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**BELLE AUGUSTA – SECTION 1  
DEDICATION, PROTECTIVE RESTRICTIONS,  
COVENANTS AND EASEMENTS**

**WARSAW, INDIANA**

**DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS**  
**AS PART OF THE PLAT OF BELLE AUGUSTA, SECTION 1,**  
**AN ADDITION TO THE CITY OF WARSAW**  
**KOSCIUSKO COUNTY, INDIANA**

THIS DEDICATION ("Dedication"), made on the day hereinafter set forth by BIGGS INDIANA PROPERTIES, LLC, an Indiana corporation, as the owner in fee simple of Lots Numbered 1 through 23 (plus currently undeveloped lots in future sections of Belle Augusta, including certain duplex lots, which all duplex villa lots will have a set of Sub-Covenants and Restrictions), consecutive and inclusive, in Belle Augusta, Section 1, Kosciusko County, Indiana, according to the Plat thereof recorded on April 22, 2016, in the Office of the Recorder of Kosciusko County, Indiana, as Instrument Number 2016040817.

WHEREAS, Biggs Indiana Properties, LLC, desires to impose upon each and all of said Lots in Belle Augusta, Section 1, Kosciusko County, Indiana, the protective restrictions, covenants and easements hereinafter set forth:

NOW THEREFORE, Biggs Indiana Properties, LLC, hereby declares that all of the aforesaid Lots Numbered 1 through 23 as originally platted and as may be further divided or replatted, in Belle Augusta, Section 1, Kosciusko County, Indiana, shall be impressed with and shall be held, sold, and conveyed subject to all of the following protective restrictions, covenants and easements which shall run with said Lots and be binding on all parties now having or hereafter acquiring any right, title or interest in the same or any part thereof, their heirs, successors and assigns and shall inure to the benefit of and be enforceable by each owner thereof, the Developer and/or the Association (as such terms are hereinafter defined).

**ARTICLE I**

**DEFINITIONS**

Section 1. "Developer" shall mean Biggs Indiana Properties, LLC, an Indiana corporation, its successor(s) and assign(s).

Section 2. "Association" shall mean and refer to Belle Augusta, Inc., an Indiana not-for-profit corporation, its successors and assigns. The membership of the Association shall consist of the Owners of the Lots in Belle Augusta, Section 1, as well as owners of currently undeveloped lots in all future sections of the Belle Augusta subdivision.

Section 3. "Owner" and "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Plat" shall mean and refer to the Plat of Belle Augusta, Section 1, including any and all amendments and/or re-plats thereof, as recorded in the Office of the Recorder of Kosciusko County, Indiana.

Section 5. "Lot" shall mean and refer to any of Lots 1 through 23, inclusive, as originally shown on the Plat.

Section 6. "Living Unit" and/or "Dwelling Unit" shall mean and refer to the portion of a building erected on any Lot which is constructed and intended for the use and occupancy as a residence by a single family.

Section 7. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 8. "Street" shall mean any street, avenue, roadway, cul-de-sac or boulevard of whatever name which is shown on the Plat and which has been heretofore and is dedicated to the public for use as a public street.

Section 9. Other capitalized terms shall have the meaning(s) assigned to them in the remainder of this Dedication.

## ARTICLE II

### PERMITTED LOT USE

Section 1. Permitted Lot Use. All Lots may only be used for single-family residential purposes.

Section 2. Driveways. All driveways from the street to the garage of each Living Unit shall be poured concrete and not less than twenty (20) feet in width.

Section 3. Minimum Area. No Living Unit shall be erected or permitted on any Lot having a ground floor area, exclusive of open porches, breezeways or garage, of less than 1,200 square feet in the case of a one-story dwelling, or less than 800 square feet for a dwelling of more than one story, provided that the dwelling of more than one-story must have a total of not less than 1,400 square feet. All Living Units must have at least a 2-car garage attached to it.

Section 4. Building Lines. No Living Unit, garage or other building of any kind (collectively "Building"), fence or wall of any type shall be erected, placed or located on any Lot nearer to the front lot line (or nearer to the side lot line on corner lots) than the minimum building set-back line as shown on the Plat. No Building shall be located nearer than five (5) feet to any side lot (fifteen (15) feet side set-back off R/W on corner lots) unless an easement is present in which case the setback will be the greater of the stated side yard setback or the requirements of the easement. A Building may not be located closer than twenty-five (25) feet to the rear lot line. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.

Section 5. Yard Lights. Each Owner of a Living Unit shall install and maintain an automatically controlled (photo cell) post yard light or similar illumination device ("Yard Light") in the front yard fifteen (15) feet (plus or minus one foot) from the road right-of-way. The Yard Light shall be kept operational and illuminated during all non-daylight hours. The Yard Light

design, wattage and location shall be submitted to, and approved by, the Architectural Control Committee.

Section 6. Signs. No sign shall be erected or permitted on any Lot or in the common areas as shown on the Plat, except (i) subdivision designation and subdivision informational signs (owned by the Developer or the Association) located in the commons area, (ii) one professional sign of not more than one (1) foot square, (iii) one sign of not more than five (5) square feet advertising the property for sale, (iv) one security sign (such as ADT) of not more than one (1) foot square, and (v) signs used by a builder to advertise the property during the construction and sales period.

Section 7. Landscaping. Upon completion of the original construction of a Living Unit, the applicable Lot must be landscaped with a minimum of ten (10) shrubs and two (2) trees. Each Lot must be landscaped with one (1) tree in the front yard.

Section 8. Nuisance. No noxious or unreasonably offensive activity shall be carried on upon any Lot nor shall anything be done thereon which (i) creates a nuisance by reason of odor, fumes, dust, smoke, noise, or pollution, or any other means (ii) which is hazardous by reason of fire or explosion, or (iii) that is in violation of the laws of the State of Indiana or the County of Kosciusko or the City of Warsaw, Indiana.

Section 9. Animals. No Lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except that dogs, cats and other common domestic household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

Section 10. Storage Tanks. No fuel or oil storage tanks in excess of six (6) gallons may be maintained on any Lot. No underground tanks of any kind shall be permitted on a Lot.

Section 11. Antennas/Solar Panels. No radio or television antenna, satellite receiver dish, solar panel(s) or similar structure(s) (collectively "Antenna/Panels") that has more than four (4) feet of surface area on any one side (individually, or in combination with all other Antenna/Panels that are a part of a system) or that attains a height of more than three (3) feet above the highest portion of the Living Unit on the Lot shall be allowed on any Lot or attached to any Living Unit, Building or structure of any kind. The location of all Antennas/Panels shall require the approval of the Architectural Control Committee.

Section 12. Pools and Hot Tubs. No above-ground pool, except for hot tubs, spas, whirlpools and similar structures, shall be commenced, erected or maintained on any Lot. All in-ground pools and hot tubs, spas and similar structures are subject to the Architectural Control Committee review process set forth in Article V of this Dedication.

Section 13. Motor Vehicles. No unlicensed or unregistered automobile, truck, van or any other type of motorized vehicle ("Motor Vehicle") may be parked or maintained on any Lot except completely enclosed in a garage. No Motor Vehicle may be disassembled or be allowed to remain in a state of disassembly so that it is not legally "road worthy" on any Lot except when the vehicle is completely enclosed within a garage.

Section 14. No Temporary Structures. No structure of a temporary character, house trailer, basement, shack, un-attached garage, barn, tool shed, or other outbuilding shall be constructed, erected or located on a Lot and used as a residence, either temporarily or permanently; provided, however, that a basement may be constructed in connection with the construction of a Living Unit.

Section 15. Outside Storage. No trailer of any type, boat, camper, recreational vehicle, motor home, four- and three- wheeler, ATV, motorcycle, commercial vehicle, truck, or any other similar wheeled vehicle (excepting passenger cars, pick-up trucks, passenger vans and similar vehicles designed primarily for the non-commercial transportation of passengers) shall be permitted to be parked ungaraged on a Lot except (i) entirely on the concrete driveway; and (ii) for a period not to exceed seventy-two (72) consecutive hours, or for a period not to exceed in the aggregate nine (9) days per calendar year. The term 'truck' as used in this Section means every motor vehicle designed, used, or maintained primarily for commercial purposes or the transportation of property, which is rated one (1) ton or more. Passenger cars, pick-up trucks, passenger vans and similar vehicles designed primarily for the non-commercial vehicles may be parked on a Lot only in the garage or entirely on the concrete driveway.

Section 16. Free-Standing Poles. No clothes lines or clothes poles, or any other free-standing, semi-permanent or permanent poles, rigs, or devices, shall be permitted on any Lot or attached to any Structure (as defined in Section 18 below) or Living Unit, regardless of purpose, except that, subject to review and approval by the Architectural Control Committee, the following may be permitted: (i) a pole located behind the Living Unit that only supports bird or other animal feeder(s) or house(s), provided any feeder or house does not exceed two (2) cubic feet in size; (ii) a single flag pole displaying the United States flag; and (iii) a basketball goal may be allowed.

Section 17. Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. All sanitary containers must be kept inside the Building except for a twenty-four hour period each week when they may be placed outside for pick up. No incinerators shall be allowed on a Lot.

Section 18. Outbuildings. No free-standing shed, garden house, un-attached garage or any other type of outbuilding that is not otherwise structurally attached to a Living Unit (collectively "Structure") shall be allowed on any Lot without the approval of the Architectural Control Committee. All Structures otherwise approved by the Architectural Control Committee must have the same style and color of siding and roof as the Living Unit on the Lot and cannot exceed 12' x 14'.

Section 19. Fencing. No fencing of any type shall be permitted on any Lot except that a wood, vinyl, or wrought iron fence shall be allowed provided it is approved by the Architectural Control Committee as to style, material, color, height and location.

Section 20. Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained, or used on any Lot.

Section 21. Easements. Easements are hereby expressly reserved and dedicated with dimensions, boundaries and locations as designated on the Plat for the installation and

maintenance of public utilities (including but not limited to, water, gas, telephone, electricity, cable T.V., and any other utilities of a public or quasi-public nature) and sewer and drainage facilities.

- a. Any utility company and the Developer, and each of their respective successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of any Building or other permanent structure except improvements installed by an authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form.
- b. No Living Unit, Building or other Structure shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave Belle Augusta subdivision, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for a Lot). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables.
- c. The utility operating the sewer lines and sewage disposal plant for said subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to the property lines of each Lot by the Developer. No rain or storm water runoff from roofs, street pavements or otherwise, or any other surface water, shall at anytime be discharged into, or permitted to flow into, the sanitary sewer system, which shall be a separate sewer system from the storm water and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water run-off sewer system.

Section 22. Mailboxes. Mailboxes will be located at the location(s) that the Developer along with the U.S. Postal Service designates. No individual mailboxes and/or newspaper boxes will be allowed without the approval of the Architectural Control Committee.

Section 23. Sidewalks. Each Owner subsequent to the Developer shall provide and maintain a concrete public sidewalk across the front of each Lot (and along the side(s) of each corner Lot). Sidewalks shall be five (5) feet in width.

Section 24. Front Exteriors. All front elevations may consist of vinyl siding, but must include at least 75 square feet of brick/stone to highlight or complement the vinyl siding.

### ARTICLE III

#### COMMUNITY ASSOCIATION

Section 1. Association. The Developer shall cause to be incorporated Belle Augusta, Inc. ("Association"), a not-for-profit association, at the Developer's discretion. Only one such

association shall be recognized and approved by the Developer. In the event that the name "Belle Augusta, Inc." is not available, Developer shall choose a different name for the Association and this Dedication shall be deemed amended in all respects to reflect that the name of the Association is the name chosen by Developer.

Section 2. Membership. One membership shall be created for each Lot, or in the case of a duplex villa lot, for each Living Unit on a lot, in the entire subdivision of Belle Augusta. Membership shall be comprised of owners in all sections of Belle Augusta. Memberships will transfer from the Developer to his grantee upon delivery of the deed.

Section 3. Continuing Membership. The Owner of any Lot or, as the case may be, Living Unit, in the entire subdivision of Belle Augusta shall be a member of said Association and shall continue to be a member of said Association so long as he/she continues to be the Owner of a Lot or Living Unit in Belle Augusta for the purposes herein mentioned. Membership shall pass with the ownership of the land.

Section 4. Common Area. Title to the common area will be transferred to the Association when formed, along with duties set out in Article VIII - Stormwater Pollution Prevention Plan in Article VIII.

#### ARTICLE IV

#### CONVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Except the Developer, each Owner of a Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, or the Developer prior to the formation of an association, an annual assessment ("Annual Assessment"), to be paid on January 1 of each year (hereinafter called "Annual Payment Date") or in such other installments as the Board of Directors (or the Developer until an association is formed) may decide. The Annual Assessment and any Special Assessment permitted under this Article IV (collectively "Assessments"), together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such Annual Assessment and/or Special Assessment is made. The Assessments, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the applicable Assessment became due. The personal obligation for delinquent Assessments shall not pass to any successor-in-title unless such successor(s) expressly assumes the same.

Section 2. Purpose of Assessments. The Assessments shall be used exclusively to effectuate the duties and purposes of the Association as set forth in this Declaration, its Articles of Incorporation and/or By-Laws, including without limitation, all activities determined by its Board of Directors to be necessary or advisable related thereto such as securing insurance and/or accounting and legal services for the Association. All Assessments shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of Belle Augusta and in particular, for the improvement and maintenance of the Common Areas, including but not limited to, repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, insurance, taxes, and all other things necessary or desirable in the opinion of the Board

of Directors of the Association in connection therewith, including without limitation the responsibilities set forth in Section VIII - Stormwater Pollution Prevention Plan.

Section 3. Maximum Annual Assessment.

- a. Until January 1, 2018, the maximum Annual Assessment on any Lot shall be Fifty Dollars (\$50.00).
- b. From and after January 1, 2018, the maximum Annual Assessment may be increased each calendar year by the Board of Directors (or by the Developer if the Association is not yet formed) by a percentage that is not more than twelve percent (12%) above the Annual Assessment that was charged during the previous calendar year, without a vote of the membership.
- c. From and after January 1, 2017, the maximum Annual Assessment may be increased by a percentage in excess of twelve percent (12%) above the Annual Assessment that was charged during the previous calendar year only upon approval of the Board of Directors (or by the Developer until the Association is formed) and a majority of the votes of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- d. As determined by the Board of Directors from time-to-time, a portion of the Annual Assessments may be set aside or otherwise allocated to a reserve fund for the purpose of providing funds for future repairs and maintenance.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the Annual Assessment authorized above, the Association may levy a special assessment ("Special Assessment") for any capital improvement(s) within the powers or duties of the Association or for the purpose of paying, in whole or in part, any operating deficit(s) which the Association may from time-to-time incur, provided that any Special Assessments shall have the approval of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting or as otherwise required by the Articles of Incorporation and By-Laws of the Association. At the first such meeting called, the presence of members, in person or by proxy, entitled to cast fifty percent (50%) or more of all the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event of a conflict between (i) the provisions of this Dedication and (ii) the Articles of Incorporation and/or By-Laws of the Association, the Articles of Incorporation and By-Laws shall control.



Section 6. Uniform Rate of Assessments. Except as provided below, Annual and Special Assessments must be fixed at a uniform rate for all Lots. Assessments shall be collected on an annual basis unless otherwise determined by the Board of Directors from time-to-time. Notwithstanding the foregoing, there shall be no Annual Assessments or Special Assessments assessed against any Lot owned by the Developer.

Section 7. Date of Commencement of Assessments. The due dates for all Assessments shall be established by the Board of Directors. The Association (or the Developer until the Association is formed) shall upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an authorized representative setting forth whether the Assessments on a specified Lot have been paid or are delinquent. A properly executed certificate from the Association regarding the status of Assessments chargeable against any Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If any Annual Assessment or Special Assessment (or installment if applicable) is not paid on the date when due, then the entire unpaid assessment shall become delinquent and shall become, together with interest thereon and cost of collection, including reasonable attorney's fees, a continuing lien on the applicable Lot assessed and it shall be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The personal obligation of the Owner to pay such Assessments shall remain the Owner's personal obligation and shall not pass to successors in title unless expressly assumed.

If the Annual Assessment and/or Special Assessment is not paid within thirty (30) days after the due date, the Annual Assessment and/or Special Assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum, and the Association (or Developer, as may be applicable) may bring legal action against the Owner to collect all sums due and/or to foreclose the lien against the Lot. In any successful legal proceeding, the Association (or the Developer, as may be applicable) shall be entitled to recover all its reasonable attorney's fees, costs and expenses incurred.

No Owner may waive or otherwise escape liability for the Annual Assessment and/or Special Assessment provided for herein by non-use of the Common Area, refusal to allow the Association to perform its maintenance obligations or by abandonment of the Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first lien mortgage and any purchase money mortgage. Sale or transfer of any Lot shall not affect the Assessments' lien. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any such mortgage on such Lot (without the necessity of joining the Association or the Developer in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all Assessments becoming due prior to the date of such sale or transfer.

## ARTICLE V

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Composition. The Architectural Control Committee ("Committee") shall be composed of three members. During the time that the Developer owns any Lot, the Architectural Control Committee ("Committee") shall be appointed by the Developer. Thereafter, the members shall be appointed by the Board of Directors of the Association. The Committee may appoint one member to act for it in any or all matters, as the Committee may in its absolute discretion decide from time-to-time.

Section 2. Authority. No Living Unit, Building, Structure, Antenna/Panel, fence, wall, pole, pool, trampoline, or other improvement or structure of any kind, temporary or permanent, ("Improvement") shall be constructed or placed on any Lot or attached in any manner to a Living Unit, Building or Structure, nor shall any exterior addition, change or alteration ("Alteration") be made to an existing Living Unit, Building, Structure or Improvement until plans and specifications ("Plans") for the Improvement and/or Alteration showing the nature, kind, shape, dimensions, height, materials, color and location (collectively "Specifications") are submitted to and approved by the Committee in writing as to the harmony of the Improvement's/Alteration's Specifications with Belle Augusta subdivision, in general, and, more specifically, to the other Living Units therein. The Committee may not approve any Improvement or Alteration that is otherwise specifically prohibited by the terms of this Dedication without properly amending the Dedication according to the provisions of Article VII.

Section 3. Timing. Within thirty (30) days after receipt of written Specifications that clearly set forth all of the information required to be submitted under section 2 above, the Committee must approve or reject the Plans in writing delivered to the Owner requesting the approval. In the event that the Committee fails to act within the thirty (30) day time frame, no approval will thereafter be required for the exact Plans submitted provided that the Owner who submitted the Plans has an appropriately dated delivery receipt signed by a current member of the Committee and a copy of such receipt is delivered to the Association prior to beginning the Improvement or Alteration. Notwithstanding the foregoing, the Committee's failure to act shall not permit an Improvement or Alteration that is otherwise prohibited by the terms of this Dedication.

## ARTICLE VI

### INSURANCE

Section 1. Liability Insurance. The Association (once formed) may purchase and maintain comprehensive liability insurance policy(ies) in such amount or amounts as the Board of Directors shall deem appropriate from time-to-time. Such comprehensive liability insurance may provide coverage to the Association, its Board of Directors, any committee of the Association or Board of Directors, the Architectural Control Committee and all persons acting as agents or employees of any of the foregoing with respect to the Association.

Section 2. Other Insurance. The Association (once formed) may obtain all insurance required by law to be maintained and such other insurance as the Board of Directors shall from time-to-time deem necessary, advisable or appropriate. Such insurance coverage may also provide for and cover cross liability claims of one insured party against another insured party.

Such insurance may inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association.

Section 3. Monthly Assessment for Insurance. The premiums for all such insurance maintained by the Association shall be paid from the Annual Assessment or Special Assessment permitted by this Dedication.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, restrictions or other provisions set forth in this Dedication, Developer, Association and/or any Owner shall have the right to enforce the terms of this Dedication and pursue any and all remedies, at law or in equity, available under applicable Indiana Law, with or without proving any actual damages, including the right to secure injunctive relief. In any such successful legal proceeding, the Association, Developer and/or the Owner bringing the successful action shall be entitled to recover from the party against whom the successful action was brought reasonable attorney's fees and the costs and expenses incurred.

Section 2. Amendment. Except as hereinafter limited, this Declaration may be amended at any time by an instrument recorded in the Office of the Recorder of Kosciusko County, Indiana, signed by the Owners (as of the date of the recording) of at least two-thirds (2/3) of the Lots; provided, however, none of the rights, interests, benefits, obligations or any other provision relating to the Developer may be amended or changed in any manner without also having the Developer's written consent on the amending instrument that is recorded with the Recorder of Kosciusko County, Indiana. In addition, this Declaration may be amended by the Developer acting alone by a signed instrument recorded with the Recorder of Kosciusko County, Indiana, at any time within thirty (30) months after the initial recordation thereof - provided Developer has an ownership interest in any Lot at the time the amending instrument is recorded.

Section 3. Effective Period. This Declaration shall be effective and binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Kosciusko County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidity of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 4. Permission. Each owner by accepting a deed therefore hereby covenants and agrees to grant permission to such companies, and their respective employees, hired or engaged by the Association (or the Developer until the Association is formed) to access the Owner's Lot for such purposes as is the responsibility of the Association (or the Developer until the Association is formed) pursuant to this Dedication.

## ARTICLE VIII

### STORMWATER POLLUTION PREVENTION PLAN

Section 1. Pollutants of Concern. Trash, Hydrocarbon drips, fertilizer, pesticides, brake pad dust, tire crumbs, salt and sand, *pet waste*

Section 2. Implementation of Stormwater Quality Practices. The Developer should pass on information included in this section to homeowners via the homeowners association.

There are several agencies where information about storm water quality practices are available. The following is a list where more information is available:

- City of WARSAW Stormwater Utility Department - public outreach
  - o <http://www.warsaw.in.gov/index.aspx?NID=509>
- Maumee River Basin Commission - [www.mrbc.org](http://www.mrbc.org)
- Center for Watershed Protection - [www.cwp.org](http://www.cwp.org)
- Natural Resources Conservation Service - <http://www.in.nrcs.usda.gov/>
- Indiana Department of Environmental Management –
- <http://www.in.gov/idem/nps/index.htm>

Section 3. Post Construction Stormwater Quality Practices. Individual Home Owners are responsible for the following to help improve storm water quality:

- a. Pick up of uncontained trash
- b. Proper disposal of waste chemicals, paints, oil, etc. NO DUMPING TO STORM DRAINS
- c. Pick up of pet wastes
- d. Car washing rinses shall not discharge to the street and storm drains
- e. Avoid excessive use of weed killer or fertilizer
- f. Consider constructing rain gardens or utilizing rain barrels. Details of those can be found in many of the sources shown above.

Homeowners and their association shall be responsible to report infractions of illicit dumping, excessive trash, pet waste, fertilizing practices and other improper storm water quality infractions to the City. As copied from the referenced City Stormwater web page:

If you see what you think is an illicit discharge or see an unknown substance on a road or in a waterway that you think could be harmful, please call the Wastewater Treatment Utility at 574-372-9562 to report your concern.

Section 4. Details of Post Construction BMP. The development's storm sewer system drains to multiple stormwater control infiltration trenches and surface storage basin. The

infiltration trenches are proposed with storage chambers inside aggregate beds / trenches to allow for ponding of water over the trench's infiltrative surface. The aggregate surface inside the chambers are to include "Isolator Row" technology as defined by Stormtech, the chamber manufacturer. The "Isolator Row" concept includes fabrics to trap sediments and pollutants, provide scour protection for the aggregate and to allow for future maintenance of the aggregate surfaces inside the chambers.

Section 5. Monitoring and Maintenance of Post Construction BMP, Blocks A, B, D, E, and F have infiltration trenches proposed as at least part of the area's stormwater outlet. The infiltration trenches are proposed upslope of surface storage areas in Blocks A and D. In Blocks B, E and F there are inlet manholes draining the bottom of the surface storage areas. Indication that maintenance could be needed for these two different types of configurations would be detected in different ways as described below.

Blocks A and D - these systems include relief outlets from the infiltration trenches to the surface storage areas downslope. Those relief outlets to the surface storage areas should only flow during the extreme rainfall events that the systems area designed to manage. If the outlets are found to flow frequently, the infiltration trenches should be inspected for excessive sediment inside their storage chambers that could reduce the efficiency of the infiltration. If the relief outlets have flow from rainfall events of 2" or less, inspection may be warranted.

Block B, E and F – with the infiltration trenches connected to storm inlet - manholes in the bottom of the surface storage basin accumulated sediment in the trench's storage chambers would become evident in the storage basins draining slower. If water stands for long periods (more than 2 days) after significant rainfall events in the surface storage areas, inspection of the trenches may be warranted.

Infiltration Chamber Inspection & Maintenance – The infiltration trench chambers may be inspected by televising them in the same way the City would televise a sewer. And cleaning can be done with jetting – vacuuming truck equipment.

Stormtech is one manufacture the storage chambers. Their details for the "Isolator Row" outlined above were used for this project's details. Stormtech has an Operation & Maintenance Manual for the isolator rows that is attached in the appendix. Or the manual and other information can be found at [www.stormtech.com](http://www.stormtech.com) .

ISOLATOR ROW O & M MANUAL:

[http://stormtech.com/download\\_files/pdf/manual\\_iso\\_row.pdf](http://stormtech.com/download_files/pdf/manual_iso_row.pdf)

ISOLATOR ROW O & M VIDEO:

[http://stormtech.com/download\\_files/Isolator%20Row%20-%20No%20Header%20Pipe.wmv](http://stormtech.com/download_files/Isolator%20Row%20-%20No%20Header%20Pipe.wmv)

Section 6. Long-Term Responsibility for Monitoring and Maintenance of Post Construction BMP (9-1-15). Following the construction of the development's infrastructure and as homes are being occupied the monitoring and maintenance of post construction BMPs will be the responsibility of the developer and the exclusive builder, Ideal Suburban Homes, Inc.

KEVAN BIGGS, SOLE MEMBER

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DECATUR, INDIANA 46733  
(260) 724-9131 (IDEAL: 800-589-4332)

Long-term the responsibility for the monitoring and maintenance of the outlined post construction BMPs and the stormwater detention basins within the common areas, or blocks, will become the responsibility of a Home Owner's Association (HOA). That HOA will be established as outlined in restrictive covenants that will be recorded with the secondary plats of each section of the subdivision.

The transfer of ownership of common areas will be detailed in the referenced restrictions. That is expected to be when 80% of the development's lots have been transferred. In addition to detailing the property transfer, the restrictions will also outline that the responsibility for the monitoring and maintenance of the outlined post construction BMPs and the stormwater detention basins within the common areas, or blocks, will be transferred along with the property.

The narrative of Section C of the SWPPP and the infiltration trench's "Isolator Row" O & M manual are to be incorporated into the recorded restrictions so the all members of the HOA are aware of the responsibility and methods for the monitoring and maintenance.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed on this 24<sup>th</sup> day of April 2017.

**BIGGS INDIANA PROPERTIES, LLC**

By: [Signature]  
Its: MANAGING MEMBER

STATE OF INDIANA    )  
                                  )    SS  
COUNTY OF ADAMS    )

Before me, the undersigned Notary Public, in and for said County and State, this 24<sup>th</sup> day of April, 2017, personally appeared Kevan B. Biggs, as Managing Member of Biggs Indiana Properties, LLC, over the age of eighteen (18) years, and acknowledged the execution of the foregoing Declaration of Covenants as his voluntary act and deed on behalf of said corporation for the uses and purposes set forth in this document.

Witness my hand and notarial seal this 24<sup>th</sup> day of April, 2017.

Connie Kreigh  
Connie Kreigh  
Printed Name

My Commission Expires: 01/29/2020



**Pursuant to IC 36-2-11-15(d):** 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, Michael T. Blee.

**This Instrument Prepared by: Michael T. Blee, Attorney-at-Law, 522 South 13<sup>th</sup> Street, Decatur, IN 46733**