## 2023030117

ROSEMARY BROWN
WHITLEY COUNTY RECORDER
COLUMBIA CITY, IN
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Recorded as Received

## FIRST AMENDMENT TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS AS PART OF THE PLAT OF LINCLON POINTE, SECTION 5, AN ADDITION TO WHITLEY COUNTY, INDIANA

THIS FIRST AMENDMENT TO THE DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS AS A PART OF THE PLAT OF LINCOLN POINTE, SECTION 5 ("First Amendment") is made on the day hereinafter set forth by BIGGS, INC., an Indiana corporation, in its capacity as the Developer of Lincoln Pointe, Section 5, an Addition to Whitley County, Indiana, according to the Plat thereof recorded on December 31, 2020, in the Office of the Whitley County, Indiana, Recorder as Instrument Number 2020120800.

WHEREAS, on August 6, 2021, the Dedication, Protective Restrictions, Covenants & Easements as a Part of the Plat of Lincoln Pointe, Section 5, an Addition to Whitley County, Indiana, was recorded in the Office of Whitley County, Indiana, as Instrument Number 2021080134 ("Dedication");

WHEREAS, by the terms of Article XI, Section 2d of the Dedication, "[a]ny part of this Dedication may be amended by the Developer acting alone at any time within thirty (30) months from the date of the recordation of the Dedication – provided Developer has an ownership interest in any Lot at the time the amending instrument is recorded";

WHEREAS, Biggs, Inc., is both the Developer of Lincoln Pointe, Section 5, and the current owner in fee simple of Lots Numbered 110, 111A, 111B, 112, 115, 116, 167-170, 172-178,180-185 and 187 in Lincoln Pointe, Section 5; and

WHEREAS, Biggs, Inc., in its capacity as the Developer and the owner of the Lots set forth above, desires to exercise its right to amend the Dedication in accordance with this First Amendment.

NOW THEREFORE, Biggs, Inc., hereby declares that the Dedication is hereby amended as follows:

1. Article II, Section 12 of the Dedication shall be deleted in its entirety and replaced with the following:

"Section 12. Pools and Hot Tubs. No above-ground pool, except for swim spas, hot tubs, whirlpools and similar facilities, shall be commenced, erected or maintained on any Lot. All in-ground pools, swim spas, hot tubs, whirlpools and similar facilities are subject to the Architectural Control Committee (Committee or Villa Committee, as applicable) review process set forth this Dedication."

2. All other provisions of the Declaration shall remain in full force and effect.

...IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed on this 9th day of March, 2023.

BIGGS, INC.

By: Kevan Biggs, President

STATE OF INDIANA SS COUNTY OF ADAMS

Before me, the undersigned Notary Public, in and for said County and State, this  $\mathcal{G}^{\mathcal{H}}$  day of March, 2023, personally appeared Kevan Biggs, as President of Biggs Inc., over the age of eighteen (18) years, and acknowledged the execution of the foregoing First Amendment to the Dedication, Protective Restrictions, Covenants & Easements as a Part of the Plat of Lincoln Pointe, Section Five, an Addition to Whitley County, Indiana, as his voluntary act and deed on behalf of Biggs, Inc., for the uses and purposes set forth in this document.

Witness my hand and notarial seal this 9th day of March

Regina L. Glover Notary Public Seal State of Indiana **Adams County** Commission Number NP0689090

My Commission Expires 08/23/2024

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 13th Street, Decatur, IN 46733