

**\*DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS**

**2016-019746**

**2017-010864**  
STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD  
05/08/2017 2:34 PM  
JON MILLER, RECORDER  
REC FEE: 115.00  
PAGES: 50

AND

~~STATE OF INDIANA  
PORTER COUNTY  
FILED FOR RECORD  
08/10/2016 2:48 PM  
JON MILLER, RECORDER  
REC FEE: 90.00  
PAGES: 40~~

**GRANT OF EASEMENTS**

FOR

**PORTER BUSINESS PARK AND SENIOR LIVING COMMUNITY**

This Declaration of Covenants, Conditions, Restrictions and Grant of Easements for Porter Business Park and Senior Living Community (this "Declaration") is made this 1<sup>st</sup> day of

August, 2016, by St. Andrews Development, LLC (the "Declarant").

Dec. No 2016-004722  
Plat File 55-A-3

**RECITALS**

A. Declarant, St. Andrews Development, LLC, an Indiana limited liability company, is the fee simple owner of the certain land comprising the major portion of the Development (as hereinafter defined), which is located in Porter County, Indiana. The Declarant's real estate is described in the legal description attached as Exhibit "A" to this Declaration and incorporated herein by this reference.

B. Douglas Morthland and Martha Sue Morthland ("Morthland") are fee simple owners of a separate parcel adjacent to Declarant's real estate and which real estate is described on Exhibit "B". Morthland joins Declarant in this Declaration and submit the real estate described on Exhibit "B" to the terms of this Declaration as part of the Development as defined herein.

C. Declarant intends to subdivide and develop the Development as an integrated commercial center and office-technology park and deems it desirable to establish certain covenants, conditions, restrictions and easements upon the Development and each and every portion thereof, which taken together shall constitute a general scheme for the subdivision, development, and management of the Development, and for the mutual benefit, use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development and enhancing the quality of life within the Development.

D. Declarant further intends that the R-4 portion of the Development (as described and designated on Exhibit "A") shall be a skilled care nursing home or other health care related uses and that other real estate adjacent to the Development shall be developed as single family age targeted residential homes within the same plans for the Development and may share public streets, public utilities and other amenities and assets.

\*This document is being rerecorded to add Exhibit "C" mistakenly omitted.



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F. It is desirable for the efficient development, management and use of the Development and the preservation of the value, desirability and attractiveness of the Development to create an incorporated Association as provided for herein to which Declarant shall delegate and assign the powers of managing the Common Areas (as hereinafter defined) as provided for herein located on the Development, administering the maintenance, repair and upkeep of the Common Areas, and administering and enforcing these covenants, conditions, restrictions, and easements and collecting and managing the funds collected pursuant to the assessments and charges hereinafter created and to perform such other acts as shall generally benefit the Development.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that the Development shall be held, subdivided, developed, conveyed, transferred and leased subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of any current and future Owners and Occupants of the Development and any portion thereof, their successors and assigns. These covenants, conditions, restrictions and easements shall run with the land and shall be binding upon all parties having or acquiring any right or title in the Development or any portion thereof, and shall inure to the benefit of each Owner and Occupant thereof.

**ARTICLE 1  
DEFINITIONS**

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

1.1 "Architectural Committee" shall mean and refer to the committee provided for in Article 5 hereof entitled "Architectural Control".

1.2 "Assessments" shall mean and refer to the following assessments hereinafter defined:

1.2.1 "Regular Assessment" shall mean the amount which is to be paid by each Owner to the Association for that Owner's pro-rata share of Common Expenses. 1.2.2 "Special Assessment" shall mean a charge against a particular Owner and the Owner's Lot and the Improvements to the Lot to reimburse the Association for costs incurred in bringing the Owner and the Owner's Lot and the Improvements to the Lot into compliance with the provisions of this Declaration, the Bylaws or Association Rules, or any other charge designated as a Special Assessment in this Declaration, the Bylaws or Association Rules, together with reasonable attorneys' fees, court costs and other charges payable by the Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

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1.2.3 "Capital Improvement Assessment" shall mean a charge against an Owner and the Owner's Lot and the Improvements to the Lot, representing an Owner's pro-rata share of the cost to the Association for installation, construction and reconstruction of any capital improvements within the Common Area which the Association may from time to time authorize pursuant to the provisions of this Declaration.

1.3 "Association" shall mean and refer to Porter Business Park Association, Inc. formed (or to be formed) as provided for herein under the laws of the State of Indiana, its successors and assigns.

1.4 "Association Rules" shall mean and refer to those rules and regulations adopted by the Association pursuant to Article 6 hereof entitled "Duties and Powers of the Association."

1.5 "Board" shall mean the Board of Directors of the Association.

1.6 "Building" shall mean and refer to any structural improvement on any Lot, which is enclosed by exterior walls, a floor and roof and is designed for human occupancy.

1.7 "Bylaws" shall mean and refer to the Bylaws of the Association as the same may from time to time be duly amended.

1.8 "Common Expenses" shall mean and refer to the actual or estimated costs of:

1.8.1 administration of the maintenance, management, operation, repair, reconstruction, and replacement of the Common Area which are maintained by the Association pursuant to this Declaration (including without limitation, those duties and obligations of Article 7);

1.8.2 unpaid assessments;

1.8.3 costs of the management and administration of the Association, including, but not limited to, compensation paid by the Association to property managers, accountants, attorneys and employees;

1.8.4 the costs of maintaining and repairing the storm drainage facilities to be maintained and repaired by the Association hereunder;

1.8.5 the costs of fire, casualty, liability, workmen's compensation and other insurance, covering the Association and/or the Common Areas, purchased and maintained by the Association;

1.8.6 reasonable cash reserves as deemed appropriate by the Board;

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1.8.7 costs incurred by the Architectural Committee or other committees established by the Board;

1.8.8 the costs of any other item or items designated by this Declaration, the Bylaws or Association Rules, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.09 "County" shall mean Porter County, Indiana.

1.10 "Common Area" or "Common Areas" shall mean (1) all lettered, including Lot A, Lot B and Lot C and the stormwater detention basins located therein and related stormwater piping and drainage facilities used in common by two or more Lot Owners; (2) all landscaping and green space areas located within the Common Areas or within a Lot having an easement benefitting the Association; (4) wetland delineations and wetland buffer zones, which may be added to and designated by Declarant on the plat or plats of Development pursuant to a plan of mitigation; (4) signage used in common by or for the benefit of two or more Lot Owners and/or the Development generally (including street-level traffic and directional signage), and (5) the streets and drives on attached Exhibit B; (6) all utility lines and related facilities used in common by two or more Lot Owners, all as shown and delineated on the Plat; (7) any private streets serving two or more Lots within the Development; and (8) any other areas designated herein as a Common Area which are to be maintained by the Association.

1.11 "Development" shall mean and refer to all of the real property described on Exhibit "A" and Exhibit "B" (B-1 through B-4, inclusive) attached hereto including Declarant's real estate and that real estate owned by the adjacent owners joining in this Declaration.

1.12 "Improvements" shall mean and include structures of any kind, whether above or below the land surface, including but not limited to driveways, walls, sewer facilities, drainage facilities, electrical facilities, communications facilities, gas and water lines and facilities, parking facilities, landscaping, walkways, fences, hedges, poles, lights, signs, waste disposal areas and other structures of any type or kind.

1.13 "Lot" shall mean each of the numbered Lots, as said Lots are shown and delineated on the Plat (excluding any lot, parcel or tract that is on the Plat but not made subject to this Declaration). Specifically excluded are (a) lettered lots such as Outlot A and Outlot B and (b) the single family lots located in the R-1 portion of the Plat but not made a part of this Declaration. Each reference herein to any particular Lot number shall refer to such Lot number as shown on the Plat.

1.14 "Lot Area" shall mean the gross area, in acres or fractions thereof, of a subdivided Lot (or a combination of two or more adjacent Lots developed as a single unit), including public

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utility, drainage and access easements and excluding public street rights-of-way as shown on the Plat or any additional real property appended to said Lot which is made subject to this Declaration.

1.15 "Member" shall mean and refer to every Owner who qualifies for membership in the Association pursuant to this Declaration entitled "Membership", including the Declarant so long as the Declarant qualifies for membership in the Association pursuant to said Article.

1.16 "Occupant" shall mean and refer to the employees, agents, tenants, subtenants, contractors, assigns, licensees, invitees, permittees and others who utilize an Owner's Lot under claim of right or with the Owner's consent.

1.17 "Owner" shall mean and refer to one or more persons or entities who are alone or collectively the record owner of the fee simple title to a Lot, or the vendee under an installment land sales contract with respect to such Lot, but excluding those having any such interest merely as security for the performance of an obligation. "Owner" shall include the Owner's successor and assigns. For clarification, each Lot shall have only one (1) recognized Owner, irrespective of the form or method of holding title to such Lot, including co-ownership arrangements. In the event that more than one person or entity shall own any particular Lot, said owners shall designate one owner from amongst their number who is authorized to act on behalf of all other owners, and such designated owner's identity shall be disclosed in writing to the Association. In the event that the ownership of any Building or other Improvements on any Lot shall ever be severed from the land, whether by lease or by deed, only the owner of the fee interest in the land shall be deemed an owner hereunder. An Owner need not be an Occupant. The Owner of the fee title of a Lot and not the lessee of such Lot shall be deemed the Owner with respect to such Lot, regardless of the terms or any other provisions of the applicable lease agreement.

1.18 "Plat" shall mean the plat or plats of subdivision for the Development recorded in the Office of the Recorder of Porter County, Indiana, any amendment, replat or certificate of correction thereto. The Plat may include real estate that is not part of the Development, for example, the R-1 zoned real estate north of the Development.

**ARTICLE 2**  
**MEMBERSHIP**

2.1 Membership. Every Owner shall be a Member in the Association. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Bylaws and Association Rules to the extent the provisions thereof are not in conflict with this Declaration. Membership of Owners in the Association shall be appurtenant to and may not be separated from the fee simple interest of such Owner in a Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. Not more than one membership in the Association shall exist based upon ownership of a single Lot.

2.2 Transfer. The membership in the Association held by any Owner shall not be transferred, pledged or alienated in any way, except that such membership shall automatically be transferred to the transferee of the fee simple interest of an Owner. Any attempt to make a prohibited transfer is void from the beginning and will not be reflected upon the books and records of the Association, nor will it be recognized by the Association in any other manner. The Association shall have the right to record the transfer upon the books of the Association without any further action or consent by the transferring Owner or the transferee.

2.3 Voting Rights.

2.3.1 The Association shall have one class of membership and each member shall have votes equal to the number of acres and fraction thereof contained in the Lot Area that Owner owns; therefore, votes may be fractional.

2.3.2 An Owner's right to vote shall vest immediately upon the sale of the last Lot owned by Declarant or sooner if provided by amendment to this Declaration signed and recorded by Declarant. All voting rights shall be subject to the restrictions and limitations provided herein and in the Bylaws. All matters or issues submitted to the Owners for a vote involving, related to, or arising from an element of Common Area shall only be voted upon by those Owners responsible under this Declaration to pay the assessments for that element of Common Area, and those Owners not responsible to pay any assessments for that element of Common Area shall not be entitled to vote upon the matter or issue, and the matter or issue shall be validly and finally decided upon only by those Owners responsible to pay the assessments for that element of the Common Area.

2.3.3 In the event that an Owner is comprised of more than one person and/or entity, such parties shall designate a single person or entity as such parties' agent for purposes of casting the votes of the Owner, and the agent shall file

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a written statement with the Association setting forth the name and address of said agent, and that said agent is authorized to cast the votes on behalf of the Owner on any matter submitted to the Owners for a vote. Votes of each each Owner must be voted as a single vote, for example votes may not be split for and against a particular matter by a single Lot. In no event shall the votes cast with respect to any Lot be cast by more than one person and/or entity. The Board may, in good faith, rely upon a single vote cast by any person or entity representing the Owner without actual knowledge of a dispute or conflicting purported votes among persons or entities. It will thereafter be conclusively presumed for all purposes that the Owner voting was acting with the authority and consent of all other parties comprising such Owner, and such presumption shall be binding and enforceable by the Association against the Owner. In the event that no written designation is received from an Owner, and conflicting purported votes are tendered, the Board and Association shall disallow all votes related to the Lot.

2.4 Association Board of Directors. For so long as Declarant, its successors or assigns, owns any unoccupied Lot in the Development or any part or portion thereof, Declarant shall exercise all of the rights, powers, duties and obligations of the Association defined herein ("Developer Control Period"), and during the Developer Control Period, all references herein to the "Association" and/or "Association Board of Directors" shall be deemed to refer to and mean the Declarant. During the Developer Control Period, Declarant shall appoint all directors on the Association Board of Directors. Any director may resign at any time, and his or her successor shall be appointed by the Declarant. Upon the expiration of the Developer Control Period, Declarant shall execute and record a written document delegating and assigning all of its rights, powers, duties and obligations to the Association, and the directors appointed by Declarant thereafter shall resign and the Owners shall elect three Owners to serve on the Association Board of Directors. After the full Board of Directors has been elected by the Owners, service on the Board shall be governed by the Association Bylaws as adopted by the Declarant's initial Board of Directors. The Developer Control Period shall expire ten (10) years after the date of recording of this Declaration, unless earlier terminated in the Declarant's sole discretion.

2.5 Assignment of Declarant's Rights: Resignation: Amendment of Declaration by Declarant. In the event Declarant conveys an interest in the Development to a third party, Declarant may (but shall not be obligated to) also assign its rights as Declarant hereunder pursuant to a written notice executed and recorded by the Declarant, and Declarant shall send written notice to all Owners of record. In the event the Declarant wishes to resign, Declarant may do so in its sole and absolute discretion pursuant to a written notice executed and recorded by Declarant, and Declarant shall send written notice to all Owners of record no later than sixty (60) days prior to such resignation.

**ARTICLE 3  
COVENANT FOR ASSESSMENTS**

3.1 Creation of the Lien and Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed or other conveyance, creating in the Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance, is hereby deemed to covenant and agree to pay to the Association: Regular Assessments, Special Assessments, and Capital Improvement Assessments, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. Each Owner shall be entitled to require payment of Assessments by the Occupants or lessees of the Owner's Lot; provided, however, each Owner shall remain primarily liable for payment of any and all Assessments hereunder. The Assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, shall be a continuing lien upon the Lot against which each Assessment is made and may be enforced by suit or any other manner provided by law. Each Assessment, together with interest, late charges, costs and attorneys' fees, shall be the obligation of the Owner of the Lot at the time when the Assessment becomes due.

3.2 Allocation of Common Expenses Among Owners - Amount of Assessments. With the exception of the following, assessments shall be paid in the same percentage as each Lot has in its voting interest in the Association.

3.2.1 Every Owner of an undeveloped or unimproved Lot shall receive a fifty percent (50%) adjustment on the first year's applicable assessment. This limited discount for assessments shall be prorated over the first twelve (12) consecutive months of ownership by Owner. Commencing on the thirteenth (13<sup>th</sup>) month, the Owner shall be responsible for the full amount of all assessments, regardless improvements on the Lot or the use of Common Areas. If any assessment is not paid on the date when due, such assessment shall then become delinquent and shall become a continuing lien on the Lot.

3.2.2 Declarant shall be excused from paying assessments for unsold Lots.

3.2.3 Special Assessments which shall be paid one hundred percent (100%) by the Owner of the noncompliant Lot for which the expenses relate.

3.3 Regular Assessments. Not later than ninety (90) days prior to the beginning of each calendar year, the Association shall distribute to each Owner a pro forma operating statement or budget for the upcoming calendar year which shall, among other things, estimate the total Common Expenses to be incurred by the Association for such calendar year. The Association shall at that time determine the amount of the Regular Assessment to be paid by each Owner. Each Owner shall thereafter pay to the Association its Regular Assessment in monthly installments



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as established by the Association. Each installment shall be due and payable on the date established by the Association in the written notice sent to the Owners. In the event the Association shall determine during the calendar year that the estimate of Common Expenses for the calendar year is, or will become inadequate to meet all Common Expenses, it shall then determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses and determine the revised amount of Regular Assessment against each Owner, and the date or dates when due. Not later than ninety (90) days after the end of each calendar year, the Association shall prepare a written reconciliation statement setting forth the actual Common Expenses incurred by the Association for the preceding calendar year and shall deliver the reconciliation statement to all Owners. If there are any excess funds collected as Assessments by the Association in any given calendar year, the Association shall reimburse the excess funds to the Owner, or carry forward the excess funds as a credit to the Owner on the Owner's next Regular Assessment.

3.4 Capital Improvement Assessments. In addition to the Regular Assessments, the Association may levy in any calendar year, a Capital Improvement Assessment applicable to that calendar year only, for the purpose of defraying, in whole or in part, the cost of construction or replacement of a described capital improvement in, upon or about the Common Area. Any reserves collected by the Association as part of the Regular Assessment, shall not be included in determining the annual Capital Improvement Assessment.

3.5 Special Assessments. Special Assessments shall be levied by the Association against an Owner to reimburse the Association for:

- 3.5.1 costs and expenses incurred by the Association in bringing an Owner and the Owner's Lot and Improvements on the Lot into compliance with the provisions of this Declaration, the Bylaws or Association Rules, other than costs which are to be allocated as Regular Assessments or Capital Improvement Assessments;
- 3.5.2 any other charge designated as a Special Assessment in this Declaration, the Bylaws or Association Rules; and
- 3.5.3 reasonable attorneys' fees, interest, court costs and other charges relating thereto as provided in this Declaration.

3.6 Date of Commencement of Regular Assessments. An Owner's liability to pay the Regular, Special and Capital Improvement Assessments shall commence at the point in time that the Owner acquires fee simple title to a Lot.

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3.7 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offset against such amount shall be permitted for any reason, including the reason that an Owner has made or elects to make no use of the Common Area.

3.8 Reserves. The Regular Assessments may include a reasonable charge as determined by the Association to be collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Area, or any other purpose as determined by the Association, provided such purpose is for the benefit of the Development as a whole. All amounts collected as reserves, whether pursuant to this Section or otherwise, shall be held by the Association for the purposes for which they are collected.

**ARTICLE 4**  
**NONPAYMENT OF ASSESSMENTS**

4.1 Delinquency. Any Assessment provided for in this Declaration, which is not paid when due shall be delinquent on that date (the "Delinquency Date"). If any such Assessment is not paid within ten (10) days after the Delinquency Date, a late charge of One Hundred Dollars (\$100.00) shall be levied and the Assessment shall bear interest from the Delinquency Date at the rate of ten percent (10%) per annum until paid. The amount of such late charge shall increase to One Hundred Ten Dollars (\$110.00) on January 1 of year following the recordation of this Declaration and shall further increase by Ten Dollars (\$10.00) every five (5) years thereafter. The Association may, at its option, and without waiving the right to judicially foreclose its lien against the Lot and Improvements thereto, pursue any available remedies, including, without limitation, bringing an action at law against the Owner obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section 4.2 hereof, entitled "Notice of Lien" to foreclose the lien against the Lot and Improvements hereon. If an action is commenced, there shall be added to the amount of the Assessment the late charge, interest, the costs of the action, and reasonable attorneys' fees incurred in connection with the action. Each Owner, by the acceptance of a deed for any Lot, vests in the Association or its assigns, the right and power to bring all actions at law or lien foreclosure against the Owner and/or Lot for the collection of delinquent Assessments.

4.2 Notice of Lien. No action shall be brought to foreclose an Assessment lien until sixty (60) days after the date a written notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid (or such period of time as may be required by Indiana law) to the Owner of a Lot, said notice of claim of lien must recite a good and sufficient legal description of the Lot, the record Owner or reputed Owner thereof, the amount claimed (which shall include interest on the unpaid Assessment per annum, a late charge, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant.

4.3 Curing of Default. Upon the timely payment or other satisfaction of:

4.3.1 all delinquent Assessments specified in the notice of claim of lien; and

4.3.2 all other Assessments which have become due and payable with respect to the Lot as to which the notice of claim of lien was recorded; and interest at the rate of ten percent (10%) per annum, late charges, lien recording fees, if any, reasonable attorneys' fees and other costs of collection pursuant to this Declaration and the notice of claim of lien which have accrued;

the Association shall file or record, as the case may be, an appropriate release of the notice of claim of lien.

4.4 Reassessment of Owners. If the Association is unable to collect payment from one or more Owners for any Assessment(s) prior to the Delinquency Date for such Assessment(s) (as described in Section 4.1), the Association, without releasing any delinquent Owner and without waiving any remedy set forth herein, may reassess the non-delinquent Owners for those unpaid Assessment(s). Upon obtaining the delinquent amount owing from the delinquent Owner, the Association shall reimburse the other Owners for the increase in the Assessment(s). The reimbursement shall only be available to the extent the Association obtains such delinquent amounts from the delinquent Owner.

## ARTICLE 5 ARCHITECTURAL CONTROL

5.1 Appointment of Architectural Committee. The Architectural Committee shall consist of the three (3) persons which comprise the Association Board of Directors.

5.2 Specific Provisions.

5.2.1 Any Lot within the Development shall be developed and conform to the following developmental requirements and approval of the Architectural Committee is obtained:

(a) Architectural Standards. No construction, as defined in the Declaration, shall take place except in strict compliance with the Architectural Standards incorporated into the Declaration and attached hereto.

(b) Landscaping. Owners shall install landscaping consistent with §3.06(G) of the Arterial Roadway Overlay District set out in the Porter County Unified Development Ordinance. The western property line shall increase the minimum buffer yard from forty feet

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(40') to fifty feet (50') of the Development required by §5.22(F)(1) in the CM District zoning district. The Owners shall provide for a minimum buffer yard of fifty feet (50') in the OT District zoning district along the western property line of the Development. The Owners shall provide for a minimum buffer yard of forty feet (40') in the R-4 District zoning district (as described on Exhibit "A") along the western property line of the Development. Where the requirements of the Unified Development Ordinance, Landscape Guidelines or other Porter County law, regulation, standard or ordinance requires deciduous trees in the western buffer yard, evergreen trees shall be substituted. In addition, each Lot shall conform to the landscaping standards set forth in the Architectural Standards.

- (c) Lighting. The illumination from artificial lighting shall be zero footcandles along the west side of the Development adjacent to the proposed OT District zoning district within the Development, such that there shall be no "fugitive light" allowed to be cast to homes to the west of the Development. All plans must include lighting design as part of the submittal. Declarant, the Association or the Architectural Committee shall establish a standard design for freestanding exterior lighting in the Development and on-site lighting must (i) comply with Porter County Unified Development Ordinance, (ii) be compatible with the standard design established; and (iii) not conflict with the streetscape features of the Development
- (d) U.S. Highway No. 6. All development in the CM District zoning district must be internally oriented.
- (e) Parking. With regard to Lots that adjoin U.S. Highway 6 only, no Owner shall permit or allow any parking lot or parking area to be located between the principal structure thereon and the U.S. Highway 6 right-of-way.

5.2.2 The Architectural Standards attached hereto as Exhibit "C" are hereby incorporated herein and any Lot within the Development shall be developed and conform to requirements of the Architectural Standards.

5.3 General Provisions.

5.3.1 The Architectural Committee may establish reasonable procedural rules regarding the submission of plans and specifications in connection with the review and approval of those plans and specifications including, without limitation, the number of sets of plans to be submitted and a reasonable fee for such review. The Architectural Committee may delegate its plan review responsibilities to one or more members of the Architectural Committee, or to a qualified architect, engineer or other consultant whose review fees shall be paid by the Owner. Upon such delegation, the approval or disapproval of plans and specifications by such person(s) shall be equivalent to approval or disapproval by the entire Architectural Committee.

5.3.2 In the event the Architectural Committee fails to approve or disapprove complete plans and specifications within thirty (30) days after the same have been duly submitted in accordance with rules adopted by the Architectural Committee, such plans and specifications shall be deemed approved, and such deemed approval shall be binding and enforceable against the Architectural Committee, the Association and against all other Owners.

5.4 Method of Approval. No Improvements, or modifications to existing Improvements, shall be erected, placed, or altered on any portion of the Development until plans and specifications showing the plot layout and all exterior elevations with materials and colors therefor and structural designs, signs, parking, driveways, walkways and landscaping shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be submitted in writing over the authorized signature of the Owner of the Lot. All construction within the Development must also be performed with all applicable Building Permits and County or public utility approvals in place. The Architectural Committee shall have the authority to require the submittal of any further and/or additional documentation and specifications in connection with the Committee's architectural review obligations in the Architectural Committee's sole discretion.

5.5 Basis for Approval. Approval by the Architectural Committee shall be based on, among other things, site grading, landscaping (including the fence requirements herein), utility plans, signs and identity plans, parking details, trash storage and screening plans and exterior elevations, adequacy of site dimensions, adequacy of structural design, conformity and harmony of external design and color with neighboring structures, the nature and types of proposed landscaping, if any, effect of locations and use of proposed Improvements on neighboring sites, the nature of Improvements on neighboring sites and the types of operations and uses thereon, relation of topography, grade and finish ground elevation of the site being improved to that of neighboring sites, proper facing of main elevation with respect to nearby streets, and conformity

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of the plans and specifications to the purpose and general plan and intent of this Declaration and inclusion in such plans and specifications of provision for the construction of adequate parking, driveways, walkways in relation to the Buildings and/or Improvements which are to be constructed thereon and the uses to be made thereof. The Architectural Committee may also consider or incorporate requirements of the public or quasi-public agencies and utilities, including the Indiana Department of Environmental Management, Indiana American Water Company, Damon Run Conservancy District, the Porter County building and zoning standards and officials, Porter County Surveyor regarding Regulated Drain impact and the Porter County Soil and Water Conservation District.

5.6 Power to Grant Variances. The Architectural Committee may allow reasonable variances or adjustments of the standards, Architectural Standards (Exhibit "C"), the term and conditions of this Declaration (except those terms also incorporated into Ordinance No. 11-03 of the Board of Commissions for Porter County, Indiana recorded February 4, 2011 as Document No. 2011-002964) where literal application in the sole discretion of the Architectural Committee, would result in unnecessary hardship or deviate from the users nationally or regionally recognized color palette or architectural details, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of the restriction, and no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots in the Development.

5.7 Time in Which to Build Structures. An Owner of a Lot within the land described on Exhibit "A" herein being a part of the Development must commence construction of the primary Building within four (4) calendar years after the Owner's purchase of the Lot or the Declarant's sale of said Lot if the Owner did not purchase the Lot from the Declarant directly. If construction does not begin on a Lot within the prescribed time, the Declarant shall have the option to repurchase such Lot for a price, in cash, equal to the Owners' cost basis in the Lot, without paying the cost of improvements up to the time of repurchase. This option is exercisable by giving notice reasonably calculated to inform the Owner of Declarant's decision to repurchase the Lot under this section of this Declaration, which notice will be effective is given after said two calendar years and prior to the commencement of construction. This option shall expire if Declarant has not notified the Owner of Declarant's intent to exercise the option prior to the time of commencement of the construction. This option does not apply to any land being a part of the Development but described on Exhibit "B".

5.8 Completion of Work. After the commencement of construction of any Improvements to any Lot (but not including Improvements made by Declarant), the work shall be diligently prosecuted so that the Lot shall not remain in a partly finished condition any longer than reasonably necessary for the completion thereof, weather permitting and subject to force majeure. All construction shall be done so as to cause minimal interference with the business operations conducted from those Lots already developed. During construction, the construction site and surrounding areas shall be kept reasonably clean and free of construction material, trash and debris and appropriate precautions shall be taken to protect against personal injury and property damage.

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With regard to excavation, and without limiting any other provision of this Declaration, no excavation shall be made on, and no sand, gravel, soil or other material shall be removed from the site, except in connection with the construction or alteration of Improvements approved in the manner set forth in this Article, and upon completion of any such operations, exposed openings shall be backfilled and disturbed ground shall be graded, leveled and paved or landscaped in accordance with the previously approved plans and specifications. The Association shall manage and direct all Owners and their contractors and agents regarding the placement of excess fill dirt within the Development. After the completion of the Improvements, there shall not be any other material changes in the Improvements without prior approval by the Architectural Committee in the manner contemplated in this Article. Failure to comply with this Section shall constitute a breach of this Declaration and subject the defaulting party or parties to all enforcement procedures set forth in this Declaration and any other remedies provided by law or equity.

5.9 Estoppel Certificate. Within twenty (20) days after written demand is delivered to the Association by any Owner and upon payment of a reasonable fee (not to exceed Two Hundred Dollars (\$200.00)) established by the Association, the Association shall provide an Estoppel Certificate executed by the Association and certifying that as of the date thereof and to the best of the Association's knowledge, either (a) all Improvements made or other work done on or within a Lot comply with the requirements of this Declaration and the architectural standards as adopted by the Architectural Committee, or (b) such Improvements or work do not so comply in which event the Certificate shall identify in detail the non-complying Improvements or work and set forth with particularity the cause or causes for such noncompliance; and (c) whether the Owner owes any assessments to the Association. Any lessee, purchaser or mortgagee in good faith for value shall be entitled to rely on such Certificate with respect to the matters set forth therein, such matters being conclusive as between the Association and all such subsequent parties in interest.

5.10 Liability. Neither the Declarant, the Association, the Architectural Committee nor any of its individual members, and their successors and assigns, shall be liable for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications whether or not defective; (b) the construction or performance of any work whether or not pursuant to approved plans, drawings and specifications; or (c) the development of any Lot within the Development. The approval of plans and specifications by the Architectural Committee shall in no way constitute a certification or guarantee on the part of the Architectural Committee that such plans and specifications, and the Improvements to be constructed, are or will be in compliance with any applicable zoning laws, building codes, or any other law, ordinance or regulation whatsoever, and the Owner shall be solely responsible to ensure that all Improvements constructed comply with all such applicable laws.

**ARTICLE 6  
DUTIES AND POWERS OF THE ASSOCIATION**

6.1 General Duties and Powers. In addition to the duties and powers enumerated in its Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the specific duties and powers specified in this Article.

6.2 General Duties of the Association. The Association, through the Board, shall have the duty and obligation to (a) enforce the provisions of this Declaration, the Articles, Bylaws, and Association Rules, by appropriate means and carry out the obligations of the Association hereunder; and (b) administer the maintenance, repair, and upkeep of the Common Areas as defined herein.

6.3 General Powers of the Association. The Association through the Board shall have the power but not the obligation to:

- 6.3.1 employ a property manager or other persons and contract with independent contractors or managing agents who have professional experience in the management of commercial developments similar to the Development, to perform all or any part of the duties and responsibilities of the Association;
- 6.3.2 acquire interests in real or personal property that may be necessary for the management of the Development, the administration of the affairs of the Association or for the benefit of the Owners;
- 6.3.3 borrow money as may be needed in connection with the discharge by the Association of its powers and duties; and
- 6.3.4 maintain a capital reserve account separate from the ordinary operating account allocating an amount equal to up to fifteen percent (15%) of the annual budget to the capital reserve account until such time as an adequate reserve has been accumulated; and
- 6.3.5 close temporarily any portion of the Common Area for maintenance and repair purposes; and
- 6.3.6 obtain and maintain all necessary insurance coverage, specifically including Directors & Officers coverage, and insuring over the Common Areas and to timely pay the premiums therefore.



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6.3.7 to take any and all other actions reasonably determined by the Association to further the interests of the Association or in furtherance of this Declaration and the matters contained herein.

6.4 Association Rules. The Association shall also have the power to adopt, amend and repeal rules and regulations as it deems reasonable (the " Association Rules"). The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Area; provided, however, that the Association Rules may not discriminate among Owners (except as to the allocation of Common Expenses in those circumstances where some Owners are benefitted to a greater extent than other Owners as determined by the Association), and shall not be inconsistent with this Declaration or the Bylaws, and shall not be selectively enforced. In this regard, the Association Rules shall not diminish the Association's Obligations set forth in this Declaration. Upon completion of the notice requirements, the Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and their successors in interest. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and mortgagee upon written request.

6.5 Delegation of Powers. The Association shall have the right to delegate to committees, officers, employees or agents any of its duties and powers under this Declaration and Bylaws; provided, however, no such delegation to a professional management company, the Architectural Committee or otherwise shall relieve the Association of its primary obligation to perform the delegated duty.

6.6 Emergency Powers. The Association or any person authorized by the Association may enter any Lot including portions thereof which are not part of the Common Area, in the event of any emergency involving illness or potential danger to life or property, and to exercise the Association's rights pursuant to Article 7.3.

6.7 Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. Officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may Members of the Association and thereby affected through the assessment process), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or

former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**ARTICLE 7**  
**MAINTENANCE AND REPAIR OF COMMON AREA AND LOTS, AND PRORATION**  
**OF COMMON EXPENSES AND SPECIAL ASSESSMENTS**

7.1 Repair and Maintenance by Association. Except to the extent that an Owner may be obligated hereunder, the County or any other governmental agency or body or public utility company has accepted the primary obligation to maintain and repair any portion of the Common Area, the Association shall have the duty to accomplish the following upon the Common Areas:

7.1.1 Open Space Lots. The Association shall administer the repair, maintenance, and upkeep of all Open Space Lots or parcels including the stormwater detention basins located therein and all related stormwater piping and drainage facilities, unless such stormwater piping and/or drainage facilities services only one particular Lot and is not used in common by two or more Lots in which case the Owner of that Lot shall be responsible and obligated for the administration and cost of the maintenance, repair and upkeep of said stormwater piping and/or drainage facilities. The Open Space Lots are denoted on the Plat of the Development as "O.S." with a sequential number thereafter, together with Outlot B, the Damon Run creek and its environs.

7.1.2 Common Signage. The Association shall administer the maintenance, repair and upkeep of any common signage and related facilities, including main entrance identification signs, directional, informational, and traffic related signs (if not otherwise maintained by any governmental agency), but excluding any Owner-related signage. "Owner-related signage" includes building or tenant identification signage attached to or inside a Building or installed on windows or doors, building or tenant monument or pylon signage located entirely within a Lot and not used in common by any other Owner, and designated or reserved parking signage painted on pavement or installed on poles. The Association hereby reserves an easement for sign purposes for the benefit of the Association and all Owners over and upon each Outlot and upon those areas of Lots designated as "Association Sign Easement" on the Plat for the placement, operation, maintenance and repair of Common monument or pylon signage. If any common signage is used by or is for the benefit of two or more Lot Owners, but less than all Lot Owners, those Lot Owners not using the common signage shall have no

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responsibility or liability to pay a pro-rata share of costs and expenses associated with said common signage, but the Association shall look to only those Lot Owners using said common signage for payment of that Common Expense.

- 7.1.3. Utilities. The Association shall administer the repair, maintenance and upkeep of all utility lines located in the Common Area which serve the Development (unless otherwise maintained by the County, or public utility company), including without limitation water, firewater, sanitary sewer and gas lines, but excepting electrical lines, fiber optics, telephone, cable television, and other communications lines which shall be the sole responsibility of each Owner. Each Owner shall be responsible for the utility lateral lines used only by that Owner's Lot.
- 7.1.4. Private Roads. The Association shall administer the repair, maintenance and upkeep of the private roads, if any, including snow and ice removal, paving repair, crack sealing, sweeping and debris removal, and striping and line painting. If any private road is used exclusively by or is for the sole benefit of two or more Lot Owners, but less than all Lot Owners, those Lot Owners not using the private road shall have no responsibility or liability to pay a pro-rata share of costs and expenses associated with said private road, but the Association shall look to only those Lot Owners exclusively using said private road for payment of that Common Expense. The Association shall determine, in its sole judgment, which Lots are using private roads and which Lots are excused from contributing due to a lack of benefit. The Association's decision is conclusive and binding on all Owners.
- 7.1.5. Common Landscaping and Green Space Areas. The Association shall administer the repair, maintenance and upkeep of the landscaped and green space areas located on all Common Area (but specifically excluding any landscaped or green space areas on a numbered Lot and not in an easement benefitting the Association) including but not limited to grass mowing, mulching, fertilization of all grass, ground cover, shrubs and trees, removal of dead or waste material and replacement of any dead or diseased grass, ground cover, shrubs or trees, and weed abatement.

7.2 Repair and Maintenance by Owner. Except as otherwise provided in this Declaration, the Owner of a Lot shall be responsible for the repair, replacement and maintenance of its Lot and the Building and other Improvements constructed thereon, including the utility lines from the point of connection in the public utility easement or the public street to the Building located on each Lot. Maintenance shall include, but is not limited to, all snow and ice removal, maintenance and repair of all parking areas and drive aisles, striping and painting of parking areas,

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and any necessary crack sealing of paved areas; trash and debris clean-up; the repair, replacement and maintenance of all landscaping and green space areas within Lots, including but not limited to grass mowing, trimming, fertilization of all grass, ground cover, shrubs and trees, removal of dead or waste material and replacement of any dead or diseased grass, ground cover, shrubs or trees, and weed abatement on the Lots; and maintenance, repair and replacement all irrigation systems located on a Lot, if any, and shall periodically operate and run the irrigation systems sufficient to keep all landscaping and green space areas on the Lot in a first class condition. In the event an Owner fails to periodically operate and run said irrigations systems in accordance with this section (or the Association Rules) causing damage or destruction to said landscaped and green space areas, the Association may repair and/or replace said landscaping and green space areas and may thereafter charge the defaulting Owner for the costs and expenses thereof as a Special Assessment.

7.3 Right of Association to Maintain and Install. In the event that an Owner fails to accomplish any maintenance or repair required by this Declaration, the Association or its agents may, but shall not be obligated to, enter the applicable Lot and cause such maintenance and/or repair to be accomplished as hereinafter set forth, specifically including the right to enter a Lot and operate and run the irrigation system serving that Lot.

7.3.1 Upon a finding by the Association of a deficiency in the maintenance or repair of a Lot, the Association shall give notice of deficiency to the Owner which shall briefly describe the deficiency and if the deficiency is not cured within the deadline imposed by the Association's deficiency notice, the Board or a committee of the Board may cause such maintenance and/or repair to be accomplished. The Declarant hereby reserves an easement for the benefit of the Association to enter any Lot in violation of this section to perform the maintenance and/or repair.

7.3.2 All costs and expenses, including attorney fees and court costs, incurred by the Association for such maintenance and/or repair shall be a Special Assessment against the affected Owner and Lot.

7.4 Standards for Maintenance and Installation.

7.4.1 Maintenance of the exterior of the Buildings and Improvements shall be accomplished in accordance with the standards as promulgated from time to time by the Association.

7.4.2 All Improvements shall at all times be maintained in a first class condition and in compliance with all applicable laws, ordinances, orders, codes, rules, regulations and requirements of all federal, state, county, municipal and other governmental offices and bodies having jurisdiction, including,

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without limitation, all applicable codes and ordinances that affect the placement of utilities or which regulate building construction, fire protection or handicap accessibility.

7.4.3 No structure, planting or other material shall be placed or permitted to remain, or other activities undertaken on any Lot within the Development which might create erosion or sliding problems, or interfere with established drainage systems or facilities.

7.5 Right of Entry. In addition to the Common Area, the Association shall have the right to enter upon any Lot, including portions thereof which are not part of the Common Area, in connection with any maintenance, repair or construction in the exercise of the powers and duties of the Association.

7.6 Maintenance of Public and Private Utilities. Nothing contained herein shall require or obligate the Association to maintain, replace or restore the utilities which are located within the Common Area on the Development which are under the jurisdiction of public utility companies. However, the Association shall take such steps as are necessary or convenient, in the Association's reasonable opinion, to ensure that such facilities which serve the entire Development are properly maintained, replaced or restored by such public utility companies. Each Owner shall be responsible for the maintenance, repair or replacement of the utility lines and facilities which exclusively serve each Building on the Owner's Lot.

7.7 Title to Common Area. Declarant may retain the legal title to the Common Area so long as it owns at least one Lot or parcel of real estate, other than the Common Area, in the Development. On or before conveyance by the Declarant of the last Lot which Declarant owns in the Development, the Declarant shall convey the Common Area to the Association subject to taxes for the year of conveyance and to restrictions, conditions, limitations, reservations and easements of record; subject, however, to a reservation hereby perpetually reserved to the Declarant, its successors and assigns, of the non-exclusive right to use and enjoy the common utility easements, easements of drainage, and ingress and egress easements for the benefit of real estate owned and to be owned by the Declarant which is contiguous to the Development.

7.8 No Partition. Except as is permitted in this Declaration, or any Supplemental Declaration, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the applicable portions of the Development have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

**ARTICLE 8  
INSURANCE**

8.1. Owner Insurance Requirements. Each Owner shall procure and maintain comprehensive public liability and property damage insurance against claims for personal injury, death, or property damage occurring upon such Owner's parcel, with single limit coverage of not less than an aggregate of Two Million Dollars (\$2,000,000.00) including umbrella coverage, if any, or such greater amount as may from time to time be reasonable and prudent under the circumstances, and naming the Association (and the Declarant during the Developer Control Period) as a named additional insured . This insurance is to insure against potential liability for losses or damages that might occur on or to any Lot, including, without limitation, the easement areas thereof. Each Owner shall deliver to the Association certificates evidencing such insurance on an annual or renewal basis and each policy naming the Association (and the Declarant during the Developer Control Period) as an additional insured shall have a provision giving the Association (and the Declarant during the Developer Control Period) thirty (30) days notice of any cancellation or failure to renew said policy. All such policies carried by the Owners shall contain waivers or subrogation of claims against the other Owners, the Association (and the Declarant during the Developer Control Period) and the agents and employees of each of such Owners, Declarant and the Association, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent of insurance proceeds received in compensation for such loss only, and as stated above, the Association (and the Declarant during the Developer Control Period) shall be named as an additional insured on said policy.

8.2 Waiver by Owners. All insurance obtained by the Association shall be maintained by the Association for the benefit of the Association (and Declarant during the Developer Control Period), the Owners and their mortgagees as their interests may appear. If applicable, to each of said policies which will not be voided or impaired thereby, the Owners hereby waive and release all claims against the Association, the Board, other Owners, Declarant and agents and employees of each of the Association, the Board, other Owners and Declarant, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent of insurance proceeds received in compensation for such loss only. Any insurance maintained by the Association shall be excess coverage to the insurance maintained by the Owners which shall be primary coverage.

8.3 Premiums, Proceeds and Settlement. Insurance premiums for any insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be a Common Expense to be included in the Regular Assessments levied by the Association. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. All insurance loss settlements over \$10,000 shall require approval of the Board of Directors.

8.4 Annual Insurance Review. The Association shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage in light of increased construction costs, inflation, and customary practice in the area in which the Development is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Owners and of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall be authorized to obtain the same.

## ARTICLE 9 DESTRUCTION OF IMPROVEMENTS

9.1 Duty of Association. In the event of partial or total destruction of any Improvements within the Development, and if the Owner, in its sole discretion, chooses to repair or rebuild the Improvement, it shall be the duty of the Association to review and approve the restoration plans and repairs to insure that the Improvements are repaired or rebuilt in accordance with the terms and conditions of this Declaration and in keeping with the general architectural standards as adopted by the Architectural Committee. If any Improvements are destroyed which the Association has the duty to repair or maintain, the applicable Owner will insure that the proceeds of any casualty insurance maintained by the Owner pursuant to this Declaration shall be used to repair or reconstruct such Improvements promptly, subject to the prior rights of mortgagees whose interest may be protected by said policies.

9.2 Destruction of Owner's Improvements. In the event any Improvements located on an Owner's Lot are destroyed by any casualty, the Owner of such Lot may either (1) proceed to rebuild such Improvements, at such Owner's sole cost; or (2) raze and remove the remaining portions of the destroyed Improvement and landscape the Lot or portion thereof in a sightly manner. If an Owner chooses to rebuild, the Owner shall have the right to change or modify the size or type of building rebuilt so long as the new Building is consistent with zoning requirements and this Declaration. Any design or other modifications to the rebuilt structure, which are different from the original structure, shall require approval of the Architectural Committee.

## ARTICLE 10 EMINENT DOMAIN

10.1 Definition of Taking. The term "taking" as used in this Article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Common Area.

10.2 Award for Common Areas. Any awards received on account of the taking of Common Area shall be paid to the Association. The Association may in its sole discretion retain

any such award and utilize same to offset future Common Expenses. Any award granted to an Owner in connection with condemnation of that Owner's Lot or any portion thereof not including any Common Area or portion thereof shall be paid to the Owner of that Lot.

**ARTICLE 11**  
**USE RESTRICTIONS**

11.1 Permitted Uses. All Lots in the Development shall be used for no purpose other than purposes permitted by the County's zoning ordinances (as defined in the County Zoning Code) in effect from time to time, except uses prohibited herein. No part of the Development shall ever be used or caused to be used, or allowed or authorized in any way, directly or indirectly, for any residential or other non-business purpose, except for senior care or housing in the R-4 Zoning District or Institutional (IN) District of the Development. All business operations shall be performed and carried out in such a manner that the operations and uses do not cause or produce a nuisance to other portions of the Development, such as, but not limited to, vibration, sound, electro mechanical disturbance and radiation, electro-magnetic disturbance, radiation, heat, glare, air or water pollution, dust or emission of odors, toxic or nontoxic matter.

11.2. R-4 Zoning District. The following uses otherwise allowed by the §2.19 of the Porter County Unified Development Ordinance are prohibited in the R-4 District area of the Development pursuant to Ordinance No. 11-03:

- (a) multiple-family dwellings,
- (b) single-family attached dwellings, and
- (c) fair housing facility (small)

Additionally, the housing developed in the R-4 zoning district shall be specifically targeted for housing for elderly or senior citizens.

11.3 CM Zoning District. The following uses otherwise allowed by the §2.31 of the Porter County Unified Development Ordinance are prohibited in the CM District area of the Development pursuant to Ordinance No. 11-03:

- (a) all agricultural uses
- (b) automobile accessory installation
- (c) automobile gas station
- (d) automobile oil change facility
- (e) automobile parts sales
- (f) tattoo/piercing parlor



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11.4 Exclusive Use Within R-4 Zoned Area of Development. Declarant proposes to use the Lot or Lots located within the Multi-family Residential (R-4) District as a skilled care nursing home and no other Lot in the Development, or any portion thereof, shall be used as a skilled care nursing home, assisted living facility or any similar or competing purpose.

11.5 Access Road Restrictions. No Owner shall allow any Lot to be used for (a) the operation of an inpatient acute care hospital, (b) an emergency department or an urgent care facility, or (c) an ambulatory surgery center (a facility dedicated primarily to the performance of outpatient surgical procedures); without the prior written consent of the Association and Porter Hospital, LLC or its successor and assigns pursuant to that certain Mutual Access Easement and Use Restriction Agreement dated June 21, 2012 and recorded July 19, 2012 as Document No. 2012-017801 in the Office of the Recorder of Porter County, Indiana.

11.6 Nuisances. No noxious or offensive trade or activity shall be carried on within any Lot or any part of the Development, or which shall in any way interfere with the quiet enjoyment of each of the Owners of their respective Lots, or which shall in any way increase the rate of insurance for any other Lot or any portion of the Common Areas. In this regard, all noises, sounds and vibrations shall be appropriately muffled in such a manner so as not to be objectionable as to intermittent beat, frequency, shrillness or volume. Every use shall be operated in such a manner that the noise, vibration, heat and glare inherently and recurrently generated from such use is not perceptible beyond the Lot on which the use is located. Electrical illumination may be used to illuminate Buildings, landscaping areas, signs and parking areas, provided that such devices are equipped with proper lenses concentrating the illumination upon such structures and areas preventing any bright or direct illumination upon adjacent Lots or upon any street, whether public or private, and provided further that any such illumination shall first be approved by the Association. A "nuisance" shall include, without limitation, any of the following conditions:

11.6.1 emission of dust, sweepings, dirt, or cinders into the atmosphere, or discharges of liquid, solid wastes, or other harmful matter into any body of water if such emission or discharge may adversely affect the use or intended use of any Lot or may adversely affect the health, safety, or comfort of persons in the vicinity, or discharge of waste or any substance or material of any kind into any public or privately maintained sewer servicing the Development, or any part thereof, in violation of any law, rule, or regulation of any public body having jurisdiction thereof;

11.6.2 escape or discharge of fumes, odors, gases, vapors, acids, or other substances into the atmosphere if such escape or discharge may be detrimental to the health, safety, or welfare of persons, may interfere with the comfort or health of persons within the vicinity, or may be harmful to property or vegetation; and

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11.6.3 the perception, at any point outside the boundaries of a Lot, of any noise, noise, vibration, heat or glare from any activity, machine, device or combination thereof located on such Lot that unreasonably interferes with the use or enjoyment of any other Lot.

11.7 Signage and Identity Plans. All signage in the Development shall be in compliance with all applicable laws, codes, and ordinances and as approved by local governmental authorities, and as approved by the Architectural Committee. No Owner shall erect or place a sign, signage or identity structures or improvements on any Lot without the approval of the Architectural Committee pursuant to Article 5. All signage shall (a) be consistent with the Design Standards; (b) be comparative with the theme established by Declarant, including height, material, and color of all signage; (c) be compatible with the Building proposed and reflective of the project parameters; and (d) not interfere with the visibility of any sign on any other Lot or within the Development and no Owner or Occupant of any Lot within the Development.

11.8 Temporary Structures. No structure of a temporary character, trailer, trailer home, motor home, tent, shack, barn, shed, lean-to, or other out-building shall be placed or used on any portion of the Development at any time, either temporarily or permanently, unless approved by the Association and any regulatory authorities having jurisdiction; provided, however, temporary construction trailers shall be permitted during periods of construction activity on any Lot.

11.9 Unsightly Items. All weeds, rubbish, debris, or unsightly material or objects of any kind shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. All trash containers shall be used and stored only in the trash container areas. All other refuse containers, woodpiles, storage areas, machinery and equipment, and outside storage of any kind shall be prohibited upon any Lot and upon the Development, except in accordance with rules adopted by the Association

11.10 Antennae and Other Roof Structure. All antennae and other roof structures shall be constructed and operated in compliance with all applicable laws, ordinances, and regulations, and the Association Rules as promulgated from time to time, and as shall be approved by the Architectural Committee pursuant to Article 5 of this Declaration.

11.11 Window Covers. No window shall be covered (either from the outside or the inside) with aluminum foil, newspapers or other material not designed for use as a window cover.

11.12 Drainage. There shall be no interference with the established drainage pattern and system over any portion of the Development unless adequate provision is made for proper drainage and is approved by the Association. For the purposes hereof an "established drainage pattern and system" is defined as the drainage which exists at the time the overall grading of the Development is completed or that which is shown on any plans approved by the Porter County Plan Commission and other governmental officials, Declarant or the Association, and includes, but is not necessarily

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limited to, underground drain pipes and patterns of drainage over the Development from and to adjoining properties and improvements.

11.13 Subdivision. No Owner of a Lot shall subdivide a Lot without the express written approval of the Association.

11.14 Consolidation of Lots. In the event that one or more Lots are developed as a unit, the provisions of these covenants and restrictions shall apply thereto as a single Lot. No Building or other structure or improvement shall be erected, altered, placed, or permitted to remain on any site not including at least one Lot according to the recorded Plat.

11.15 Toxins and Radioactive Materials. The storage, handling and disposal of toxic and radioactive materials shall not be permitted within the Development, except the storage, handling and disposal of minute quantities of such materials in connection with a permitted use and only then if the Architectural Committee and any applicable governmental entity shall give its prior written approval to the storage, handling and disposal of such materials.

11.16 Emissions. No use shall be permitted on any Lot which:

11.16.1 Discharges liquid or solid wastes or other environmentally harmful matter into the atmosphere or any stream, river, canal, flood control channel or other body of water, which may adversely affect (I) the health or safety of persons or (ii) the use or enjoyment of the Development or any Lot therein (iii) or vegetation within the Development.

11.16.2 Discharges waste or any substance or materials of any kind into any public sewer serving the Development or any part thereof in violation of any regulations of any public body having jurisdiction.

11.17 Garbage and Refuse Disposal. All rubbish, trash and garbage shall be removed by each Owner at least once a week from each Owner's respective trash container area located on the Owner's Lot, and trash and rubbish shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All incinerators and/or other equipment permitted by the Association for the storage or disposal of such materials shall be kept in a clean and sanitary condition. To the extent an Owner has any medical, toxic waste and/or any other substance which is either controlled by governmental regulation or may be harmful to persons, such Owner shall be responsible for the safe storage, transportation and disposing of such materials.

11.18 Continuation of Existing Uses. Nothing in Declaration shall restrict or prohibit any Owner from continuing to use its Lot for its existing residential use and purpose at the time

this Declaration is executed and any and all driveways and access to U.S. Highway No. 6 shall be allowed to continue for so long as the existing residential use is maintain by any individual Owner.

## ARTICLE 12 EASEMENTS

12.1 Grant of Reciprocal Ingress, Egress and General Use Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant and each Owner of a Lot grants and conveys to every other Owner of a Lot in the Development a nonexclusive, perpetual and reciprocal easement for access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Lot open to the public and business invitees of the respective Lots within the Development, including, without limitation, all drives, trafficways, parking lots, trails, sidewalks and the like, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Development (including all Lots and the Common Areas) intended for such purposes, and to and from all abutting streets or rights of way furnishing access to all Lots.

12.2 Shared Access Easement. With the exception of Lots fronting on the private road easement created by that certain Mutual Access Easement and Use Restriction Agreement recorded in the Office of the Recorder of Porter County, Indiana as, 2012-017801, an easement shall be located on the corner of each Lot that is at the intersection of a common property line with a neighboring buildable Lot and a public or private right-of-way to provide for a shared drive access to the street from both Lots. The easement shall be fifty (50) feet deep along the common Lot line beginning at the existing right-of-way and extending twenty-five feet (25') onto each Lot (at right angles) so as to create a rectangular access easement straddling the common Lot line. This easement shall for the mutual benefit of both Owners and Occupants of the adjoining Lots for the purpose of ingress and egress, together with the full and free right, in common with all others having like right, at all times hereafter with or without automobile or other vehicles or on foot, to pass and repass on, over and across the easement area. There shall be no barriers or obstructions permitted within the easement. Each Owner shall provide, maintain, repair, and clean the entrance driveway and areas of ingress and egress located on and within their respective Lot during times that said Owner, and/or the Occupants shall use the common entrance driveway. Such maintenance shall include, without limitation, keeping the same in good condition and repair and keeping the same reasonably free and clear of foreign objects, papers, debris, obstructions, standing water, snow and ice.

Nothing in this Declaration shall be interpreted so as to create an obligation on any Owner to connect to or use the shared access easements created herein or to connect to an existing or future driveway established by others within the easement.

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12.3 Drive Access onto Street. No driveway or curb cut from any Lot shall be located less than fifty feet (50') from any shared access easement unless approved by the Architectural Committee.

12.4 No Cross-Parking Easements. While the forgoing paragraph grants access to public areas of each Lot, no cross parking easements are granted or conveyed herein and no independent right is implied by this Declaration. The Declarant encourages the use of shared parking areas between Owners as they develop each Lot; however, no such parking easements are established in this Declaration.

12.5 Drive-Throughs. No Lot or Building or facility thereon shall permit or allow for vehicular drive-up or drive-through in which the stopping or standing of motor vehicles in line at a location for drop-off and/or pickup is intended (as, for example, at a restaurant or bank) shall be assigned, constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand onto any other Lot, the Common Area, public or private roads or streets, or any other drive or trafficway or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic in the Development.

12.6 No Parking on Streets or Roads. All Owners and Occupants shall not nor permit others to park motor vehicles within any public or private street or road within the Development at any time of day. The Association may prescribe other parking rules and restrictions from time to time within the Association Rules. The Association may enforce all parking regulations by any lawful means, including removal of violators vehicles at the owner's expense.

12.7 Utilities. Declarant hereby grants and conveys to each Owner and/or Occupant a perpetual, irrevocable, nonexclusive easement for the installation and maintenance of electric, telephone, private or public communications, cable television, water, gas, sanitary sewer lines and facilities, and storm sewer lines and facilities (including storm water management basins) within the easements designated on the Plat of the Development. The Plat may limit the purposes of one or more easements by specifically identifying the purpose of the easement which shall be to the exclusion of all other utilities or purposes. Easements identified as "public utility easement" or "utility easement" or similar wording shall be general easements and may be used for any utility servicing any Lot. Easements identified on the Plat as "Drainage Easement" shall only be used for storm water management or drainage purposes, subject to terms and limitations hereinafter set forth in this Article. Any utilities that are located on the Lots of one or more Owners and service other Owners shall be for the benefit of all such Owners who utilize such utilities who are hereby granted an easement for such use. Declarant reserves the right to grant further utility easements within the Common Area or on any portion of the Development which Declarant may own from time to time for the benefit of any person or entity, public or private; however, no Owner other than Declarant may grant further easements or allow access to any utility within the Development to any parcel or property owner not in the Development.

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12.8 Morthland Parcel - No Storm Water Easement. The Morthland parcel (as described on Exhibit "B") shall independently manage storm water and no storm water or drainage easements shall extend to and benefit the Morthland parcel and no other portion of the Development shall have the benefit of any right or easement to have storm or surface water conveyed, retained, detained or managed in any way on the Morthland parcel.

12.9 Blanket Easements for Benefit of the Association. There is hereby reserved to the Association perpetual and irrevocable easements over the Development and the Lots therein for the purpose of permitting the Association to discharge its obligations as described in this Declaration.

12.10 Sign Easement. Declarant hereby establishes, grants and creates an easement for the construction, maintenance, repair and replacement of a common sign over and upon Outlot A as more fully delineated on the Plat for the benefit of the Declarant, the Association and all Lot Owners using the sign.

12.11 Reasonable Use of Easements.

12.11.1 Interference with Others. The easements granted herein and those shown or granted on the Plat shall be used and enjoyed by each Owner and the Occupants benefitted thereby in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of Declarant, the Association, or any other Owner or its Occupants at any time conducted on its Lot, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

12.11.2 Subsurface Rights Only. The grant of utility easements (including those easements granted on the Plat) is specifically limited to subsurface rights, with the exception of transformers and other equipment typically maintained on the surface. The construction, installation, maintenance or repair of any utility facilities shall be maintained completely underground.

12.11.3 Utility Easement Use Limited. The utility lines, systems and equipment are installed pursuant to the easements granted herein, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over or permitted to encroach upon such utility installations. Utility easements may be improved with pavement, sidewalks, landscaping islands and other surface improvements. The utility easements are granted and

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provided to allow for the protection of existing lines, sewers or pipes. Any Owner may reconstruct, maintain or repair such existing utilities.

- 12.11.4 Restoration. Owner or the utility provider shall restore the surface of the real estate to the same condition as it was prior to the entry and disturbance thereof by any Owner, utility provider or their contractor or agent. All restoration work shall be completed within thirty (30) days of completion of the utility work, subject to force majeure. In the event that the utility provider does not perform the restoration work, the Owner engaging the work shall perform the restoration.
- 12.11.5 Notice. Except in the case of emergency, the party benefitted by each utility easement or any utility provider shall give the owner of the parcel upon which such easement is located at least thirty (30) days prior written notice of the intention of said utility provider to install such additional utility service on each occasion that the utility provider desires to install additional utility service in order to minimize any inconvenience to the owner or occupant of the affected parcel.
- 12.11.6 Construction Interference. Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other party or its Occupants. Except in cases of emergency, the right of any party to enter upon a parcel of another party for the exercise of any right pursuant to the easements set forth, or to prosecute work on such party's own parcel if the same interferes with utility easements or easements of ingress, egress or access to or in favor of the other party's parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other party and its Occupants.
- 12.11.7 Each Owner shall be liable for all damage caused by the Owner or Owner's Occupants use of the easements granted herein.
- 12.11.8 Except as otherwise stated herein, each Owner shall pay all costs related to repair, replacement and maintenance of all improvements located on each Owner's respective Lot, unless such repair, replacement or maintenance has been specifically delegated to the Association.

12.12 Storm Water Swales and Easements. Each Owner or Occupant shall keep all areas of the Lots designed or intended for the proper drainage, conveyance, retention, detention or otherwise to manage the storm and surface water in the Development, including culverts, swales

and ditches, unobstructed, maintained, and mowed regularly. No trees, plantings shrubbery, fencing, patios, structures, landscaping treatment or other obstructions shall be planted, placed or (except for existing trees) allowed to remain in any such areas, and no Owner or Occupant shall alter the rate or direction of flow of surface water from any Lot by impounding water, changing grade, blocking, redirecting swales, ditches or drainage areas or otherwise. Each Owner and Occupant acknowledges, by acceptance of a deed, lease or other instrument conveying an interest to a Lot, that any and all such drainage, detention or storm and surface water management areas are for the benefit of the entire Development. It shall be the duty of every Owner or Occupant of every Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this provision.

### **ARTICLE 13**

#### **RIGHTS OF LENDERS**

13.1 Relationship with Assessment Liens. The lien provided for in Article 4 hereof, entitled "Nonpayment of Assessments," for the payment of Assessments shall be subordinate to the lien of any mortgage which was recorded prior to the date that the Association recorded its Notice of Lien. Nothing in this Section shall be construed to release any Owner from its obligations to pay for any Assessment levied pursuant to this Declaration.

13.2 Mortgagees Furnishing Information. Mortgagees are hereby authorized to furnish information to the Association concerning the status of any mortgage.

### **ARTICLE 14**

#### **GENERAL PROVISIONS**

14.1 Enforcement. The Association, or any Owner, shall have the right to enforce by proceedings at law or in equity, all restrictions, conditions, covenants and easements, now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages or other dues for such violation. With respect to architectural control, assessment liens or any other liens or charges and Association Rules, the Association shall have the exclusive right to the enforcement thereof.

14.2 No Waiver. Failure by the Association or by any Owner to enforce any covenant, condition, restriction or easement herein contained in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or any other covenant, condition or restriction.



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14.3 Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or mortgagees under this Declaration are cumulative, and not one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the mortgagees shall have the right to pursue anyone or all of such rights, options and remedies or any other remedy or relief which may be provided by law or equity, whether or not stated in this Declaration.

14.4 Severability. Invalidation of anyone or a portion of these covenants, conditions, restrictions or easements by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

14.5 Covenants to Run with the Land: Term. The covenants, conditions restrictions and easements of this Declaration, which includes, but is not limited to the obligations of the Association set forth herein, shall run with and bind the Development and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns.

14.6 Perpetual Effect. This instrument and the covenants, promises and agreements made herein shall continue in full force and effect in perpetuity and shall be irrevocable unless terminated, modified or amended by the express terms herein or by a subsequent agreement in writing and in recordable form between the parties hereto, or their respective successors and assigns, and the holders of all mortgages affecting all or any portion of the real estate affected hereby. The consent or agreement of any mortgagee shall not be unreasonably withheld.

14.7 Delay or Failure to Enforce. No delay or failure on the part of any Owner or other aggrieved party to invoke any available remedy with respect to a violation of any one or more of the terms and provisions of this Declaration shall be held to be a waiver by that Owner or party (or an estoppel of that party to assert) any right available to that party upon the occurrence, recurrence or continuation of such violation or violating of these restrictions.

14.8 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

14.9 Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine and the neuter.

14.10 Nuisance. The result of every act or omission, whereby any provision condition, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result,

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and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative and not exclusive.

14.11 Attorneys' Fees. In the event action is instituted to enforce any of the provisions in this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit.

14.12 Notices. Any notice to be given to an Owner under the provisions of this Declaration shall be in writing and may be delivered as follows:

14.12.1 Notice to an Owner shall be deemed to have been properly delivered when delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail within the County shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivery on all such co-Owners.

14.12.2 The affidavit of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, to any mortgagee or mortgagees, or to all Members or all mortgagees, to the address or addresses shown on the records of the Association, shall be deemed conclusive proof of such mailing, whether or not such notices are actually received.

14.13 Effect of Declaration. This Declaration is made for the purposes set forth in the Recitals to this Declaration, and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

14.14 Non-liability of Officials. To the fullest extent permitted by law, neither the Board, the Architectural Committee, any other committees of the Association or any member of such Board or committee shall be liable to any Member or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committees or persons reasonably believed to be the scope of their duties

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14.15 Leases. Any agreement for the leasing or rental of a Lot or any Building or portion thereof (a "Lease") shall provide that the terms of such Lease shall be subject in all respects to the provisions of this Declaration, the Bylaws and the Association Rules. Any Owner of a Lot who shall lease its Building thereon shall be responsible for assuring compliance by such Owner's lessee with this Declaration, the Articles, the Bylaws and the Association Rules.

14.16 Amendments. During the Developer Control Period, this Declaration may be amended by the Declarant without the consent of any other Owner, provided that such amendment does not materially and adversely affect the Owner's use and enjoyment of its Lot. After the Developer Control Period, this Declaration may be amended and such amendment shall be effective when executed by the Owners of Lots representing eighty percent (80%) of the voting interest of the Association and shall be effective when recorded in the Office of the Recorder of Porter County, Indiana. However, so long as Declarant is an Owner of any portion of a Lot, this Declaration may not be amended without Declarant's written approval and execution of the amendment prior to its recordation.

14.17 Compliance With Soil Erosion Control Plan.

14.17.1 Declarant has established and implemented an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 relating to Storm Water Run-off Associated with Construction Activity. Each Owner shall undertake all erosion control measures contained therein as the plan applies to "land disturbing activity" initiated by Owner or Owner's builders, contractors and their subcontractors and to comply with the Declarant's general permit under Rule 5 as well as all other applicable state, county or local erosion control authorities. All erosion control measures shall be performed by personnel trained in erosion control practices and shall meet the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources.

14.17.2 Owner shall indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by Owner, Owner's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.

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14.18 Compliance with Laws. Notwithstanding any other provision of the Declaration to the contrary, no provision of this Agreement shall in any manner lessen the Declarant's, the Association's and/or any Owner's obligation to comply with any applicable law, statute, regulation or ordinance of the County, State or Federal government.

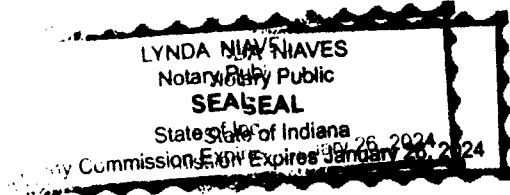
IN WITNESS WHEREOF, Declarant has executed this instrument the day and year first herein above written.

ST. ANDREWS DEVELOPMENT LLC

By: *William A. Hasse, III*  
William A. Hasse, III  
Member

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF                )

Before me, the undersigned, a Notary Public for said County and State, personally appeared William A. Hasse, III, as a Member of St. Andrews Development LLC, and after being first duly sworn upon his oath, says that the facts alleged in the foregoing instrument are true and acknowledged the execution of the foregoing instrument. Signed and sealed this 1<sup>st</sup> day of August, 2016.



*Lynda Nieves*  
Notary Public  
*Lynda Nieves*  
Printed  
County of Residence: *Lake*  
My Commission Expires: *01/26/24*

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. *Todd A. Leeth*

This Instrument Prepared By:

Todd A. Leeth  
Hoepfner Wagner & Evans LLP  
103 E. Lincolnway  
Valparaiso, Indiana 46383



**CONSENT AND JOINDER**

The undersigned, Douglas Morthland and Martha Sue Morthland ("Morthland"), are the fee simple owners of the real estate described on Exhibit B herein and join in and submit their respective parcel to the easements, covenants, benefits, burdens, assessments and all other term and conditions of the foregoing Declaration of Covenants, Conditions, Restrictions and Grant of Easements for Porter Business Park and Senior Living Community.

\_\_\_\_\_  
Douglas Morthland

\_\_\_\_\_  
Martha Sue Morthland

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF                )

Before me, the undersigned, a Notary Public for said County and State, personally appeared Douglas Morthland and Martha Sue Morthland and after being first duly sworn upon their oaths, say that the facts alleged in the foregoing instrument are true and acknowledge the execution of the foregoing instrument. Signed and sealed this \_\_\_ day of \_\_\_\_\_, 20\_\_.

SEAL

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed

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

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

**ORIGINAL DOCUMENT RECORDED WITHOUT SIGNATURE**

**EXHIBIT A**

**LEGAL DESCRIPTION**

**DECLARANT'S REAL ESTATE**

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*Note: The zoning map and the following applicable zoning districts of the described parcels listed below have been modified by Ordinance No. 16-12 dated April 5, 2016 and last recorded on April 13, 2016 as Document No. 2016-008188 in the Office of the Recorder of Porter County, Indiana.*

**CM ZONE PARCEL**

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 6 WEST OF THE SECOND PRINCIPAL MERIDIAN, PORTER COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE SOUTH 89 DEGREES 53 MINUTES 31 SECOND WEST (BASIS OF BEARINGS AS SHOWN ON A PLAT OF SURVEY PREPARED BY DAVIES-RENSBERGER SURVEYING, JOB NUMBER 07-386, DATED JANUARY 7, 2008), 1652.97 FEET ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE NORTH 00 DEGREES 21 MINUTES 21 SECONDS WEST, 124.63 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 80 DEGREES 56 MINUTES 49 SECONDS WEST 535.15 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 21 SECONDS WEST 905.58; THENCE NORTH 89 DEGREES 53 MINUTES 31 SECONDS EAST 529.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 21 SECONDS EAST 822.37 FEET, TO THE POINT OF BEGINNING, CONTAINING 10.4922 ACRES, MORE OR LESS.

**OT ZONE PARCEL**

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 6 WEST OF THE SECOND PRINCIPAL MERIDIAN, PORTER COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE SOUTH 89 DEGREES 53 MINUTES 31 SECOND WEST (BASIS OF BEARINGS AS SHOWN ON A PLAT OF SURVEY PREPARED BY DAVIES-RENSBERGER SURVEYING, JOB NUMBER 07-386, DATED JANUARY 7, 2008), 1224.61 FEET ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24 TO THE EAST LINE OF THE WEST 86.508 ACRES OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE NORTH 00 DEGREES 21 MINUTES 21 SECONDS WEST, 654.00 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 53 MINUTES 31 SECONDS 428.36 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 21 SECONDS WEST, 293.00 FEET; THENCE SOUTH 89 DEGREES

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53 MINUTES 31 SECONDS WEST, 662.00 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 21 SECONDS WEST, 1701.91 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE NORTH 89 DEGREES 49 MINUTES 35 SECONDS EAST, 690.07 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 21 SECONDS EAST, 360.00 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 35 SECONDS EAST, 400.28 FEET TO THE EAST LINE OF THE WEST 86.508 ACRES OF THE SOUTHEAST OF SAID SECTION 24; THENCE SOUTH 00 DEGREES 21 MINUTES 21 SECONDS EAST, 898.16 FEET ALONG SAID EAST LINE; THENCE SOUTH 89 DEGREES 38 MINUTES 39 SECONDS WEST, 225.00 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 21 SECONDS EAST, 320.33 FEET; THENCE NORTH 89 DEGREES 38 MINUTES 39 SECONDS EAST, 225.00 FEET TO THE EAST LINE OF THE 86.508 ACRES OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE SOUTH 00 DEGREES 21 MINUTES 21 SECONDS EAST, 417.66 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. CONTAINING 40.5346 ACRES, MORE OR LESS.

**R4 ZONE PARCEL**

A PARCEL OF LAND IN SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 6 WEST OF THE SECOND PRINCIPAL MERIDIAN, PORTER COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE SOUTH 89 DEGREES 53 MINUTES 31 SECOND WEST (BASIS OF BEARINGS AS SHOWN ON A PLAT OF SURVEY PREPARED BY DAVIES-RENSBERGER SURVEYING, JOB NUMBER 07-386, DATED JANUARY 7, 2008), 2646.97 FEET ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24 TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 24; THENCE NORTH 0 DEGREES 21 MINUTES, 21 SECONDS WEST, 2648.53 FEET ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24 TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24 FOR THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 24 MINUTES 08 SECONDS WEST, 890.00 FEET, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 79 DEGREES 40 MINUTES EAST, 813.34 FEET; THENCE SOUTH 78 DEGREES 25 MINUTES 55 SECONDS, 532.35 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24; THENCE SOUTH 00 DEGREES 24 MINUTES 34 SECONDS EAST, 525.0 FEET ALONG SAID EAST LINE; THENCE SOUTH 89 DEGREES 49 MINUTES 35 SECONDS WEST, 299.95 FEET; THENCE SOUTH 00 DEGREES 24 MINUTES 08 SECONDS EAST, 400.0 FEET TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24; THENCE SOUTH 89 DEGREES 49 MINUTES 35 SECONDS WEST, 1022.07 FEET ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING. CONTAINING 26.6403 ACRES, MORE OR LESS.

**EXHIBIT B**

**LEGAL DESCRIPTION**

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**MORTHLAND PARCEL - OT ZONE**

Commencing at the intersection of the East and West center line with the East line of Section 24, Township 36 North, Range 6 West and running thence West 1221 feet to the point of commencement; thence West 99 feet; thence North on a line parallel with the East line of said Section 400 feet; thence West on a line parallel with the South line of said Section a distance of 300 feet; thence South on a line parallel with the East line of said Section a distance of 760 feet; thence East on a line parallel with the South line of said Section a distance of 399 feet; thence North on a line parallel with the East line of said Section a distance of 360 feet to the point of commencement.



## SECTION 1 - PURPOSE AND APPLICATION

- A. **Purpose:** The Porter Medical Campus, herein after called the "Campus" has the following purposes:
1. **General.** Create a development which:
    - a. Reinforces a unified "sense of campus" with the adjacent Porter Hospital Campus
    - b. Encourages sustainable site (e.g. Sustainable Site Initiative or SITES™) and building design (e.g. LEED), construction and operation.
    - c. Promotes investment in quality, and long-lasting design, materials and development practices.
  2. **Character.** This Campus is intended to have a high-quality character, providing sufficiently landscaped green space or pervious area to present a quality appearance, buffer residential neighbors, and to provide for a campus-wide on-site storm water management and treatment system and walking opportunities for visitors and employees.
  3. **Districts.** These Architectural Standards pertain to two districts in the Campus as follows:
    - a. **Moderate Commercial District (CM):** The service-oriented district located adjacent to US Highway 6, with permitted uses as defined by the County of Porter, with amendments as recorded for this property. The primary uses in this district are intended to be retail establishments.
    - b. **Office/Technology District (OT):** The mixed-use/medical-oriented district located in the center of the Campus, with permitted uses as defined by the County of Porter, with amendments as recorded for this property. The primary uses of this district are intended to include health care facilities, offices, technology facilities or a mix of these including offices, laboratories, and other uses that support the primary uses, adjacent hospital patients, visitors, and workforce.

## SECTION 2 - SITE DESIGN STANDARDS

All uses and development in the Campus shall be in accordance with the following:

- A. **Setbacks, Landscape Buffers, and Site Landscaping.** Setbacks, landscape buffers, and site landscaping shall be provided as follows:
1. U.S. Highway No. 6:
    - a. Minimum width of buffer: 20 feet (adjacent to right-of-way)
    - b. Minimum buffer landscaping per 100 linear feet:
      - i. 1.6 canopy trees or conifers (or combination)
      - ii. 1.6 ornamental trees
      - iii. 15 shrubs or 15 (5 gal.) native grasses (or combination)
  2. Collector Streets:
    - a. Minimum width of buffer: 15 feet (adjacent to right-of-way)
    - b. Minimum buffer landscaping per 100 linear feet:
      - i. 2 canopy trees or conifers (or combination)
      - ii. 1 ornamental tree
      - iii. 15 shrubs or 15 (5 gal.) native grasses (or combination)
  3. Abutting nonresidential zoning district:
    - a. Minimum width of buffer: 5 feet (adjacent to right-of-way)
    - b. Minimum buffer landscaping per 100 linear feet:
      - i. 2 canopy trees or conifers (or combination)
      - ii. 1 ornamental tree
      - iii. 9 shrubs or 9 (5 gal.) native grasses (or combination)
  4. Abutting residential zoning district, generally:
    - a. Minimum width of buffer: 25 feet (adjacent to right-of-way)

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- b. Minimum buffer landscaping per 100 linear feet:
  - i. 2.25 canopy trees or conifers (or combination)
  - ii. 2.25 ornamental trees
  - iii. 25 shrubs or 25 (5 gal.) native or ornamental grasses (or combination)
  - iv.

May incorporate existing trees.

5. Site Landscaping of yards or green spaces as required by Section 5 (E)(3) shall be provided as follows:

- a. Canopy trees or conifers: 10 per acre of required landscaped area
- b. Understory or ornamental trees: 15 per acre of required landscaped area
- c. Shrubs: 100 per acre of required landscape area

B. **Minimum Standards for Landscape Material.** Landscaping shall meet the following minimum standards at the time of installation.

- 1. Canopy trees: 2 1/2 to 3 inch caliper
- 2. Ornamental or understory trees: 1-1/2 inch caliper or six feet high
- 3. Conifers: 6 feet high
- 4. Shrubs: 3 feet high or 5 gallon native grasses

C. **Street Trees.** All streets (public or private) shall be landscaped with canopy trees for every 50' on average linear feet (may cluster plantings). This may be averaged to avoid conflicts with curb cuts.

D. **Parking Lot Landscaping.** There shall be one canopy tree planted for every 15 spaces in the parking lot. The developer is encouraged to integrate parking lot landscaping into the storm water system to assist in cleaning the run-off. Species that are water tolerant must be selected for this purpose.

E. **Signs.**

1. The Comprehensive Signage Package for the Porter Medical Campus identifies various design parameters. (Preliminary Landscape Plans, sheet 10 of 10.) Proper application of the signage within each area complements the design unity of the Porter Medical Campus architectural design standards. The materials, colors, and applications that apply to the buildings will also apply to the on-site signage. Only the following signage is permitted within the areas that are visible from the public and private streets.

2. Signage shall be consistent with the pallet of signage approved with the Preliminary Landscape Plan. Except as otherwise specified below, signage internal to the Campus shall comply with the following standards:

- a. Maximum sign area per frontage. 72 SF (OT District) 150 SF (CM District)
- b. Maximum sign height 7' (OT District) 26' (CM District)
- c. Mounding and other innovative sign treatments are especially encouraged.
- d. Pole-mounted and window signs are not permitted.
- e. Permitted sign types:
  - i. Monument signs
  - ii. Wall signs, which may be as large as .04 square feet per lineal foot of building frontage, notwithstanding the maximum sign area described above. On buildings exceeding two stories in height or exceeding 50,000 square feet, one additional wall sign not to exceed 2 square feet is permitted per lineal foot of building frontage. 280 SF variation 20 " HT variation
  - iii. Directory signs
  - iv. Directional Signs

SECTION 3 – ARCHITECTURAL STANDARDS

The following development standards shall apply in the Campus:

A. **Minimum Lot Area and Width.** Each lot must be sufficient for the proposed building and required parking to be located on it.

- B. Intensity.** The overall intensity within the Campus shall not exceed the following standards:
1. Maximum height of buildings:
    - a. CM District: One (1) story.
    - b. OT District:
      - i. Three (3) stories east of "Main Drive"
      - ii. One (1) story west of "Main Drive"
  2. Minimum building area:
    - a. CM District: 1500 square feet.
    - b. OT District: 2500 square feet.
- C. General Guidelines:**
1. Architecture compatible with the vocabulary of materials, design elements, textures and colors utilized on the adjacent Porter Hospital is required, in order to create the appearance of a cohesive campus. Radical design themes, elaborate structures or forms are prohibited due to their inability to blend in or complement the adjacent hospital building and campus.
  2. Primary exterior entrance shall be located, wherever possible, to be convenient building parking.
    - a. OT District: Where primary entrance is not on the building frontage a secondary entrance shall be located within the primary building frontage, and shall be articulated to provide a significant entrance presence on the frontage facing the right of way.
  3. All building walls shall incorporate architectural elements and materials consistent with the primary entrance facade. The building frontage and entrance facade shall be articulated with windows and architectural elements to avoid the appearance of a blank wall.
- D. Building Facades:** Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in the adjoining Hospital development.
1. Exterior building primary materials shall be one or more of the following:
    - a. Brick as scheduled in these Standards.
    - b. Buff Indiana limestone, Wisconsin Limestone or Minnesota Limestone.
    - c. Cast stone to simulate Buff Indiana limestone, Wisconsin Limestone or Minnesota Limestone.
    - d. Precast architectural concrete to simulate Buff Indiana limestone.
    - e. Composite metal panels, smooth face, with route and return reveal pattern, if used for no greater than 40% of the facade.
    - f. EIFS as scheduled in these Standards, with limitations as noted.
  2. In addition to the facade materials allowed, colors of secondary facade materials such as trim, fascia, flashing, canopy faces, composite metal panels and other accents shall consist primarily of low - reflectance neutral colors listed below. Bright colors or fluorescent colors are not acceptable for facade materials and for elements such as awnings, canopies, doors and other building accents.
    - a. Colors allowed:
      - i. Clear anodized aluminum.
      - ii. Factory finished aluminum with silver, tan, buff, brown or beige paint tones, formulated with Kynar 500 to resist fading.
  3. The use of the following as exterior building materials are prohibited, except where specifically allowed by these Standards:
    - a. Pre-fabricated metal wall panels.

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- b. Concrete masonry units. (See OT District requirements for rear wall exceptions).
  - c. Vinyl, fiber cement, wood composite or horizontal/vertical metal lap or batten siding.
  - d. Wood or composite wood.
  - e. Fabric (See CM District requirements for awning exceptions).
4. Brick shall be selected to match one of the following by Palmetto Brick Company, utilized on the adjacent Porter Hospital building:
    - a. Brick A (Light Brown Color): .75 "Greystone"
      - i. Wire cut texture, Modular, Norman, or Utility size.
    - b. Brick B (Medium Brown Color): 2.0 "Greystone"
      - i. Wire cut texture, Modular, Norman, or Utility size.
    - c. Brick C (Cream Color): Arriscraft Skyline Series "Cafe"
      - i. Split face, Modular, Norman, or Utility size.
  5. Brick masonry for one (1) story buildings is encouraged to be Modular or Norman size.
  6. Masonry shall have tinted mortar to match the adjacent masonry color. Gray mortar is prohibited, except as required to match gray stone.
  7. Masonry shall be installed with an air space behind, non-corrosive veneer anchors, and flashings with end dams at all openings and base of wall, to direct water to the exterior.
    - a. Masonry veneer or simulated masonry veneer directly applied to a substrate is prohibited.
    - b. Exception: Masonry integral to a precast concrete panel.
  8. Exterior Insulation Finish Systems (EIFS) shall be permitted as an accent material and not as a primary facade material. EIFS shall be limited to 60% of the entire building facades (front, sides and rear) excluding windows.
    - a. EIFS shall be located above 9'-0" above grade on building facades.
    - b. The EIFS system shall be provided with integral drainage channels and shall have flashings with end dams at all openings and base of system to direct water to the exterior.
    - c. EIFS color shall be similar to one of the following:
      - i. EIFS Color 1: Match Dark Tan of adjacent Porter Hospital (Parex USA, Dark Porter Precast).
      - ii. EIFS Color 2: Match Light Tan of adjacent Porter Hospital (Parex USA, Colonial Tan).
  9. There shall be no exterior fire escapes.
  10. Windows and entrances shall be constructed with commercial aluminum framing systems.
    - a. Windows shall be recessed a minimum of four inches into the primary facade material.
    - b. The use of multiple panes or grilles to simulate traditional fenestration is prohibited.
    - c. Frame finish allowed:
      - i. Clear anodized aluminum.
      - ii. Factory painted aluminum with silver metallic coating formulated with Kynar 500 to resist fading, or similar proprietary coating by the framing manufacturer.
  11. Primary exterior entrances shall have an overhang, recessed doors, or fixed canopy directly over the entrance door(s) to aid in identifying the entrance and provide weather protection.
    - a. Canvas awnings are prohibited for this function in the OT District.
  12. Facades shall be designed to create a pleasing appearance, compatible with the primary facades and shall be articulated through the use of fenestration (windows), architectural expression (piers/columns), and similar details in accordance with the following design criteria:
    - a. Fenestration: Building facades containing the main building entrance shall have glass openings for a minimum of 50% and a maximum of 75% of the wall area for the first floor. Building facade openings above the first floor shall be at least 25% of the wall area. Non-entrance building walls shall be limited to a minimum of 15% glass openings.

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- b. Articulation with Architectural Expression of Building Elements: To create visual interest, elements such as fenestration patterns, roof overhangs, roof or parapet height variation, recesses/projections, pilasters, columns, primary material changes, roof form variations, arcades, tower elements, breezeways, porticos, entry areas, integral planters or wing walls shall be incorporated into building facades.
    - i. A building facade shall be architecturally articulated a minimum of every twenty (20) feet to avoid the appearance of a blank wall. Articulation is subject to approval by the Architectural Review Committee.
  - c. Materials and architectural features used on the primary facade shall be incorporated on the side and rear facade for architectural consistency, subject to the approval of the Architectural Review Committee
  - d. OT District: Where primary entrance is not located on the building frontage due to location of parking, the building frontage shall be articulated to avoid the appearance of a blank wall without windows exceeding 12' in length. Windows, if facing waste enclosures may have sills above 6'-0".
13. See Office/Technology District (OT) and Moderate Commercial District (CM) requirements for exceptions to Paragraph D Building Facade requirements.

### E. Building Glass.

- 1. All glass shall be clear or light gray tinted, permitting a view into the building's interior to a minimum depth of 4'. Reflective glass is not permitted. Colored tinted glass shall not be permitted.
- 2. Storefront windows shall be large enough to encourage visual connection between the outside and the inside.

### F. Building Roofs.

- 1. Sloped roofs and roof facades shall be clad with architectural metal standing seam or batten seamed roofing, selected from one of the following types:
  - a. Steel: Silver metallic painted, formulated with Kynar 500, to resist fading.
  - b. Aluminum: Silver metallic painted, formulated with Kynar 500, to resist fading.
  - c. Aluminum: Clear anodized.
  - d. Other sloped roofing coverings are prohibited.
- 2. Sloped roofs shall be a minimum 6/12 pitch and a maximum of 12/12 pitch with the eave line at a minimum of 12' above the sidewalk or adjacent ground.
- 3. Maximum sloped roof height shall not exceed 1.5 times the height of the building facade.
- 4. Roof accessories such as edge trim, drip edges, fascias, gutters, downspouts, and miscellaneous exposed flashing shall match roofing color, or shall match the secondary facade colors if required by the building design.
  - a. On sloped roofs, roof vents, plumbing vents and fan hoods shall be located on inconspicuous portions of the roof and shall be painted to match the roof color.
  - b. Low tapered (flat) Roofs shall have a minimum slope of X" per foot, as allowed by the roofing manufacturer, and shall slope to internal roof drains.
  - c. Buildings with low tapered (flat) roofs shall have a roof edge or parapet of a minimum of 15' above the adjacent ground plane.
  - d. Low tapered (flat) roofs sloping to external gutter(s) are prohibited.
- 5. Vegetated (Green) Roofs are encouraged but not required, for the purposes of:
  - a. Minimizing storm water runoff.
  - b. Increased building insulation.
  - c. Reduction of the heat island effect.

### G. Building Equipment.

- 1. No rooftop mechanical equipment or window/wall mounted residential-type air conditioning units shall

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be visible from grade. Equipment is encouraged to be recessed into the roof form to completely conceal.

2. Rooftop air conditioning units, HV AC systems, exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties, by concealment by the roof form, or using walls, fences, roof elements, or penthouse-type screening devices.
  - a. If a roof screen is utilized, it shall be similar in material and color to the sloped roof or compatible with the building wall architectural vocabulary. The roof screen shall be equal to or greater in height than the equipment being screened.
3. There shall be no grade-mounted heating or air handling equipment.
4. Grade-mounted air conditioning units, power generating equipment and electrical equipment shall be screened according to Paragraph H of these Standards.

### H. Fences and Screens.

1. Waste receptacles and ground-mounted equipment shall be located in an inconspicuous location from the building entrance and screened from public view to the minimum height of one (1) foot above the elements being screened.
  - a. Screening for multiple/grouped air conditioning units and/or transformers, or a single air conditioning unit larger than 4 feet in height, width or length, shall consist of masonry walls. An alternate screen construction is masonry piers with solid painted metal panel gates and painted metal infill panels. Masonry and metal panels shall be consistent with materials and colors used on the building.
  - b. Screening for an air conditioning unit smaller than 4 feet in height, width or length, or any grade mounted transformer, shall be by evergreen plantings or native grass landscaping selected to achieve a minimum height of one (1) foot above the elements being screened during the first year of growth.
  - c. Screening for dumpsters/waste receptacles and power generation units/generator shall consist of masonry walls, or masonry piers with solid painted metal panel gates and painted metal infill panels. Masonry and metal panels shall be consistent with materials and colors used on the building.
2. Ornamental fences, with or without masonry piers, shall be decorative and constructed of painted ornamental metal tubes, or solid metal bars. Fences may not exceed a height of 4 feet. Chain-link or barbed wire fences are not permitted.
3. Masonry or stone walls may be used for screening, sitting wall, or used as independent architectural elements. At least one element shall be incorporated into the design of the walls. Walls may not exceed a height of 4 feet, unless used as a screening element for security, dumpsters or mechanical equipment.

### I. Utilities.

1. All utilities servicing any buildings within the Campus shall be run underground to reduce visual clutter.
2. Electric meters shall be mounted on transformer pads, or building mounted in an inconspicuous location.
  - a. Building-mounted electric meters visible from the street, sidewalk or approach to the building entrance are prohibited.
3. Gas meters shall be designed to be installed in an inconspicuous location.
  - a. Gas meters visible from the street, sidewalk or approach to the building entrance are prohibited.
4. Gas piping routed to building rooftops shall be concealed.
  - a. Gas piping routed vertically and exposed up building facades is prohibited.

- J. **Building Lighting.**
1. Exterior building lighting shall consist of architectural grade fixtures with low cut-off type shades or shields, which conceal the light source.
  2. Exterior light fixtures shall have a scale and appearance appropriate to the building architecture when visible from the public right of way. Low voltage lighting is encouraged on and off the building.
  3. Landscape feature lighting, pedestrian safety lighting and building enhancement lighting should generally be placed in planting beds.
  4. Fixtures with exposed bulbs shall not be permitted.
  5. Wall pack-type lighting with exposed lens shall not be permitted.
  6. Neon tubing shall not be an acceptable feature for building trim or accent areas, or building signage visible from the exterior.
- K. **Moderate Commercial District (CM):**
1. **Guideline:** The presence of smaller retail establishments shall give the Campus an inviting appearance by creating variety, discouraging buildings with large expanses of walls, and expanding the range of the activities on the Campus. Windows should be used to contribute to the visual interest of exterior facades.
  2. **Standards:** In addition to other Standards, the following is also required in this District:
    - a. Street level facades shall be transparent between the height of three (3) feet and eight (8) feet above the walkway grade for no less than sixty 60 percent of the horizontal length of the building entrance facade.
    - b. Awnings may be utilized in this District as follows:
      - i. Use of canvas awnings above windows may be incorporated in order to provide a pedestrian-friendly scale and a unified district appeal.
      - ii. Awnings shall be made of canvas or similar waterproof material. Use of aluminum, steel, fiberglass, plastic or similar materials is not permitted, except as concealed structural components. Permanent steel canopies with standing seam roofs are acceptable, provided they are consistent with the overall theme of the facade.
      - iii. Awnings shall be attached to the building wall, rather than only supported by poles or columns.
      - iv. Awnings are not permitted to be backlit.
      - v. Awnings shall be solid color, and shall not contain text, numbers, advertisements or graphics of any kind.
      - vi. Awnings shall be of open-end construction. Awnings with end returns or closed ends are prohibited.
- L. **Office/Technology District (OT):**
1. In the OT District, buildings west of "Main Drive" may have West Elevation, if desired, constructed with painted CMU, if not visible from the street.

#### SECTION 4 - SUSTAINABILITY

- A. **Purpose:** Sustainable site and building design, construction and operation practices are expected on all work. This level of sustainability is defined as consisting of measures that are environmentally friendly, socially responsible and cost effective - and are measures that are to be incorporated into every project. These strategies often have no impact to cost, and have the potential to reduce the long term operations, energy and personnel costs.

**B. Implementation:**

1. In adherence to these goals, the contractor shall document the intent for sustainable site and building design, construction and operation practices based on the LEED Point System Criteria developed by the USGBC and the SITES™ criteria.
2. A LEED Checklist with written narrative on proposed intent relating to each LEED Point shall be submitted with the Concept Plan as required in Section 2 of these Standards.
3. The LEED Checklist shall be based on a LEED "New Construction and Major Renovation" Version currently allowable by the USGBC.
4. Providing documentation that would be required for LEED Certification is not required. Submitting projects for LEED Certification is not required, but is encouraged to be pursued by the building Owner.

**SECTION 5 - DEFINITIONS**

**Arcade:** An area contiguous to a street or plaza that is open and unobstructed, and that is accessible to the public at all times. Arcades may include building columns, landscaping, statuary and fountains. Arcades do not include off-street loading/unloading areas, driveways or parking areas.

**Architectural Standards:** Statements and graphics intended to direct the planning and development of the built environment in a particular manner or style so that the end result contributes positively to the overall development.

**Articulate:** To give emphasis to or distinctly identify a particular element. An articulated facade would be the emphasis of elements on the face of a wall including a change in setback, materials, roof pitch or height.

**Berm:** An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.

**Breezeway:** A structure for the principal purpose of connecting a main building or structure on a property with other buildings.

**Buffer:** See also "screen". An area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesired views, noise and glare - effectively providing greater privacy to neighboring land uses. Typical buffers consist of materials that serve this purpose and include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.

**Buffer Strip:** A portion of a lot or property used to visually separate one use from another through the use of vegetation, distance or other approved method.

**Building:** Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property, including detached garages and permanent canopy structures.

**Building Addition:** A part added to a building, either by being built so as to form one architectural whole with it, or by being joined with it in some way, as by a passage, and so that one is a necessary adjunct or appurtenance of the other or so that both constitute the same building.

**Building Frontage, Front, Face:** The side, or facade, of a building closest to and most nearly parallel to an abutting street.

**Building Face, Public:** Any building side that is visible from public or private right-of-ways and/or the faces that contain public entry.

**Building Mass:** The building's expanse or bulk and is typically used in reference to structures of considerable size.

**Building Rear:** The wall or plane opposite the primary building frontage for a building on a corner lot, the building rear is



the wall or plane opposite the wall or plane containing the principal building entrance.

**Building Setback Line:** The line, beyond which no building or parts thereof shall project, except as otherwise provided in this ordinance.

**CM or CM District:** The Moderate Commercial District defined in Section 1 of these Architectural Standards.

**Driveway:** Any access corridor leading from a public right-of-way to a parking lot, aisle, parking circulation area, garage, and off-street parking space or loading space. The division of traffic engineering and parking limits points of driveway access from residentially zoned lots abutting both an improved alley and street.

**Drive-Thru:** The portion of a building that, by design, permits customers to receive goods or services while remaining in a motor vehicle.

**Easement:** A grant of property by a property owner to the use of land by the public, a corporation, or persons for specific purposes as the construction of utilities, drainage ways, roadways, or public parking.

**Entrance Facade:** The portion of the exterior elevation of the building on which the major or primary entrance is located.

**Facade:** The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

**Front Yard:** The portion of the front yard extending the full width of the lot and measured between the front lot line and a parallel line across the front of the building. Corner and double lots shall adhere to the front yard setback(s) for each frontage.

**Gable:** A triangular wall section at the end of a pitched roof, bounded by the two roof slopes.

**Gross Floor Area:** The total floor area of all main and accessory buildings, whether closed or unenclosed, measured from the exterior building face, including storage areas but excluding interior areas used for parking and loading and access thereto.

**Hip Roof:** A roof of a least 2:12 slope without gables.

**Interior Landscaping:** All green space within the curb of the outer most perimeter of the paved parking area.

**OT or OT District:** The Office / Technology District defined in Section 1 of these Architectural Standards.

**Parapet:** The portion of a wall that extends above the roofline.

**Parking Lot:** Any off-street public or private area, under or outside of a building or structure, designed and used for the temporary storage of motor vehicles.

**Portico:** A porch or walkway with a roof supported by columns, often leading to the entrance to a building.

**Principal Building:** A building in which the principal use of the property is conducted. All parcels containing at least one building shall be deemed to have a principal building. A parcel may contain more than one principal building.

**Public-Private Setback Zone:** An area between a principal building and a public street right-of-way line utilized for seating, outdoor dining, public art and/or other pedestrian amenities, which is maintained by the property owner but granted to the developer for improvements.

**Right of Way:** A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, water line, sanitary sewer, and/or other public utility or facility.

**Screen:** See also "buffer". The sole purpose of a screen is to block views. A screen should be constructed of opaque

materials and whose height will be effective in obstructing unwanted views.

**Setback:** A prescribed distance between a lot line or right-of-way line and a building, structure, defined outdoor area serving as the primary activity, parking lot, or vehicular circulation area. The term also refers to:

- o The minimum distance and the area measured from the property line to the interior of a parcel where buildings may be constructed.
- o The required distance and the area between the edge of the parking lot pavement/curb and the property line or buildings/structures.
- o Placing a building face on a line to the rear of another building line.

**Street frontage:** The width or depth of the lot or development site along any abutting public right-of-way.

**Streetscape:** All elements of a development or area that are in view from other points along a street.