which shall remain in full force and effect.

ARTICLE XIII
DEDICATION OF STREET RIGHTS-OF-WAY

All street rights-of-way shown on the plat and not heretofore dedicated to the public are hereby dedicated to the public.

ARTICLE XIV
HOMEOWNERS" ASSOCIATION

The Association shall be an Indiana not-for-profit corporation and shall operate in accordance with Articles XV through XVIII of this Declaration.

ARTICLE XV
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall

be appurtenant to and may not be separated from the ownership of any Lot. In addition, the Association, and/or its members therein, may be members in anyone or more umbrella or joint homeowners' associations, if any, composed of associations and/or members from surrounding areas or, if organized by the Builders or Lot Owners of a community.

B. Classes of Membership. The Association shall have two (2) classes of voting members:

1. Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
2. Class B. The Class B member(s) shall be the Declarant, who shall be entitled to five (5) votes for each Lot owned, and the members of the first Board of Directors during their respective terms, who shall have no voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events in Auburn Meadows, Phase I and subsequent phases thereto, whichever occurs earlier:
 - a. When 75% of the 272 Lots (Phases I-IV) are deeded to homeowners; or
 - b. On June 1, 2014.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declaration for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners seeking enforcement of the Covenants contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declaration or for any failure to take any action called for by the Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance, liability insurance and such other insurance as it deems necessary or advisable. The Association by its Board of Directors may contract for management services and such other services as the Association deems necessary or advisable.

E. Transfer of Control of Association. Developer shall transfer control of the Association to the Owners no later than the earlier of:

1. Four (4) months after three-fourths (3/4) of the Lots in the completed Development have been conveyed to Owners; or
2. On June 1, 2014.

ARTICLE XVI
INSURANCE

- A. Public Liability Insurance for Common Property. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Common Property, if any, as the Board of Directors shall deem appropriate.
- B. Comprehensive Public Liability Insurance. The Association also shall maintain in force comprehensive public liability insurance and such other liability insurance, with such coverages and limits, as the Board of Directors shall deem appropriate. All such policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured there under, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage there under is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and shall name Mortgagees as Mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least thirty (30) days prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any managing agent or company acting on behalf of the Association. The individual Owners as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.
- C. Professional Management Firm Insurance. A professional management firm shall provide insurance coverage to the same extent as the Association would be required to provide if it were managing its own operation and shall submit evidence of such coverage to the Association.
- D. Owner's Responsibility for Loss. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

ARTICLE XVII
COVENANT FOR ASSESSMENTS

- A. Purpose of Assessments. The Assessments levied by the Association shall be used

exclusively for the purpose of improving, repairing, replacing and maintaining project sign structures; maintaining the landscaping for said project signs and landscaping in the landscaping easements on Outlot D in Phase I and on Outlots in a subsequent Phases, maintenance of the median (and plantings therein) within the public right-of-way, including utilities and maintenance for a sprinkler system and entrance street light; maintaining storm water retention areas; providing insurance coverage therefore, professional management fees; and paying for any other expenses related to the Association, including lease payments and maintenance fees for street lights for the subdivision.

1. Each owner covenants and agrees to pay the Association:
 - a. A Pro Rata Share (as hereinafter defined) of the annual Assessments established and determined from time to time as hereinafter provided.
 - b. A Pro Rata Share (as hereinafter defined) of any special Assessments established and determined from time to time, as hereinafter provided.
- B. Pro Rata Share. The pro rata share for each Owner for purposes of this paragraph shall be the percentage obtained by the fraction of one over the total number of lots (1/Total no. of Lots) within the Plat.
- C. Liability for Assessments. The Assessment on each Lot, together with any interest thereon and any costs for collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs for collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments, which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.
- D. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget at the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Property. A copy of this budget shall be delivered to each Owner of the Association.
- E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be

necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of the Owners in attendance at the special meeting convened under Clause K of this Article XVII, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

- F. Fiscal Year; Date of Commencement of Assessments; Due Date. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in the Development shall commence no sooner than on the first day of the first month following the month in which Declarant first conveys ownership of any Lot to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefore as provided herein.

The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and, with respect to particular Lots, shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable, in full, as of the above date or as of the transfer of a Lot to an owner other than the Declarant, except that the Board of Directors may, from time to time by resolution, authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments. The Declarant shall not pay an assessment on Lots which are not sold.

G. Duties of the Association.

1. Books and Records. The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be delivered to the Owners or their designated representatives. Notices of the amount of Annual Assessments and the days following the determination thereof and Notices of the amounts of special Assessments shall be sent as promptly as practical and, in any event, not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is delivered less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual delivery of such notice.

2. Certificate of Assessment. Upon request the Association shall promptly furnish to any Owner, prospective purchaser, title insurance company, or Mortgagee, a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. For any person relying thereon, such certificate shall be conclusive evidence that of any Assessment therein stated has been paid.
3. Request for Notice from Mortgagee. The Association shall notify any Mortgagee from which it has received a request for notice:
 - a. of any default in the performance of any obligation under this Declaration by any Owner which is not remedied within sixty (60) days;
 - b. of any condemnation of casualty loss that affects either a material portion of the Development of the Lot securing its mortgage;
 - c. of any lapse, cancellation, or material modification of any insurance policy required to be maintained by the Association; and
 - d. of any proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declaration.

H. Association Remedies for Non-Payment of Assessments.

1. Lien for Non-Payment of Assessment. If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in said Lot; provided however, that the lien of the Assessment provided for herein shall be subordinate to the lien of any first mortgage.
 2. Initiation of Action by Association for Non-Payment of Assessment. If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all cost of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum. The Association may bring an action against the delinquent Owner in any court having jurisdiction to enforce payment of the same and/or to foreclose the lien against Owner's Lot. There shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.
- I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following year, except that so long as the

Declarant controls the Association, Declarant may, at its sole discretion, make up such deficit; provided, however, that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 18% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to the Owners.

- J. Initial Assessments. During the first year in which the date when the Declaration is recorded, the annual Assessment per Lot shall not exceed Two Hundred Dollars (\$200.00) for Class A members, payable annually. This amount shall not indicate amounts of future annual Assessments. Future Assessments shall be based on an annual budget and shall be for a full year.

Regular Assessments may be increased up to 15% each year without a vote of the membership; provided that proper notice is given to the Owners not less than thirty (30) days in advance of the meeting to approve the annual budget. The Declarant, at its sole discretion, may advance to the Association any of the first year deficit and may be reimbursed by subsequent assessments.

- K. Notice and Quorum for any Action to Increase Assessments In Excess of 15% or to Amend the Declaration. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association or an Amendment to the Declaration shall be sent to all Owners not less than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum.

If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum shall be those Owners who are present at this subsequent meeting. A majority of the lots represented in this Quorum must approve the assessment or amendment.

- L. Subordination of the Lien to Mortgages. The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. If and to the extent this Paragraph is inconsistent with any other paragraph in the Declaration, then this paragraph shall prevail.

ARTICLE XVIII

FUTURE IMPROVEMENTS

- A. The Developer has preliminary plans to construct and develop adjacent Phases and Subdivisions to Auburn Meadows, which may contain certain amenities, such as a swimming

pool, tennis and basketball courts, and walking paths. If the amenities are constructed, the Lot Owners shall be required to participate in the maintenance of those amenities through an increase in the monthly Association assessment. Such increase shall be determined at the time said amenities are constructed, but said increase shall not exceed One Hundred Fifty (\$150.00) annually in the first year when the amenities are completed. Thereafter, the new assessment shall be determined as per Article XVII, Paragraphs I and J. Therefore, the total assessment shall be the Class A assessment as stated in Article XVII. J. plus the assessment addition shown in this article (initially, \$200.00 + \$150.00 = \$350.00) after the amenities are constructed.

IN WITNESS WHEREOF, the undersigned officer of Declarant has hereunto caused his name to be subscribed this 3rd day of APRIL, 2006.

DECLARANT
Auburn Meadows Development, LLC
An Indiana Limited Liability Company

BY: *Travis V. Pherson*
Travis V. Pherson, Managing Member

STATE OF INDIANA)
) .SS:
COUNTY OF TIPPECANOE

Before me, a Notary Public in and for said County and State, personally appeared Travis V. Pherson, Managing Member of VMS, LLC an Indiana Limited Liability Company who acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments as such Officer acting for and on behalf of said Company, and who, having been duly sworn, stated that any representations herein contained are true.

Witness my hand and Notarial Seal this 3RD day of APRIL, 2006.



Doris J. Bruton
Notary Public - Signature

This instrument prepared by:

EXHIBIT "A"

LEGAL DESCRIPTION-PHASE ONE

A part of the north half of Section Nineteen (19), Township Nineteen (19) North, Range One (1) East West, in Center Township, Boone County, Indiana, as depicted on a plat of survey by Vester & Associates, Inc. job number E-04006, being more completely described as follows, to-wit:

Commencing at the northeast corner of Section 19-19-1E, said point being marked by a ½" rebar in the approximate centerline of County Road 300 North; thence along the north line of said section and along said centerline, North 89 degrees 44 minutes and 39 seconds West, 1670.18 feet to the point of beginning of the herein described tract; thence South 00 degrees 15 minutes 21 seconds West, 185.00 feet; thence South 89 degrees 44 minutes 39 seconds East, 2.17 feet; thence South 00 degrees 15 minutes 21 seconds West, 193.15 feet; thence South 71 degrees 37 minutes 34 seconds East, 12.67 feet; thence North 75 degrees 03 minutes 54 seconds East, 65.24 feet; thence South 89 degrees 44 minutes 39 seconds East, 129.67 feet; thence South 00 degrees 15 minutes 21 seconds West, 120.00 feet; thence South 89 degrees 44 minutes 39 seconds East, 26.37 feet; thence South 00 degrees 15 minutes 21 seconds West, 193.10 feet; thence South 84 degrees 19 minutes 49 seconds East, 211.43 feet; thence North 73 degrees 07 minutes 45 seconds East, 112.21 feet; thence South 89 degrees 44 minutes 39 seconds East, 168.18 feet; thence South 00 degrees 21 minutes 34 seconds West, 291.14 feet; thence North 89 degrees 38 minutes 26 seconds West, 200.00 feet; thence North 00 degrees 21 minutes 34 seconds East, 22.28 feet; thence South 81 degrees 47 minutes 05 seconds West, 171.53 feet; thence North 08 degrees 12 minutes 55 seconds West, 17.37 feet; thence South 59 degrees 19 minutes 47 seconds West, 153.70 feet; thence North 89 degrees 41 minutes 44 seconds West, 415.55 feet to the northeast corner of the Lebanon Community School Corporation property, as described in Deed Book 251, Page 891, recorded September 22, 1994 in the office of the Recorder of Boone County; thence along said School property, North 89 degrees 41 minutes 44 seconds West, 698.36 feet to a railroad spike in the approximate centerline of Elm Swamp Road; thence along said centerline, North 18 degrees 22 minutes 26 seconds East, 1072.83 feet to a railroad spike on the north line of said section and the approximate centerline of County Road 300 North; thence along said north line and approximate centerline, South 89 degrees 44 minutes 39 seconds East, 565.71 feet to the point of beginning, containing 23.69 acres, more or less.

ADDENDUM #1

**MASTER DECLARATION OF COVENANTS,
CONDITIONS, COMMITMENTS, RESTRICTIONS, EASEMENT AND
ASSESSMENT OF AUBURN MEADOWS, PHASE I, AND SUBSEQUENT SECTIONS
THERE TO LEBANON, INDIANA**

This Addendum # 1 to the Master Declaration of Covenants, Conditions, Commitments, Restrictions, Easement and Assessment of Auburn Meadows, Phase I, and Subsequent Sections Thereto Lebanon, Indiana of the Auburn Meadows Subdivision recorded on the 4th day of April, 2006, Instrument Number, 200600003281, is made and entered into this 3rd October, 2007, by **Auburn Meadows Development, LLC, an Indiana Limited Liability Company** (“Developer”),

WITNESSETH

WHEREAS, Developer is the fee simple title owner of all of the lands in Boone County, contained in and fully described in the Master Declaration of Covenants, Conditions, Commitments, Restrictions, Easement and Assessment of Auburn Meadows, Phase I, and Subsequent Sections Thereto Lebanon, Indiana to the Auburn Meadows Development;

WHEREAS, Developer has the requisite ownership to amend the original Master Declaration pursuant to Article XI, **Duration and Amendment, B. Amendment of Declaration**; and

WHEREAS, Developer desires to make a change to certain architectural standards dealing with Masonry Requirements.

NOW, THEREFORE, Developer hereby amends Article III, Section A-2 (page 4) so that the same shall now read as follows:

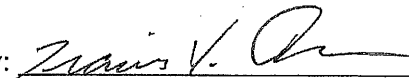
200700011417
Filed for Record in
BOONE COUNTY, INDIANA
MARY ALICE "SAM" BALDWIN
11-13-2007 At 09:07 am.
COVENANTS 18.00

Section 2. Masonry Requirements: All residents shall have a minimum of (50%) fifty percent brick, masonry, or concrete masonry board on the front elevation, exclusive of doors, windows, gables, and garage doors. On a corner lot, all residents shall have a minimum of (50%) fifty percent brick, masonry, or concrete masonry board on any side elevation that faces a street. The balance of said residence shall be vinyl and/or any other approved siding by the architectural committee.

IN WITNESS WHEREOF, the undersigned has caused this Addendum #1 to the Master Declaration of Covenants, Conditions, Commitments, Restrictions, Easement and Assessments of Auburn Meadows, Phase I, and Subsequent Sections Thereto Lebanon, Indiana to be executed on the 31st day of OCTOBER, 2007.

DECLARANT

Auburn Meadows Development, LLC
An Indiana Limited Liability Company

By: 
Travis V. Pherson, Managing Member

STATE OF INDIANA)

) SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Travis V. Pherson, Managing Member of Auburn Meadows Development, LLC an Indiana Limited Liability Company who acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Commitments, Restrictions, Easements and Assessments as such Officer acting for and on behalf of said Company, and who, having been duly sworn, stated that any representations herein contained are true.

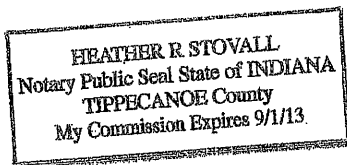
Witness my hand and Notarial Seal this 31 day of Oct, 2007.



Notary Public – Signature

County of Residence:

My Commission Expires:



This instrument prepared by: Michael J. Andreoli, ANDREOLI & JACOB, 1393 West Oak Street, Zionsville, Indiana 46077.



Cross reference: 200600003281, 200700011417, 200500514387, 2017007000, 2021015313.

**SECOND AMENDMENT TO MASTER DECLARATION OF COVENANTS,
CONDITIONS, COMMITMENTS, RESTRICTIONS, EASEMENTS, AND
ASSESSMENTS OF AUBURN MEADOWS, PHASE 1 AND SUBSEQUENT
SECTIONS THERETO LEBANON, INDIANA**

This Second Amendment to Master Declaration Of Covenants, Conditions, Commitments, Restrictions, Easements, and Assessments Of Auburn Meadows, Phase 1 And Subsequent Sections Thereto Lebanon, Indiana ("Second Amendment") was made as of the date set forth below.

WITNESSETH:

WHEREAS, the Master Declaration Of Covenants, Conditions, Commitments, Restrictions, Easements, And Assessments Of Auburn Meadows, Phase 1 And Subsequent Sections Thereto Lebanon, Indiana was recorded in the Office of the Recorder of Boone County, Indiana, on April 4, 2006, as Instrument No. 200600003281 (hereinafter, the "Declaration"), and the First Amendment to Declaration was recorded in the Office of the Recorder of Boone County, Indiana, on November 13, 2007, as Instrument No. 200700011417 (hereinafter, the "First Amendment") (the Declaration and First Amendment shall hereafter be collectively referred to as the "Amended Declaration"); and

WHEREAS, unless otherwise defined in this Second Amendment, all capitalized terms in this Second Amendment shall have the same meaning as set forth in the Amended Declaration; and

WHEREAS, the Auburn Meadows Subdivision, Phase Two Secondary Plat was recorded with the Recorder of Boone County, Indiana on July 25, 2017 as Instrument No. 2017007000(the "Phase 2 Plat") and the Lot Owners are desirous of including in the Real Estate/Development the real estate legally described in what is attached hereto and incorporated herein by reference as Exhibit "1" (the "Phase 2 Land") and to further amend the Amended Declaration as set forth below; and

WHEREAS, the Auburn Meadows Subdivision, Phase Three Final Plat was recorded with the Recorder of Boone County, Indiana on October 5, 2021 as Instrument No. 2021015313 (the "Phase 3 Plat") and the Lot Owners are desirous of including in the Real Estate/Development the real estate legally described in what is attached hereto and incorporated herein by reference as

Exhibit "2" (the "Phase 3 Land") and to further amend the Amended Declaration as set forth below; and

WHEREAS, pursuant to Article XV of the Amended Declaration, the Class. B membership of the Association converted to Class A membership on June 1, 2014; and

WHEREAS, Article XVII, Section K of the Amended Declaration enables the same to be amended upon approval by a vote of not less than a majority of sixty percent (60%) of Lot owners present in person or by proxy at an Association meeting called for the purpose of amending the Amended Declaration; and

WHEREAS, the Owners of said Lots desire to amend certain provisions of the Amended Declaration to address certain changes that have occurred regarding the Real Estate/Development and to further amend the Amended Declaration as set forth below; and

WHEREAS, the Lot Owners holding more than the required number of votes voted to approve this Second Amendment, pursuant to the terms below.

NOW, THEREFORE, the Amended Declaration is hereby amended as set forth in this Second Amendment as follows:

1. Preambles and Recitations. The foregoing preambles, recitations and definitions are made a part hereof as though fully set forth herein.

2. The Real Estate/Development. The Amended Declaration is hereby amended and revised to include as part of the Real Estate/Development the Phase 2 Land and Phase 3 Land and, therefore, by this Second Amendment, the Phase 2 Land and Phase 3 Land is included in, and made part of, the Real Estate/Development and is subject, in all respects, to the Amended Declaration.

3. Definition of Common Area. Article I, Section A.6. of the Amended Declaration is hereby deleted, replaced and superseded by the following:

"6. "Common Property" or "Common Area" shall mean (i) all real and personal property that is in the nature of common or public improvements and (ii) any and all real estate designated on a Plat as "Common Area", "C.A." or "Outlot"."

4. **Class B Membership.** Article XV, Section B.2. of the Amended Declaration is hereby deleted, replaced and superseded by the following:

"2. Class B. The Class B member(s) shall be the Declarant, who shall be entitled to fifty (50) votes for each Lot or Common Area owned by Declarant or a Builder. The Class B membership shall cease and be converted to Class A membership on the Turnover Date, as defined in Article XIX of this Declaration."

5. **Article XV, Section E.** Article XV, Section E of the Amended Declaration is hereby deleted in its entirety.

6. **Article XIX.** The following Article XIX is hereby added as a supplement to the Amended Declaration:

**"ARTICLE XIX
TURNOVER DATE**

A. Time Of Turnover

Unless turnover of control of the Association occurs at an earlier time as explicitly elected in writing by the Declarant in the Declarant's sole discretion, the date on which turnover of control of the Association shall occur is the date of the earlier to occur of the following (the "Turnover Date"):

1. The conveyance by Declarant or a Builder of a total of one hundred percent (100%) of the Lots and Common Areas within the Real Estate/Development to an Owner; or
2. May 1, 2024.

At the Turnover Meeting (as defined below), the Class A members shall elect a Board of Directors and the Directors appointed by the Declarant shall resign.

B. Procedure For Calling Turnover Meeting

No more than forty-five (45) days and no less than thirty (30) days prior to the Turnover Meeting, the Association shall notify in writing all Class A members of the date, time, and place of the meeting by which Declarant will turn over control of the Association (the "Turnover Meeting"). Prior to the Turnover Meeting, Declarant shall have the By-Laws prepared and executed in accordance with the Indiana Code.

C. Early Turnover

The Declarant may, by written instrument recorded with the Office of the Recorder of Boone County, Indiana, turn over control of the Association to Owners other than the Declarant

prior to the Turnover Date set forth above by causing all of its appointed members of the Board to resign, whereupon it shall be the affirmative obligation of Owners other than the Declarant to elect members of the Board and assume control of the Association. The Declarant shall not be liable in any manner in connection with such resignations, even if Owners other than the Declarant refuse or fail to assume control.

D. Conveyance To Association

Declarant agrees that it shall convey to the Association the Common Areas together with the improvements located thereon upon or before the "Conveyance Date", which shall be on or before sixty (60) days after Turnover Date. Such conveyances to the Association described herein shall be by quit claim deed. The Association shall be obligated to accept all conveyances of any property within the Real Estate/Development from the Declarant or a Builder, as applicable. The Association shall have the right and power to convey Association property and/or easements therein to any grantee for consideration or no consideration."

7. **Article XX.** The following Article XX is hereby added as a supplement to the Amended Declaration:

"ARTICLE XX

PAYMENT OF COMMON EXPENSES BEFORE TURNOVER DATE

A. Payment of Common Expenses Prior to Turnover Date

Declarant shall pay all Common Expenses until the occurrence of the Turnover Date and, as a result, neither the Declarant nor Association shall charge Assessments against Lot Owners until after the occurrence of the Turnover Date."

8. **Amended Declaration.** The Amended Declaration, as hereby amended and modified by this Second Amendment, shall remain in full force and effect.

(signature page follows)

AUBURN MEADOWS HOMEOWNERS' ASSOCIATION INC.

By: [Signature]
James Tully, President

Date: 12-20-2023

STATE OF WASHINGTON)
COUNTY OF Clark) SS:

Before me a Notary Public in and for said County and State, personally appeared James Tully, President of AUBURN MEADOWS HOMEOWNERS' ASSOCIATION INC., and acknowledged the execution of the foregoing Second Amendment for an on behalf of said entity.

WITNESS my hand and Notarial Seal this 20 day of December, 2023.

My Commission Expires: 08/01/2025

[Signature]
Notary Public

Residing in Clark
County, ~~Indiana~~
Washington

Austin Mace
Printed Name

Notary Public
State of Washington
Austin Mace
Commission No. 21027985
Commission Expires 08-01-25

Exhibit "1"

LEGAL DESCRIPTION - PHASE 2 LAND

A part of the north half of Section Nineteen (19), Township Nineteen (19) North, Range One (1) East West, in Center Township, Boone County, Indiana, as depicted on a plat of survey by Vester & Associates, Inc., job number E-04006 (Instrument No. 200400411161, Survey Book 6 Page 49, recorded September 2, 2004 in the office of the Recorder of Boone County), being more completely described as follows, to-wit:

Commencing at the northeast corner of Section 19-19-1E, said point being marked by a ½" rebar in the approximate centerline of County Road 300 North; thence along the north line of said section and along said centerline, North 89°44'39" West, 1670.18 feet to the northeast corner of Auburn Meadows Subdivision Phase 1, Instrument Number 200500514387, Book 16 Page 35, recorded December 5, 2005 in the office of the Recorder of Boone County; thence along the bounds of said Auburn Meadows Subdivision Phase 1 for the following ten (10) courses: (1) along said north section line and approximate centerline, North 89°44'39" West, 565.71 feet to a railroad spike in the approximate centerline of Elm Swamp Road; (2) along said Elm Swamp Road centerline, South 18°22'26" West, 1072.83 feet to a railroad spike at the northwest corner of the Lebanon Community School Corporation property, as described in Deed Book 251, Page 891, recorded September 22, 1994 in the office of the Recorder of Boone County; (3) along said School property, South 89°41'44" East, 698.36 feet to the point of beginning of the herein described tract; (4) South 89°41'44" East, 415.55 feet; (5) North 59°19'47" East, 153.70 feet; (6) South 08°12'55" East, 17.37 feet; (7) North 81°47'05" East, 171.53 feet; (8) South 00°21'34" West, 22.28 feet; (9) South 89°38'26" East, 200.00 feet; (10) North 00°21'34" East, 37.56 feet; thence South 89°38'26" East, 180.28 feet; thence along a non-tangent curve concave easterly, having a radius of 70.00 feet, a chord bearing and length of North 02°11'59" West, 6.25 feet, and an arc length of 6.25 feet; thence North 00°21'34" East, 34.53 feet; thence South 89°35'05" East, 307.68 feet; thence North 86°01'14" East, 65.33 feet; thence South 89°52'05" East, 21.18 feet; thence South 00°24'55" West, 120.56 feet; thence North 86°45'40" East, 6.34 feet; thence South 00°24'55" West, 184.82 feet; thence North 89°52'05" West, 26.00 feet; thence North 89°33'49" West, 349.00 feet; thence South 00°39'43" East, 278.48 feet; thence North 89°38'26" West, 310.00 feet; thence South 48°02'03" West, 120.77 feet; thence South 28°56'51" West, 135.16 feet; thence North 89°38'26" West, 426.69 feet; thence North 35°50'49" West, 147.82 feet; thence North 17°56'48" East, 95.00 feet; thence North 72°03'12" West, 120.00 feet; thence South 17°56'48" West, 10.24 feet; thence North 72°03'12" West, 180.00 feet to the east line of said School property; thence along the east line of said School property, North 17°56'48" East, 360.37 feet to the point of beginning, containing 17.869 acres, more or less.

SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND RIGHTS-OF-WAY OF RECORD

Exhibit "2"

LEGAL DESCRIPTION - PHASE 3 LAND

LEGAL DESCRIPTION

A part of the north half of Section Nineteen (19), Township Nineteen (19) North, Range One (1) East, in Center Township, Boone County, Indiana, as depicted on a plat of survey by Vester & Associates, Inc., Job number E-04006 (Instrument No. 200490-11160, Survey Book 6 Page 49, recorded September 2, 2004 in the Office of the Recorder of Boone County), being more completely described as follows, to-wit:

Commencing at a 1/2" rebar marking the Northeast corner of the Northeast quarter section of said section, thence along the north line of said quarter section, run thence North 89°44'39" West 1048.30 feet along the north line of said quarter, to the Point of Beginning of the herein described tract; thence South 00°15'21" West, 35.00 feet; thence parallel to said north line, North 89°44'39" West, 75.00 feet to a point of curvature of a curve to the left, having a radius of 15.00 feet; thence along said arc a distance 23.56 feet, being subtended by a chord bearing of South 45°15'21" West, 21.21 feet; thence South 00°15'21" West, 120.00 feet; thence North 89°44'39" West, 12.20 feet; thence South 00°15'21" West, 75.00 feet; thence South 89°44'39" East, 7.50 feet; thence South 00°15'21" West, 120.00 feet; thence parallel to the north line of aforesaid quarter, South 89°44'39" East, 675.00 feet; thence South 88°04'01" East, 66.39 feet; thence South 01°48'14" East, 57.26 feet; thence South 00°07'59" West, 450.00 feet to a point on the north line of Auburn Meadows Phase Two; thence along said north line the following five (5) courses: 1) South 95°01'140" West, 65.33 feet; 2) North 89°35'05" West, 307.67 feet; 3) South 00°21'34" East, 34.53 feet to the point of curvature of a curve to the left, having a radius of 70.00 feet; 4) thence along said curve an arc distance of 6.25 feet, being subtended by a chord of South 02°11'39" East, 6.25 feet; 5) North 89°39'26" West, 180.28 feet to a point on the Easterly line of Auburn Meadows Phase One; thence along said easterly line the following thirteen (13) courses: 1) North 00°21'34" East, 253.58 feet; 2) North 80°44'39" West, 158.18 feet; 3) South 73°07'45" West, 112.21 feet; 4) North 84°19'49" West, 211.43 feet; 5) North 00°15'21" East, 193.10 feet; 6) North 89°44'39" West, 26.37 feet; 7) North 00°15'21" East, 120.00 feet; 8) North 89°44'39" West, 129.67 feet; 9) South 75°03'54" West, 65.24 feet; 10) North 71°37'34" West, 12.67 feet; 11) North 00°15'21" East, 193.18 feet; 12) North 89°44'39" West, 2.17 feet; 13) North 00°15'21" East, 163.00 feet to the Northeast corner of said Phase One, said point being on the North line of said Quarter section; thence along said line, South 89°44'39" E, 621.83 feet to the Point of Beginning, containing 14.743 acres more or less;

ALSO:

Beginning at the southwest corner of Lot 14, Auburn Meadows Subdivision, Phase Two, run thence South 72°03'12" East, 180.00 feet to the easterly right of way line of Larkspur Drive; thence along said line, North 17°55'48" East, 10.24 feet to the Southwest corner of Lot 241; thence along the southerly lot line thereof, South 72°03'12" East, 120.00 feet to the southeast corner thereof; thence South 17°58'48" West, 95.00 feet along the rear lot lines of Lots 240 and 239; thence South 35°50'49" East, 8.90 feet to the Southeast corner of Lot 239; thence along said southerly lots and the Southwesterly extension thereof, South 54°09'11" West, 180.00 feet to a point on the Westerly right-of-way line of Larkspur Drive; thence along said right-of-way the following two (2) courses: 1) North 35°50'49" West, 34.26 feet to the point of curvature of a curve to the right, having a radius of 130.00 feet; 2) thence along said curve an arc distance of 27.07 feet being subtended by a chord bearing of North 29°52'54" West, 23.43 feet to the southeast corner of Lot 17; thence along the south line of said Lot, South 66°06'02" West, 205.69 feet to the Southwest corner thereof; thence along the westerly line of Lots 17, 16 and 15, North 17°58'48" East, 334.15 feet, to the Point of Beginning, containing 1.582 acres more or less;

SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY, AND RESTRICTIONS OF RECORD