



**Carriage Trails Master Owners' Association, Inc.**

**Master** Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens for Carriage Trails Development (includes legals, site plan, 2008 Petition for SPAs)  
April 1, 2009

**First Amendment** to the CCRs (added Architectural and Design Standards-Exh B, as set forth in the Major Modification of Carriage Trails Development, appointed one waste management company, initial special assessment from home buyers, loans by developer for common area improvements)  
July 6, 2010

**Second Amendment** to the CCRs (added that Developer defers their right to designate a single waste management company)  
July 1, 2013

**Third Amendment** to the CCRs (eff. 10/1/2014, added 'trash enclosures and storage areas' wherein all garbage, trash or refuse shall be placed in containers and stored within the dwelling unit/garage)  
September 18, 2014

**Fourth Amendment** to the CCRs (added Windbrooke-Section 2, Cluster Box Units (CBUs), and one-time capital contributions)  
July 17, 2019

**Fifth Amendment** to the CCRs (added Carriage Trails-Section 17, fka Brown, nka the Arbors)  
February 13, 2020

**Amended and Restated Sixth Amendment** to the CCRs (corrected the Affidavit of Facts associated with Windbrooke-Section 2, Windbrooke-Section 3-Phase I; and added language concerning 'Conservation Area' for Carriage Trails – Section 17)  
December 4, 2020

**Seventh Amendment** to the CCRs (added Windbrooke-Section 3-Phase II)  
December 16, 2021

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**MASTER DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS,  
ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

This Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment liens (this "**Declaration**") made on or as of this 1st day of April, 2009, by DEC Land Co. I, LLC an Ohio limited liability company (hereinafter the "**Developer**").

**BACKGROUND**

The following portion of this Declaration is provided to assist in understanding its objectives. Many of the terms used herein are defined in Article 1, the Definitions portion hereof, and it is recommended that those definitions be consulted in order to fully understand these provisions:

1. The Developer is the owner in fee simple of the real estate situated in the State of Ohio, and described on Exhibit A attached hereto and made a part hereof.
2. The Developer desires to develop the real property described in Exhibit A into multiple residential subdivisions, condominiums, apartments, an assisted living facility, an office and commercial district and other complimentary developments as permitted by zoning in accordance with the site plan attached hereto as Exhibit B to collectively be known as the "Carriage Trails Subdivision" (hereinafter referred to as "**Carriage Trails**" or the "**Development**"), together with such other property, if any, as the Developer may determine, from time to time, to develop into additions to the Development and subject to the provisions hereof.
3. There will be common areas and elements within the Development. In addition, various portions of Carriage Trails will be developed with entryway features, parks, roadways, private drives and streets, drainage and storm water facilities, green and landscaped buffer areas and improvements benefiting all of the Development, and, perhaps, major community facilities such as parks, community buildings, and swimming pools. These properties and improvements, or rights with respect thereto (except those, if any, dedicated to public use), when and as so designated by Developers, are referred to herein as "**Master Common Elements.**"
4. In connection with the development of Carriage Trails there will be created:
  - A. The "**Master Owners Association**", an owners association organized for the purpose of owning and/or maintaining Master Common Elements and for the purpose of enforcing the restrictions set forth herein; and
  - B. "**Sub-area Associations**", separate associations for each condominium, residential subdivision, multi-family development or commercial development within the Development, as determined by Developer, in its sole discretion, whose

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OR

ew. Ken CONAWAY  
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members will consist of all of the Owners of Units, Lots, Multi-Family Parcels and Commercial Parcels in that condominium, subdivision or development submitted to the provisions hereof, except Owners of Exempt Property as defined herein. Each Sub-area Association will administer restrictions relative to the property within and matters related solely to the property in that subdivision, condominium or development, as the case may be, and the Owners or occupants of Units, Lots, Multi-Family Parcels or Commercial Parcels in that subdivision, condominium or development.

5. The purpose of this Declaration is to establish a plan for the accomplishment of the objectives of the Master Owners Association, and to memorialize these understandings.

**COVENANTS, EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS**

NOW THEREFORE, in pursuance of a general plan for the protection, benefit, and mutual advantages of the property in the Development as presently constituted, and as it may hereafter be constituted, Developer, with respect to the Development, hereby declare that all of the Development shall be held, sold, conveyed and occupied subject to the following covenants, easements, and restrictions, which are for the purpose of protecting the values and desirability of, and which shall run with the title to, each part of the Development, and be binding on all parties having any right, title or interest therein, and each part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of and be enforceable by Developers, the Master Owners Association, each Sub-area Association, each Lot Owner, each Unit Owner and their respective heirs, successors, and assigns:

1. **DEFINITIONS.**

The following terms used in this Declaration shall have these meanings, unless the context requires otherwise:

- (a) **“Additional Property”** -- property that may in the future be subjected to the plan provided herein, and consists of such other property as Developer, in its sole and unfettered discretion, may from time to time determine and designate as Additional Property to be part of the Development and subjected to the provisions hereof.
- (b) **“Articles” and “Articles of Incorporation”** -- the articles, when filed with the Secretary of State of Ohio, incorporating **“Carriage Trails Subdivision Master Owners Association”** (hereinafter referred to herein as the **“Master Owners Association”**) as a non-profit corporation under the provisions of Chapter 1702 of the Revised Code of Ohio (**“Chapter 1702”**).

- (c) **“Assessments”** -- charges levied by the Master Owners Association on Owner Property and their Owners, consisting of Operating Assessments, Special Assessments, and Individual Owner Property Assessments.
- (d) **“Board”** -- the Board of Directors of the Master Owners Association .
- (e) **“City”** -- the City of Huber Heights, Ohio.
- (f) **“Code of Regulations”** and **“Code”** -- the code of regulations of the Master Owners Association (often referred to as “bylaws”) created under and pursuant to the provisions of Chapter 1702, establishing certain administrative and operating rules and procedures for the Master Owners Association.
- (g) **“Condominium Ground”** – Certain portions of the portions of the Development are designated as areas in which condominium development may occur. The individual residential units developed on the Condominium Ground are referred to as “Units”.
- (h) **“Common Expenses”** -- costs and expenses incurred by the Master Owners Association in fulfilling its functions.
- (i) **“Commercial Parcel”** -- a legally separate tax parcel subdivided from the Development used for office, commercial or industrial use.
- (j) **“Developer”** – DEC Land Co. I, LLC and any of its successors or assigns to which it specifically assigns any part or all of its rights and which assume any part or all of its obligations hereunder by a written instrument.
- (k) **“Development Phase”** – an individual portion of the Development, subdivided from the Development, on which a single-family residential, a multi-family residential, or a non-residential development is to be constructed.
- (l) **“Declaration”** -- this instrument, by which the Development is hereby submitted to the provisions hereof.
- (m) **“Design Review Committee”** -- the group of individuals having the power and authority to establish and enforce architectural standards governing the construction, replacement and modification of improvements in the Development.
- (n) **“Design Standards”** -- architectural standards governing the construction, replacement and modification of improvements in the Development as set forth in the Major Modification to the Carriage Trails Development in Case #08-02A, pursuant to the Planning Commission recommendations and as further modified by City Council, adopted December 15, 2008 as Ordinance No. 2008-0-1766, attached hereto and incorporated herein as may be amended by the Developer and the City.
- (o) **“Exempt Property”** -- means the portion of the real property comprising the Development which is now or hereafter dedicated to common public use or owned by the United States, the State of Ohio, any county, any municipality, any township, any school

board, or similar governmental body, or any instrumentality or agency of any such entity, for so long as any such entity or any such instrumentality or agency shall be the owner thereof.

- (p) **“Governing Documents”** -- the Master Owners Association’s Articles of Incorporation, Code of Regulations, its Rules and all amendments thereto, this Declaration and all amendments thereto, applicable building and zoning laws, the provisions of any plats of property in the Development and any other documents affecting the Development as determined by the Developer.
- (q) **“Improvements”** -- all dwellings, buildings, outbuildings, sheds, garages and other structures; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools, hot tubs, and spas; sport and recreational courts, fixtures and facilities, including basketball hoops, tennis courts and lacrosse and soccer goals; children’s recreational equipment or structures, including playground equipment, swing-sets, playhouses, tree houses and forts; pet houses, runs, and enclosures; changing of colors or materials; exterior lighting; slope and drainage alterations; roads, driveways, uncovered parking areas and other such areas; fences, mailboxes, trellises, walls, retaining walls, exterior stairs, decks, patios and porches and walkways; planted trees, hedges, shrubs and other forms of landscaping; and all other structures or improvements of every type.
- (r) **“Individual Owner Property Assessment”** -- an Assessment that the Board may levy upon Owner Property and its Owner(s) to reimburse the Master Owners Association for costs incurred solely on behalf of that particular Owner Property, or the Owner(s) thereof, including without limitation, administrative charges for Rules violations, late charges, and interest on delinquent assessments, and costs of collection of delinquent obligations to the Master Owners Association, including attorneys fees and court costs, and all other charges reasonably determined to be chargeable solely to that particular Owner Property.
- (s) **“Lot”** -- a separate parcel of real property now or hereafter identified upon a recorded subdivision plat of property in the Development, or any portion thereof, or recorded re-subdivision thereof, and any other separate parcel of real property designated as a Lot by the Developer, and subjected to the provisions hereof either by amendment hereto, by plat restriction, by deed restriction, or by subdivision declaration or amendments thereto, excluding Condominium Ground, a Multi-Family Parcel, a Commercial Parcel, Master Common Elements and any property dedicated for public use.
- (t) **“Managing Agent”** -- a person retained by the Board to assist in the management of the Master Owners Association.
- (u) **“Master Owners Association”** – the legal entity formed for the purpose of owning and/or maintaining Master Common Elements. It is being incorporated as an Ohio non-profit corporation named **“Carriage Trails Subdivision Master Owners Association.”**

- (v) **“Master Common Elements”** -- all real and personal property now or hereafter acquired pursuant to this Declaration or otherwise, and owned by the Master Owners Association for the common use and the enjoyment of two (2) or more Owners, or if not owned by the Association, all real or personal property for the maintenance of which the Master Owners Association is responsible under the terms of this Declaration, applicable zoning regulations, or under any other agreement or instrument to the terms of which the Master Owners Association is bound.
- (w) **“Member”** – any person or entity entitled to membership in the Master Owners Association as provided for herein.
- (x) **“Multi-Family Parcel”** – a legally separate tax parcel subdivided from the Development improved with a residential building housing more than one dwelling unit. For purposes of this Declaration, the term “Multi-Family Parcel” shall also include a tax parcel improved with an assisted living facility.
- (y) **“Operating Assessment”** -- an Assessment that the Board may levy upon all Owner Property, pursuant to the terms of this Declaration, to provide funds to pay Common Expenses, that is, funds needed to meet cash requirements of the Master Owners Association for its operations and reasonable reserves.
- (z) **“Owner”** -- the record Owner, whether one or more Persons, of fee simple title to a Lot, Unit, Multi-Family Parcel or Commercial Parcel, excluding the Developer and vendors under recorded land installment contracts, but including the vendees, and excluding all others having an interest merely as security for performance of an obligation.
- (aa) **“Owner Property”** – collectively referring to all Lots, Units, Commercial Parcels and Multi-Family Parcels.
- (bb) **“Parcel”** – a legally separate tax parcel subdivided from the Development.
- (cc) **“Person”** -- a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.
- (dd) **“Carriage Trails”** -- property that at any time has been subjected to the provisions of this Declaration, and initially includes all of the property identified on Exhibit A attached hereto and may be expanded to encompass all or any part of the Additional Property, identified in paragraph (a) of this Article I.
- (ee) **“Rules”** -- the rules and regulations established by the Board from time to time.
- (ff) **“Special Assessment”** -- an Assessment that the Board may levy upon all Owner Property, except Exempt Property, to pay for unanticipated operating deficiencies, or to pay for capital expenditures not regularly budgeted and not to be paid out of reserves, such as costs for major capital improvement replacements and for major new capital improvements.

- (gg) **“Sub-area Association”** -- an association of the Owners of Lots, Units or Commercial Parcels .
- (hh) **“Turnover Date”** -- the date on which Developer relinquishes its exclusive right to appoint all members of the Master Owners Association Board, which date shall be no later than the time the Development has been fully developed, all Improvements completed, and all Owner Property been sold and conveyed; provided Developer reserves the right, in its sole and unfettered discretion, to turn over control of the Master Owners Association, or various functions thereof, at such earlier time or times as it determines in its sole and unfettered discretion.
- (ii) **“Unit”** -- A separate parcel of real property a part of the Development identified as a “Unit” in a duly recorded declaration of condominium and shown on filed drawings for the condominium, or on duly recorded or filed amendments thereto.

**2. GOALS.**

The covenants, easements, conditions and restrictions contained in this Declaration are declared to be in furtherance of the following purposes:

- (a) Promotion of the health, safety and welfare of all Owners and residents and tenants of property in the Development;
- (b) Ownership, administration, preservation, beautification and maintenance of the Development and all Improvements thereon;
- (c) Enforcement of architectural controls and restrictions; and
- (d) Compliance with all government ordinances and codes.

**3. THE MASTER OWNERS ASSOCIATION.**

**3.1. Purposes.**

The purposes of the Master Owners Association are to:

- (a) have easements with respect to, or own, and repair, maintain and regulate use of, various facilities and amenities in the Development that benefit the Development and its Owners and Occupants, eventually including, without limiting the generality of the foregoing, private streets and alleys that serve the Development (exclusive of private drives and streets a part of a condominium), the private portions of the storm sewer system, if any, that serve the Development, the private water lines and apparatus, if any, that serve the Development as a whole or more than one Lot, Unit, Multi-Family Parcel or Commercial Parcel in the Development (provided that in the case of private water lines in a

condominium, the Master Owners Association shall only be responsible for the private water lines and apparatus that serve more than one Unit and that are located outside of a building structure), and such other Improvements and amenities as serve the Development, as set forth herein, and as hereafter initially determined by Developers, and after the Turnover Date, by the Master Owners Association's Board;

- (b) administer and enforce the provisions of the Governing Documents of the Master Owners Association; and
- (c) assess, collect and disburse funds necessary to fulfill these purposes.

### 3.2. Membership.

The Developer, each Sub-area Association and each Owner of Owner Property shall have a membership in the Carriage Trails Subdivision Master Owners Association. Membership is a right appurtenant to and inseparable from an Owners fee simple title in a Lot, Unit, Parcel, Condominium Ground, a Multi-Family Parcel or a Commercial Parcel, and such right of membership shall automatically transfer to any transferee of fee simple title at the time such title is conveyed or at such time as a land installment contract is entered for the conveyance of fee simple title. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest or mortgage shall not terminate an Owner's membership. No Owner, whether one or more persons, shall have more than one membership per Owner Property owned. In the event an Owner consists of more than one person, such persons shall have one membership in the Master Owners Association in common.

### 3.3 Classes of Membership

The Membership of Association shall be divided into three (3) classes, having the rights and obligations herein described:

- (a) Master Member. There shall be one (1) Master Member, being the Developer. In all Master Owners Association matters involving a vote, the Master Member shall have one (1) vote for each Lot and each Unit, two (2) votes for each Multi-Family dwelling unit and ten (10) votes for each acre contained in a Commercial Parcel in the Development (whether or not such Lot, Unit or Parcel has been transferred from Developer to an Owner or not) for so long as Developer owns at least one (1) Lot, Unit or Parcel in the Development. At such time as the Developer no longer owns at least one (1) Lot, Unit or Parcel in the Development, control of the Master Owners Association shall transfer to the Sub-area Association Members and Owner Members in accordance with the voting rights set forth below. Notwithstanding the foregoing, the Developer may, at any time, assign or transfer all or any part of its voting rights in the Master Owners Association prior to transfer of control of the Master Owners Association.



- (b) Sub-area Association Members. Each Sub-area Association shall be a member of the Carriage Trails Subdivision Master Owners Association, and each Sub-area Association shall have one (1) vote in all Master Owners Association matters involving a vote.
- (c) Owner Members. There shall be separate classes of Membership for Lot Owners, Unit Owners, Multi-Family Parcel Owners and Commercial Parcel Owners. Each Owner of a residential Lot in one of the single-family subdivisions and each Unit owner in the multi-family subdivision shall each have one (1) vote in all Master Owners Association matters involving a vote. Each Multi-Family Parcel Owner shall have one (1) vote for every Multi-Family dwelling unit constructed on the Owner's Multi-Family Parcel. Each Commercial Parcel Owner shall have eight (8) votes for each acre (rounded up to the nearest full acre) contained within the Commercial Parcel.

**3.4. Powers; Authority; Duties.**

The Master Owners Association shall have all the rights, powers, and duties established, invested, or imposed in it pursuant to the Governing Documents, and the laws of the State of Ohio applicable with respect to Ohio non-profit corporations. Among other things, the Master Owners Association, through its Board, shall have the power to own and/or hold easements with respect to, and maintain, Master Common Elements, enforce and administer the Declaration, Rules, other Governing Documents, restrictions and covenants applicable to the Development, levy and collect assessments, collect and maintain reserves for replacements or anticipated expenditures, enter into contracts, sue and be sued, and take such other actions as it deems appropriate to its purposes.

In addition to the foregoing, the Association shall be: (i) responsible for the seeding, maintaining, weeding, mowing, trimming, irrigating, repairing and replacing all grass and other plantings within the parkway through the Development; (ii) responsible for paying the costs of and undertaking responsibility for designing, installing, planting, maintaining, weeding, repairing and replacing all paths and bikeways and grass and other plantings within any areas of public easements; (iii) responsible for paying the costs of and undertaking responsibility for operating, maintaining, repairing and replacing all street lighting within the Development; (iv) responsible for paying the costs of and undertaking responsibility for draining, lighting, maintaining, repairing and improving all tunnels within the Development; and (v) responsible for repairing, replacing and maintaining certain private streets and private utility lines as determined by the Developer; (vi) and responsible for maintenance of the storm water management system (including but not limited to easements and ponds) on each phase of development. For purposes of this Declaration, all of the above shall constitute "Master Common Elements".

**3.5. Rules and Regulations.**

The Master Owners Association through its Board may make and enforce reasonable Rules governing the use, operation and maintenance of the Development, the levying and collection of assessments for the operation of the Master Owners Association, the levying and collection of administrative charges for the infraction of Rules, and for other purposes consistent with its goals. All of such Rules shall be consistent with the provisions of the Governing Documents. The Master Owners Association shall have the power to impose sanctions on

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Owners, including without limitation: (a) reasonable monetary administrative charges which shall be considered Individual Owner Property Assessments; (b) suspension of the right to vote as a Member of the Master Owners Association; and (c) suspension of the right of the Owner and that Owner's occupants, licensees, and invitees, to use the Master Common Elements, or any part thereof, for a period not exceeding sixty (60) days, for any infraction of the Governing Document, including but not limited to the provisions hereof and the Rules; provided that the right of ingress and egress of an occupant or Owner to that Owner's or that occupant's Lot, Unit or Parcel, or any part thereof, shall not be impeded or prohibited. In addition, the Board shall have the power to seek relief in any court for violations of or to abate violations of the provisions of the Governing Documents. If the Board expends funds for attorneys' fees or litigation expenses in connection with enforcing any provision of the Governing Documents, or otherwise, the amount so expended shall be due and payable by the Owner or Owners of the Unit, Lot or Parcel whose Owner, occupant, licensee or invitee violated the Governing Documents, including but not limited to the provisions hereof, and the same shall be an Individual Owner Property Assessment against such Owner's Unit, Lot, or Parcel and such Owner.

### **3.6. Implied Rights.**

The Master Owners Association may exercise any other right or privilege given to it expressly by the laws of the State of Ohio or any provision of the Governing Documents, and every other right or privilege reasonably implied from the existence of any right or privilege granted thereby, or reasonably necessary to effect any such right or privilege.

### **3.7. Managing Agent.**

The Board may retain and employ on behalf of the Master Owners Association a Managing Agent, which may be Developer, and may delegate to the Managing Agent such duties as the Board might otherwise be authorized or obligated to perform. The compensation of the Managing Agent shall be a Common Expense.

### **3.8. Insurance.**

- (a) Fire and Extended Coverage. The Master Owners Association shall, with respect to insurable property or interests owned by it, obtain and maintain insurance for all insurable Improvements, equipment and common personal property, now or at any time hereafter constituting a part of the Master Common Elements, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against by standard coverage endorsements, with such limits and coverage as is deemed appropriate by the Board. This insurance:
- (i) shall provide that no assessment may be made against an institutional mortgage lender, or its insurer or guarantor, and that any assessment under such policy made against others may not become a lien on any Unit, Lot, or Parcel and its appurtenant interest, superior to the lien of such mortgage;
  - (ii) shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has a current rating of Class B/VI, or better, or, if such company has a financial rating of Class V, then such company must have a

general policy holder's rating of at least A, all as determined by the then latest edition of Best's Insurance Reports or its successors guide, or, if the insurer does not satisfy these rating requirements, that insurer is reinsured by a company that has a B/VI or better rating;

- (iii) shall be written in the name of the Master Owners Association; and
  - (iv) unless otherwise determined by the Board, shall contain a waiver of subrogation of rights by the carrier as to the Master Owners Association, its officers, directors, and Members.
- (b) Liability Coverage. The Master Owners Association shall obtain and maintain a Commercial General Liability Policy of insurance covering all of the Master Common Elements insuring the Master Owners Association, the directors, and its Members, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, and (b) \$1,000,000, for bodily injury, including deaths of Persons, and property damage, arising out of a single occurrence. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of any Member because of negligent acts of the Master Owners Association, the Board, or any director, officers or other Members, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of Persons in connection with the operation, maintenance or use of the Master Common Elements, and other legal liability, including liability under contractual indemnity clauses and liability arising out of lawsuits related to any employment contracts of the Master Owners Association. Each such policy must provide that it may not be canceled or substantially modified by any party, without at least ten days prior written notice to the Master Owners Association. The Master Owners Association may name other persons and entities as additional insureds as deemed necessary by the Master Owners Association in its sole discretion.
- (c) Other. The Master Owners Association may, in the Board's discretion, obtain and maintain the following insurance: (i) fidelity bond coverage for all officers, directors, Board Members and employees of the Master Owners Association and all other Persons handling or responsible for handling funds of the Master Owners Association, (ii) officers' and directors' liability insurance, (iii) additional insurance against such other hazards and casualties as is required by law, (iv) workers compensation insurance, and (v) any other insurance the Board deems necessary in its sole discretion.
- (d) Use of Proceeds. In the event of damage or destruction of any portion of the Master Common Elements, the Master Owners Association shall promptly repair or replace the same, to the extent that insurance proceeds are available. Each Member hereby appoints the Master Owners Association as its attorney-in-fact for such purpose. If such proceeds are insufficient to cover the cost of the repair or replacement, then the Board may levy a Special Assessment pursuant to the provisions hereof to cover the additional costs.

**3.9. Condemnation.**

The Master Owners Association through its Board shall represent the Members in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Master Common Elements, or any portion thereof. Each Member hereby irrevocably appoints the Master Owners Association as that Member's attorney-in-fact for such purpose. The awards or proceeds of any condemnation action shall be payable to the Master Owners Association, to be held and used for the benefit of the Members, as determined by the Board.

**3.10. Books; Records.**

Upon reasonable request of any Member or Owner, the Association shall make reasonably available for inspection all books, records and financial statements of the Master Owners Association, except for those items deemed privileged, protected, or confidential in accordance with applicable law, rules or regulations, including but not limited to: (i) information that pertains to personnel matters; (ii) communications with legal counsel or attorney work product pertaining to proposed or pending litigation; (iii) information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements; (iv) information that relates to the enforcement of the Governing Documents against Owners; and (v) information the disclosure of which is prohibited by state or federal law. The Association may charge a reasonable fee to cover the administrative costs of handling, copying, delivering, etc., the requested documents.

**4. DESIGN REVIEW.**

**4.1 Master Owners Association Design Review Committee.**

- (a) **DRC Board.** All property at any time subject to this Declaration shall be governed and controlled by this Declaration and the design standards as approved in Ordinance No 2008-0-1776, Major Modification to the Carriage Trails Development in Case #08-02A pursuant to the Planning Commission recommendations and as further modified by City Council, attached hereto and incorporated herein and as may be amended by the Developer and the City. The Master Owners Association Design Review Committee (hereinafter the "DRC") shall be a board consisting of three (3) persons, all of which shall be appointed by the Master Owners Association Board. The Master Owners Association Board shall have the sole and exclusive right to appoint and remove all and any members of the DRC at will, and may elect in the exercise of its sole discretion, to act itself as the DRC in lieu of appointing individuals or a management company. Once the Developer has completed the development and sale of all Lots, Units or Parcels in the Development, the design review for each Development Phase may be assigned to the relevant Sub-area Associations. Sub-area Associations shall exercise authority only over the specific Development Phase for which such Sub-area Association is formed, and in no event shall any Sub-area Association for a residential Development Phase have any rights or

responsibilities relative to plan reviews within any Multi-Family Parcels or Commercial Parcels. At all times prior to the date upon which the Master Owners Association DRC ceases to exist, the Master Owners Association DRC shall have the absolute authority and final say with respect to all plan reviews (both original construction and subsequent modifications).

- (b) **Exclusive Authority.** The Master Design Review Board shall have the exclusive authority to determine the initial architectural standards which shall govern the construction of Improvements in the Development. Each Developer shall submit proposed building plans to the Master Design Review Board for approval. Each developer or builder of a Development Phase, subdivision, condominium, Lot, Unit or Parcel and each Owner covenants and agrees by acceptance of a deed to a Lot, Unit, Parcel, Condominium Ground or other property located in the Development to comply with, and to cause his/her property and any occupant, resident, or tenant thereof to comply with the standards promulgated by the Master Owners Association DRC. No Improvement shall be placed, erected or installed on any property subjected to this Declaration, nor shall construction (which term shall include in its definition staking, clearing, excavation, grading, other site work, and building construction) be permitted, without, until and unless the developer, builder or Owner first obtains the written approval thereof from the Master Owners Association DRC, and otherwise complies with the provisions of this Declaration.
- (c) **Variances.** To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of this Declaration, the Master Owners Association DRC shall have the authority to grant reasonable variances from the provisions of this Article and from the architectural standards established pursuant to this Article, provided that the activity or condition is not prohibited by applicable law; and provided further that, in their judgment, the variance is in the best interest of the community and is within the spirit of the standards of the relevant architectural standards established. No variance granted shall constitute a waiver of any provision of this Declaration as applied to any other person or any other part of the Development. No Member will seek a variance from any City zoning provision without first receiving the consent from the DRC.

#### 4.5 Uses.

Except as otherwise permitted herein, each Lot, Unit, all Condominium Ground and all Multi-Family Parcels shall be occupied and used exclusively for residential purposes and purposes customarily incidental to residential occupancy thereof. Commercial Parcels shall be used only for purposes permitted by and under applicable zoning regulations relative to such Parcels. No Improvements may be constructed on the Condominium Ground or on any Lot, Multi-Family Parcel or Commercial Parcel, until and unless the plans therefore have been approved by the Master Owners Association DRC in accordance with the following restrictions.

- (a) **General.** Every Owner Property in the Development may be used only in accordance with the purposes for which intended and for any reasonable purposes incidental to the maintenance of the Development as a high-quality community. All uses shall benefit or promote the health, safety, welfare, convenience, comfort, recreation, and enjoyment of

the Owners and occupants, residents and tenants and shall comply with the provisions of this Declaration, the other Governing Documents, and the laws of the State of Ohio, and no use of any property in the Development, or any part thereof, shall be permitted except as authorized by the Master Owners Association DRC, in its sole discretion.

- (b) Businesses. No industry, business, trade, occupation or profession of any kind may be conducted, operated or established, without the prior written approval of the Master Owners Association DRC, and then only if the purpose of the business is to provide a service or product deemed desirable by the DRC to promote or enhance the Development as a whole and is consistent with the approved zoning. Sexually oriented business are specifically prohibited.
- (c) Nuisance. No noxious or offensive activity shall be permitted on all or any part of the Development, including but not limited to the Master Common Elements.
- (d) Hazardous Actions or Materials. Nothing shall be done on or kept in any property in the Development that is unlawful or hazardous, that might reasonably be expected to increase the cost of casualty or public liability insurance, or that might or that does unreasonably disturb the quiet occupancy of any Owner or occupant, resident or tenant. These provisions shall not be construed so as to prohibit Developer or any other builder in the Development from construction activities consistent with reasonable construction practices.
- (e) Vehicles. The Master Owners Association Board is granted the power and the authority to create and enforce reasonable Rules concerning placement and the parking of any vehicle permitted on or in the Development, so long as those Rules are consistent with, and do not amend, any of the terms hereof. In addition to its authority to levy Individual Owner Property Assessments as administrative charges for the violation of the Rules, the Board shall be authorized to cause the removal of any vehicle violating such Rules.

Except as specified below, no trucks, no prohibited commercial vehicles, no boats, no trailers, no campers and no mobile homes shall be parked or stored on any street, drive or alley, parking lot in the Development or on any part of the Master Common Elements for any time period longer than forty-eight (48) hours in any thirty (30) day period, provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of Improvements within the Development.

For the purpose of this section, the terms "truck" and "prohibited commercial vehicle" shall include all vehicles that have a length of more than 21 feet and all vehicles that include any visible exterior storage of tools or materials; provided, however, that up to two (2) ladders may be visible. Dump trucks, tow trucks, flat bed car hauling trucks, panel trucks and vans larger than one-ton capacity, pickup trucks larger than one ton capacity, and semi type tractors and trailers, shall in every instance be considered to be to be a prohibited truck and/or a prohibited commercial vehicle. For the purpose of this section, the word "trailer" shall include landscaping trailer, open bed trailer, trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit

use and occupancy thereof, or for storage or the conveyance of personal property, whether resting on wheels, jacks, tires or other foundation.

Furthermore, no automobile, truck, or other motor-driven vehicle, or trailer, in a condition where it is unlicensed, unregistered, apparently inoperable, extensively damaged, disabled, dismantled, or otherwise not in a condition to be lawfully operated upon the public highway, or any vehicle component or part, shall be placed, parked or stored on any street, drive or alley, parking lot, or driveway within the Development or on the Master Common Elements. The vehicle, trailer or part so situated shall be deemed to be a nuisance, and shall be removed.

- (f) Signs. No signs of any character shall be erected, posted or displayed on any property in the Development or on any Improvement except: (i) temporary marketing signs (such as “for sale” or “for rent” signs) approved by Developers and installed by either Developer, or other builders to whom Developer has assigned such rights, while marketing available properties in The Development, (ii) signs and markers on the Master Common Elements including, but not limited to, street and identification signs installed by the Master Owners Association, Developers, or any governmental agency, regarding and regulating the use of the Master Common Elements, including but not limited to no parking, towing, speed limit signs, and entry feature and identification signs, and (iii) such other signs as approved by the Master Owners Association DRC.
- (g) Animals. No animal, livestock, reptile, or poultry of any kind shall be permitted on, kept, bred, boarded or raised on any property in the Development, unless expressly permitted by the Rules, and subject to such limitations as the Master Owners Association Board may determine.
- (h) Trash. Except for the reasonably necessary activities of Developer or builders during construction, no burning or storage of trash of any kind shall be permitted.
- (i) Fencing. The Master Owners Association DRC shall have the authority to establish standards according to which fencing and walls may be permitted. Said authority shall include the power to prohibit fencing or walls, or both, entirely, to prohibit or permit fencing or walls of certain types or in certain areas, and to prohibit or permit fencing or walls of certain types in certain areas. The DRC may establish, and all fencing and walls shall conform to, specific standards for fencing. Separate specific standards may be set for perimeter yard fencing as distinct from pool enclosure fencing or other types of fencing. All fence plans must be approved by the DRC, in writing, prior to the installation thereof
- (j) Swimming Pools and Recreational Structures. No above ground swimming pool extending twelve (12) inches or more above the finished grade of the Lot shall be permitted upon any Lot except this paragraph shall not be intended to prohibit the installation of a hot tub or sauna. If an in-ground pool is installed on any Lot, all fencing around said pool shall meet the Master Owners Association DRC standards.

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- (k) Lakes and Ponds; Wells. No Owner or any other person, shall have access to, or the right to use, any lake, pond, stream or other body of water in the Development for boating, swimming, or any other purpose without the written permission of the Developer. No wells shall be permitted without Developer's written consent.
- (l) Entrance Walls, Fencing, Subdivision Identification Signs, Earthen Mounds and Landscaping. The walls, fencing, subdivision identification signs, earthen mounds, electrical facilities, irrigation systems, utilities facilities and landscaping placed on, over, under or through any of the Owner Property by Developer, shall not be removed or changed except by the Developer or by a builder or Owner with Developer's consent, and their respective successors or assigns, who shall have the right to enter the Owner Property to do so.
- (m) Maintenance of Master Common Elements. The responsibility for maintaining the Master Common Elements as shown on the attached Exhibit B in a well maintained, attractive and aesthetically appealing condition shall be the responsibility of the Master Owners Association.
- (n) Exterior Building Materials. Exterior building materials shall be wood, brick, stone, stucco, fiber-cement products (such as Hardiplank) or vinyl siding with a minimum gauge of .040, pursuant to the design standards as approved in Ordinance No 2008-0-1776, Major Modification to the Carriage Trails Development in Case #08-02A pursuant to the Planning Commission recommendations and as further modified by City Council, attached hereto and incorporated herein.. Natural earth colors are preferred. Accent colors can only be used to carefully add a highlight or detail to the natural earth tone colors. Gutters and downspouts are to be painted compliment facia color. Trim is to be stained or painted to compliment the exterior walls and roof. All exterior building materials and colors are subject to review by the DRC. Asphalt or gravel driveways will not be permitted.
- (o) Tree Removal. No trees shall be removed from any property within the Development except as disclosed in plans submitted to and approved by the DRC. Any tree removed contrary to the provision hereof shall be replaced at a location and with a tree or trees (all as approved by the DRC) of comparable caliper and species of the tree so removed. The Master Owners Association Board may also levy a fine against any Owner who wrongly removes or permits the removal of one or more trees from the Property contrary to the provisions of this section. The amount of such a fine shall be discretionary with the Board, but in any event shall not exceed the greater of two times the measurable economic gain to the Owner of having the tree(s) removed, or \$1,500.00.

**5. ASSESSMENTS.**

**5.1. Types of Assessments.**

Subject to the provisions of this Article 5, each Owner Property and its Owner or Owners, shall be subject to the following Assessments, the Owner or Owners of each Owner



Property by acceptance of a deed (whether or not it shall be so expressed in such deed) covenant and agree to pay: (a) Operating Assessments, (b) Special Assessments, and (c) Individual Owner Property Assessments, all of which are to be established and collected as hereinafter provided. No Owner may gain exemption from liability for any Assessment by waiving or foregoing the use or enjoyment of any of the Master Common Elements or by abandoning that Owner's Property.

## 5.2. Operating Assessments.

For the purposes of providing funds to pay:

- the cost of the maintenance, repair, replacement, and other services to be provided by the Master Owners Association, including but not limited to the maintenance, repair, and replacement of the private streets and alleys that serve the Development (exclusive of private drives and streets a part of a condominium and/or residential subdivision), the private portions of the storm sewer system, if any, that serve the Development, the private main water lines and apparatus, if any, that serve the Development as a whole or that serve more than one Lot, Unit or Parcel (provided that in the case of private water lines in a condominium, the Master Owners Association shall only be responsible for the private water lines and apparatus that are located outside of the Condominium Ground), and all other Master Common Elements;
- the costs for insurance and bond premiums to be provided and paid for by the Master Owners Association;
- the cost for utility services, if any, charged to or otherwise properly payable by the Master Owners Association;
- the costs for construction of new, capital Improvements on Master Common Elements not replacing capital improvements installed by Developer;
- the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Master Owners Association, in an amount deemed adequate by the Board;
- an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements including, but not limited to, the private streets and alleys that serve the Development as a whole (exclusive of private drives and streets a part of a condominium), the private portions of the storm sewer system, if any, that serve the Development, the private main water lines and apparatus, if any, that serve the Development as a whole or that serves more than one Lot, Unit or Parcel (provided that in the case of private water lines in a condominium, the Master Owners Association shall only be responsible for the private water lines and apparatus that are located outside the Condominium Ground), for which cash reserves over a period of time in excess of one year ought to be maintained; and

- the costs for the operation, management and administration of the Master Owners Association, including, but not limited to, fees for property management, landscaping, mowing, planting, lighting, pool and clubhouse maintenance, pavement maintenance, snow and ice removal and mitigation for the Master Common Elements, real estate taxes and assessments for Master Common Elements, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Master Owners Association, and the salaries, wages, payroll charges and other costs to perform these services, and any other costs of operations of the Master Owners Association not otherwise herein specifically excluded;

all of which shall constitute Common Expenses. The Board shall establish, levy, and collect Operating Assessments in accordance with the following:

- (a) Establishment. Prior to the closing of the sale of the first Unit, Lot or Parcel to a bona fide purchaser, the Board shall determine the total of those estimated funds needed for the balance of that calendar year from the anticipated time of that first closing, and on or before the first day of each calendar year thereafter the Board shall determine the total of those estimated funds needed for that ensuing calendar year.
- (b) Apportionment. For such part year, and for each calendar year thereafter, apportionment of the Common Expenses shall be as determined by the Developer. Following transfer of control of the Master Owners Association by the Developer, the Master Owners Association shall determine the apportionment of the Common Expenses.
- (c) Collection. Notwithstanding anything herein to the contrary foregoing, in the interests of administration efficiency, instead of billing the individual Owners for such shares, the Master Owners Association may render statements for those shares to the Sub-area Associations and the Sub-area Associations shall pay those shares and charge their individual Owners their respective shares of those Master Owners Association charges. The lien rights and other remedies available to the Sub-area Associations, as set forth in their respective Governing Documents, shall be applicable to each Lot, Unit and Parcel, as the case may be, and its Owners, and shall be assessed, collected and enforced by applicable the Sub-area Association.
- (d) Due Dates. The Operating Assessments shall be payable in advance and due in monthly, quarterly, semi-annual, or annual installments, as the Master Owners Association Board may from time to time determine. Except for the initial payment of Operating Assessments, notice of Operating Assessments, or if payable in installments, the dates those installments are due, shall be given to the Owners charged to pay the same not less than thirty (30) days prior to the date the Operating Assessment, or first installment thereof, is due.

### 5.3. Special Assessments.

The Board may allocate to Owner Property to pay for additional Common Expenses such as capital expenditures, interest expense on indebtedness incurred for the purpose of making capital expenditures and not to be paid out of reserves, unanticipated operating deficiencies or

any other purpose determined appropriate by the Master Owners Association Board in furtherance of its functions hereunder. Those Special Assessments shall be allocated among the Owner Property on the same basis as Operating Assessments are to be allocated, and the Master Owners Association shall render statements therefore to the Sub-area Associations for the respective shares of their Owners as aforesaid.

#### **5.4. Individual Owner Property Assessments.**

The Board may levy an Individual Owner Property Assessment against any Lot (whether or not a dwelling has been constructed thereon), Unit, Multi-Family Parcel, or Commercial Parcel and the Owners thereof, to reimburse the Master Owners Association for costs incurred solely on behalf of that Owner Property, or as a consequence of any act or omission by any Owner, occupant, or invitee thereof, including without limitation, costs of any utility expenses chargeable to an Owner but not separately billed by the utility company and administrative and enforcement charges by the Master Owners Association reasonably determined to be an Individual Owner Property Assessment by the Master Owners Association Board. Upon its determination to levy an Individual Owner Property Assessment other than for the payment of water, sewer and other utility charges, late fees, interest, administrative charges, and attorney's fees associated therewith, the Master Owners Association Board shall give the affected Owner written notice and the right to be heard by the Board or a duly appointed committee thereof in connection with such Individual Owner Property Assessment ten (10) days prior to the effective date of the levy of any such Individual Owner Property Assessment. The Board may levy an Individual Owner Property Assessment in the nature of an administrative charge reasonably determined by the Board against the property of any Owner who violates the Master Owners Association's Rules, or any provision of the Governing Documents, or who suffers or permits the members, guests, invitees or tenants of that Owner Property to violate the same. Alternatively, at the sole option and discretion of the board of directors of the Sub-area Association, that board, on request from the Board of the Master Owners Association, may elect to assess and collect that Individual Owner Property Assessment against that Owner Property and its Owner or Owners, and if successful in obtaining recovery, remit the proceeds, after all costs of collection, including reasonable attorney fees, to the Master Owners Association.

#### **5.5. Remedies.**

In the event that the Master Owners Association itself assesses and collects an Individual Owner Property Assessment, or if for any reason a Sub-area Association fails or refuses to collect and remit any Operating Assessment or Special Assessment, the Master Owners Association may assess and collect the same from the Owners charged, and, in any such case the following shall apply with respect thereto:

- (a) Late Charge. If any Assessment, or any portion thereof, remains unpaid for ten (10) days after it becomes due and payable, the Board may charge interest on the entire unpaid balance from and after that date at the lesser of the rate of ten percent (10%) per annum or the highest rate permitted by law, together with a reasonable administrative collection charge, as established by the Board.

- (b) Liability for Unpaid Assessments. Each Assessment or installment of an Assessment, together with interest thereon and any costs of collection, including reasonable attorneys' fees, shall become the joint and several personal obligation of the Owners charged the same, beginning on the date the Assessment became due and payable. The Board may authorize the Master Owners Association to institute an action at law on behalf of the Master Owners Association against the Owner or Owners personally obligated to pay any delinquent Assessment and/or an action to foreclose the Master Owners Association's lien or liens against the Owner Property for unpaid Assessments. In any such action, interests and costs of such action, including reasonable attorneys' fees, shall be added to the amounts owed by the Owner or Owners to the extent permitted by Ohio law.
- (c) Liens. All unpaid Assessments, together with any interest and charges thereon or costs of collection, shall constitute a continuing charge in favor of the Master Owners Association and a lien on the Owner Property against which the Assessment was levied. If any Assessment, or portion thereof, remains unpaid for ten (10) days after it is due, then the Board may authorize any officer or appointed agent of the Master Owners Association to file a certificate of lien for all or any part of the unpaid balance of that Assessment, together with interest and collection costs, including attorneys' fees, with the appropriate governmental office. The certificate shall contain a description of the Owner Property which the lien encumbers, the name of the Owner or Owners of the Owner Property, and the amount of the unpaid portion of the Assessment. The certificate may be signed by any officer of the Master Owners Association, authorized agent or the Managing Agent of the Master Owners Association or its authorized representative. Upon the filing of the certificate, the subject Owner Property shall be encumbered by a continuing lien in favor of the Master Owners Association. The Assessment lien shall remain valid for a period of five (5) years from the date such certificate is duly filed, unless the lien is released earlier or satisfied in the same manner provided by the law of the State of Ohio for the release and satisfaction of mortgages on real property, or until the lien is discharged by the final judgment or order of any court having jurisdiction.
- (d) Subordination of Lien. The lien of the Assessments provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on the Owner Property recorded prior to the date on which such lien of the Master Owners Association arises, and any holder of such first mortgage which comes into possession of an Owner Property pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid Assessments against the mortgaged Owner Property which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor Owner.
- (e) Contested Lien. Any Owner or Owners who believe that an Assessment chargeable to that Owner or Owner Property (for which a certificate of lien has been filed) has been improperly charged against that Owner Property, may bring an action in the Court of Common Pleas of Miami County for the discharge of that lien and/or a declaratory judgment that such Assessment was unlawful. The filing of such action shall not be grounds for an offset or to withhold payment. In any such action, if it is finally determined that all or a portion of the Assessment has been improperly charged to that

Owner Property, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien and a refund of an Assessment or portion thereof determined to be unlawful.

- (f) Notice of Discharge. The Board shall, upon demand, for a reasonable charge, furnish a certificate signed by a designated representative of the Master Owners Association, setting forth whether the Assessments on a specified Owner Property have been paid. This certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

#### **5.6. Suspension of Vote and Use of Master Common Elements.**

If any Assessment, or portion thereof, remains unpaid for thirty (30) days after it becomes due, then the delinquent Owner's voting rights upon Master Owners Association matters and privileges to use the Master Common Elements, and to vote, as a Member of the Master Owners Association, shall be suspended until such Assessment is paid. In any case, suspension of any such rights shall be subject to the right of an Owner, Occupant, or their licensees or invitees, to necessary ingress and egress to and from that Owner Property.

### **6. USE OF FUNDS.**

#### **6.1. Application of Assessments.**

The Master Owners Association shall apply all funds received by it pursuant hereto, and all other funds and property received by it from any source, to the fulfillment of the purposes of the Master Owners Association as hereinbefore provided.

#### **6.2. Authority to Borrow Funds.**

In order to secure the repayment of any and all sums borrowed by it, loaned to it, or owed by it, from time to time, the Master Owners Association is hereby granted the right and power to mortgage and pledge all revenue received and to be received and/or to assign and pledge all revenues received or to be received by it under any provisions of these covenants, including, but not limited to, the proceeds of the Assessments payable hereunder. The amounts, terms and rates of all borrowing and the provisions of all agreements with holders or Owners of any such debt obligation shall be subject solely to the decision of the Board acting in its absolute discretion.

#### **6.3. Authority to Maintain Surplus.**

The Master Owners Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward, as surplus, any balances remaining; nor shall the Master Owners Association be obligated to apply any such surpluses to the reduction of the amount of the Assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Master Owners Association and the effectuation of its purposes.

#### 6.4. Authority to Enter Into Contracts.

The Master Owners Association shall have the power and authority to contract with any person, corporation, firm or other entity, for the exercise of any one or more of the various powers and authority granted to and duties to be performed by the Master Owners Association hereunder, and to delegate such powers and authority to any agent or employee of the Master Owners Association, and the exercise of those powers and authority by such Person shall be deemed the exercise of those powers and authority by the Master Owners Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Master Owners Association. There shall be no requirement of any bond or surety for the Master Owners Association, its agents, employees, or others assuring the exercise of the powers and authority granted hereunder, except as the Board shall in its sole discretion deem necessary or desirable for the safeguarding of any funds received by the Master Owners Association.

### 7. MAINTENANCE.

7.1 Maintenance by Association. The Master Owners Association shall maintain and keep in good repair the Master Common Elements. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and other flora, structures, and improvements situated upon the Master Common Elements, which includes landscaping of the parkway within the Development as set forth in the Development Agreement, and all personal property used in connection with the operation of the Master Common Elements

7.2 Maintenance by Owner. Each Owner or occupant shall repair, replace, and maintain in good order and condition, at his/her expense, portions of, Improvements to, structures on, and, equipment and components used in connection with, his/her property. This maintenance responsibility includes, without limitation, promptly furnishing all necessary materials and performing or causing to be performed at his/her own expense all maintenance, repairs and replacements within such property that, if omitted, would adversely affect the safety and usefulness of the Master Common Elements. Each Owner shall maintain those portions of his/her property that are adjacent to any portion of the Master Common Elements in accordance with the Rules and the requirements set forth in this Declaration.

7.3 Right of Association to Maintain Property. If any Owner fails to maintain his/her property in the manner required herein, and if the Master Owners Association Board determines that any maintenance of that property is necessary to ensure public safety, to permit reasonable use or enjoyment of the Master Common Elements by Owners, to prevent damage to or destruction of any other part of the Master Common Elements or to comply with the Rules or the terms of this Declaration, then the Board may authorize its employees or agents to enter the Owner Property at any reasonable time to complete the necessary maintenance and the Board may levy an Individual Owner Property Assessment for all reasonable expenses incurred.

7.4 Damage to Common Property By Owner or Occupant. If any Master Common Element is damaged by any Owner or occupant, his/her family, guests, or invitees, then Master Owners Association Board may levy an Individual Owner Property Assessment against such

Owner for the cost of repairing or replacing the damaged property. The Association shall be entitled to enter the Owner Property to repair or maintain any Master Common Elements adjacent to such property.

**8. EASEMENTS AND LICENSES.**

**8.1. Easements for Access and Enjoyment of Master Common Elements.**

Every Owner shall have a right and easement in common with all other Owner(s) of enjoyment upon the Master Common Elements, other than that consisting of an easement, which right shall be appurtenant to, and shall pass with the title to, that Owner's property, subject to the terms and limitations set forth herein, and subject to the Rules, provided that no such Rule shall unreasonably limit or prohibit the right of an Owner's or occupant's to ingress and egress from that Owner Property. An Owner may delegate that Person's rights of enjoyment to occupants, licensees and invitees. In addition, all Owners and occupants of Units or dwellings on Lots, and their guests, shall have the right to enter and utilize the Master Common Elements, for the purposes for which they are designed and intended (including, but not limited to the right to perform such Owner's or occupant's required maintenance obligations), provided that such uses shall be subject to the restrictions and covenants contained herein and all Rules and regulations established by the Board, from time to time.

**8.2. Right of Entry for Repair.**

The duly authorized agents, officers, contractors, and employees of the Master Owners Association shall have a right of entry and access to, over, upon and through the Development subject hereto, including without limitation all Lots, Units, Parcels, Improvements and the common elements of any Condominium Ground within the Development, for the purpose of performing the Master Owners Association's obligations, rights and duties set forth herein or pursuant hereto. The Master Owners Association, through its authorized agents, contractors, and representatives, may enter any Lot, Unit, Parcel or Improvement thereon or the common elements of Condominium Ground or improvements thereon, to maintain, repair, and replace the Master Common Elements, if necessary.

**8.3. Easements for Utilities and Other Purposes.**

The Board or Developers may convey easements over the Master Common Elements to any Person for the purpose of constructing, installing, maintaining, and operating poles, pipes, conduit, wires, ducts, cables, and other equipment necessary to furnish electrical, gas, sewer, water, telephone, cable television, and other similar utility or security services, whether of public or private nature, to the Development, or any part thereof, and to any entity for such other purposes as the Board or Developers deems appropriate. The Board or Developers may grant such easements over all portions of the Development for the benefit of adjacent properties as the Board or Developers deems appropriate; provided that the grant of such easements imposes no undue, unreasonable, or material burden or cost upon any property in the Development.

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**8.4. Easements for Services.**

A non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mail carriers, delivery persons, cable and television repair personnel, garbage removal personnel, and all similar persons, and to the local governmental authorities, the Master Owners Association, and the Sub-area Associations, (but not to the public in general) to enter upon the Master Common Elements to perform their duties.

**8.5. Easements for Encroachments.**

Each Owner Property and Master Common Elements shall be subject to and benefited by easements for encroachments on or by any other Owner Property and Master Common Elements created or arising by reason of overhangs, or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the Improvements. Valid easements for these encroachments and for the maintenance of the same shall and do exist so long as the encroachments remain.

**8.6. Easements for Support.**

Every portion of a building or utility line or any Improvement on any portion of the Development contributing to the support of another building, utility line or improvement on another portion of the Development shall be burdened with an easement of support for the benefit of all other such buildings, utility lines, Improvements and other portions of the Development.

**8.7. Easements Reserved to Developers.**

Non-exclusive easements are hereby reserved to Developers, their respective officers, employees, contractors, sub-contractors, and designees, over and upon the Master Common Elements for (a) such time as is necessary to construct and sell the Development and all Improvements thereon for access to and for the purpose of constructing and selling the Development and the Improvements thereon and completing Master Common Element Improvements, provided that such right of access shall be to the extent that access thereto is not otherwise reasonably available, (b) the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with home or Unit purchasers, (c) for the period necessary to construct the Units and the homes on the Lots, and sell the same, to maintain and utilize one or more Lots or Units and Improvements thereon and/or a portion or portions of the Master Common Elements for sales and management offices, storage and maintenance, model homes, parking areas for sales and rental purposes, and for advertising signs, and (d) in perpetuity, for pedestrian and vehicular access over the private streets, drives, alleys and walkways that may from time to time be part of the Development. Subject to the provisions of this Declaration, the Rules and the Board's obligation to repair and maintain the Master Common Elements the Master Owners Association shall at all times maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Development to and from each Owner Property and a public street. The rights and easements reserved pursuant to this Section shall be exercised and utilized, as the case may



be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Master Owners Association and the rights of Owners and Occupants.

**8.8. General.**

Unless specifically limited herein otherwise or by the recorded instrument granting the easement, the easements described herein shall run with the land and pass with the title to the benefited properties, shall be appurtenant to the properties benefited thereby, shall be enforceable by the Owners of the properties benefited thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements but the same shall be deemed conveyed or encumbered, as the case may be, along with the Owner Property.

**8.9. Neighboring Property Access Rights.**

Certain neighboring parcels of real property may, and upon an agreement regarding their use and maintenance obligations relative to the same, have rights to access public streets through the private streets located in the Development.

**8.10. Developer's Rights to Replat Property.**

Developer reserves the right, at any time and from time to time, to amend, alter or replat any plat or development plan and to amend any zoning ordinance which affects all or any portion of the Development; provided, however, that only real property owned by Developer shall be the subject of any such amendment, alteration or replatting unless the Owner(s) of such other property as is to be affected by such replatting, alteration or amendment consents in writing to the same. Each Developer, Owner and Member and the Association, for themselves and their successors and assigns, hereby consents to and approves any such amendment, alteration or replatting and shall be deemed to have joined in the same.

**9. UTILITY SERVICES.**

Each Owner by acceptance of a deed agrees to pay for utility services separately metered or separately charged by the utility company to that Owner Property, and to reimburse the Master Owners Association for that Owner's share of any utility cost, including but not limited to the cost of water and sewer service provided to the Owner Property or the common elements of Condominium Ground, that the Board, or its designee, reasonably determines is attributable to use by that Owner Property. The Master Owners Association shall arrange for the provision of utility services, if any, to the Master Common Elements and shall pay the costs of such services separately metered to the Master Owners Association.

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**10. MISCELLANEOUS.**

**10.1. Term.**

The provisions hereof shall bind and run with the land for a term of forty (40) years from and after the date that this Declaration is filed for recording with the Recorder of Miami County, Ohio and thereafter shall automatically renew forever for successive periods of ten (10) years each, unless earlier terminated with the consent of Members exercising not less than one hundred percent (100%) of the voting power of all Members and the approval of all holders of first mortgage liens on any Owner Property. Notwithstanding the foregoing, obligations to maintain certain improvements as set forth in the Development Agreement executed between the Developer and the City of Huber Heights shall remain the responsibility of the Owners regardless of termination of these restrictions.

**10.2. Enforcement.**

The provisions hereof may be enforced by any proceeding at law or in equity by Developer, the Master Owners Association, any Sub-area Association, any Owner, the Master Owners Association Design Review Committee, and each of their respective heirs, successors and assigns, against any Person(s) violating, or attempting to violate, provisions of the Governing Documents, to restrain and/or to enjoin violation, to obtain a decree for specific performance as to removal of any nonconforming Improvement, and to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees) in connection with any violation of the provisions of the Governing Documents. The failure or forbearance to enforce any provision of the Governing Documents shall in no event be deemed a waiver of these rights.

**10.3. Amendments.**

- (a) Until the Developer turns over control of the Master Owners Association, Developer may, in its sole and unfettered discretion, unilaterally amend the provisions hereof at any time and from time to time, without the consent of any other Owners. Any such amendment may impose covenants, conditions, restrictions and easements in addition to those set forth herein including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of any property in the Development. After the Developer turns over control of the Master Owners Association, Developer may unilaterally amend the provisions hereof, without the consent of any other Owners, if such amendment is: (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial order; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on any Owner Property; (c) necessary to conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on an Owner Property, including, but not limited to the requirements of the United States Federal Housing Administration or the Veterans Administration, or (d) necessary to correct errors; provided, however, any such amendment shall not materially adversely affect the title to any Owner Property unless the Owner or Owners thereof have

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consented to such amendment in writing. No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of either of such right or privilege, nor shall any such amendment increase Developer's rights and obligations hereunder, except to the extent all Owners rights are increased in the same measure, or relieve either of any obligations hereunder. Developer shall have the right and power, but neither the duty nor the obligation, in its sole and unfettered discretion, to subject all or any part of the Additional Property to the provisions hereof at any time and from time to time by virtue of recording with the Recorder of Miami County, Ohio, an amendment to this Declaration, a condominium declaration or amendment thereto, a subdivision plat, or a declaration of covenants or other deed restrictions, specifying that such Additional Property is part of the Development. Such an amendment shall not require the joinder or signature of the Master Owners Association, other Owners, mortgagees, or any other Person. In addition, such amendments to this Declaration may contain such supplementary, additional, different, new, varied, revised or amended provisions as may be necessary or appropriate, as determined by Developer, to reflect and address the different character or intended development of any such Additional Property. Notwithstanding anything contained in this document to the contrary, section 10.8 "Enforcement by City of Huber Heights" cannot be amended or removed without written consent of City.

- (b) After the Developer turns over control of the Master Owners Association, this Declaration may be amended or modified with the approval of Members holding not less than seventy-five percent (75%) of the voting power of Members; provided, however, that the consent of Developer shall be required for any amendment or modification which affects Developer's right hereunder, and further provided that the consent of Members exercising not less than one hundred percent (100%) of the voting power of Members shall be required for any amendment which effects a change in the voting power of any Member, the method of allocating Common Expenses among Owners, the fundamental purpose for which the Master Owners Association is organized, or the obligation of each Owner to be a Member of the Master Owners Association. The Declaration may not be amended so as to eliminate the Master Owners Association's responsibility to repair and maintain Master Common Elements, including but not limited to the private streets, drives, and alleys, the private portions of the storm sewer system serving The Development, and the private main water lines and apparatus serving the Development as a whole or more than one Owner Property, and that are located outside of a building. No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of either of such right or privilege. Any amendment to this Declaration adopted with the aforesaid consent shall be executed with the same formalities as to execution as observed in this Declaration by the president and the secretary of the Master Owners Association, and shall contain their certifications that the amendment was duly adopted in accordance with the requirements hereof. Any amendment so adopted and executed shall be effective upon the filing of the same with the Recorder of Miami County, Ohio.

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#### 10.4. Developer's Rights to Complete Development.

Developer or its designee shall have the right to: (a) complete the development, construction, promotion, marketing, sale, resale and leasing of properties; (b) construct or alter Improvements on any property owned by Developer; (c) construct, maintain and operate model homes, offices for construction, sales or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Developer or the Master Owners Association; or (d) post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Development. Further, Developer or its designee shall have the right of ingress and egress through the streets, alleys, paths and walkways located in the Development for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of Improvements.

Nothing contained herein shall limit the rights of Developer or its designee or require Developer or its designee to obtain approval to: (i) excavate, cut, fill or grade any property owned by Developers or to construct, alter, remodel, demolish or replace any Improvements on any Common Element or any property owned by Developer as a construction office, model home or real estate sales or leasing office in connection with the sale of any property; or (ii) require Developer to seek or obtain the approval of the Master Owners Association or the Design Review Committee for any such activity or Improvement on any Master Common Element or any property owned by Developer. Nothing in this Section shall limit or impair the reserved rights of Developer or its designee as elsewhere provided in this Declaration

#### 10.5. Mortgagee Rights.

A holder or insurer of a first mortgage upon any Owner Property, upon written request to the Master Owners Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of:

- (a) Any proposed amendment of this Declaration;
- (b) Any proposed termination of the Master Owners Association; and
- (c) Any default under the provisions hereof which gives rise to a cause of action by the Master Owners Association against the Owner subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days.

Subject to the same limitations contained herein with respect to the rights of a Member to inspect the books and records, each holder and insurer of a first mortgage on any Owner Property shall be entitled, upon written request and at such mortgagee's expense, to inspect the books and records of the Master Owners Association during normal business hours. The holder and insurer of a first mortgage on any Owner Property is not required by the Declaration to collect Assessments. Furthermore, unless an insured mortgage provides otherwise, the failure to pay assessments does not constitute a default under an insured mortgage.

#### **10.6. Tax Increment Financing.**

Pursuant to Ordinance Number 2005-1589 adopted by the City Council of the City of Huber Heights, Ohio (the "City") on the 22nd day of August, 2005 (the "TIF Ordinance"), the Development is part of the Miami County Tax Increment Financing District created in accordance with Ohio Revised Code Section 5709.40, 5709.42, and 5709.43. The TIF Ordinance provides for the exemption of 100% of Improvements (as such terms is defined in Ohio Revised Code Section 5709.40) on all properties in the Miami County Tax Increment Financing District from real property tax for a period of 30 years and further provides for the payment of service payments in lieu of real property taxes (the "Service Payments"). The Service Payments will be used to fund designated "Public Infrastructure Improvements" as defined in the TIF Ordinance and will be charged and collected in the same manner and in the same amount as the real property taxes that would otherwise be payable had the Improvements not had an exemption from taxation.

#### **10.7. Special Assessment.**

A Special Assessment created by the City pursuant to Ordinance Number 2008-O-1751 adopted on the 28th day of July, 2008 has been established for all properties in the Development for the purpose of reimbursing the City for costs associated with the construction of the parkway and the utilities serving the Development. A copy of the petition establishing the Special Assessment is attached hereto as Exhibit C.

#### **10.8. Enforcement by City of Huber Heights, Ohio.**

The City shall have the right without effect of waiver or delay, to perform any of the obligations of the Association (being the Master Owner's Association and/or any Sub-Area Associations) set forth in this Declaration after delivery of notice by City to the Association that the Association has failed to perform its obligations under this Declaration and such failure shall continue for ten (10) days following delivery of such notice by City. In the event that City performs the obligations of the Association, City shall have the right to impose fees against the Association which fees shall be reasonably related to City's cost of effecting performance. If the Association does not remit payment of such fees within thirty (30) days following the delivery of an invoice by City to the Association, to (i) certify any unpaid fees to the County Auditor and which unpaid fees shall be apportioned against all real property located within Carriage Trails Subdivision (except any real property owned by City or the Association) on a per acreage basis, shall constitute a lien against that real property and shall be collected with real property taxes in the succeeding tax collection year and/or (ii) institute legal proceedings against the Association and/or the owner of any real property within the Development to recover said unpaid fees. City shall have the right to pursue all other rights and remedies at law or in equity which it may have.

#### **10.9. Indemnification.**

The Master Owners Association shall indemnify, defend, and hold harmless every officer and director of the Master Owners Association against any and all claims, liabilities, expenses, including attorneys' 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 Board) to which he/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 misconduct, bad faith or gross negligence. The officers and directors of the Master Owners Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Master Owners Association, and the Master Owners Association shall indemnify and forever hold each such officer and director free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled by law or the provisions of any other Master Owners Association Governing Document.

#### **10.10. Mutuality.**

All restrictions, conditions and covenants contained herein are made for the direct, mutual, and reciprocal benefit of Developer, the Master Owners Association, and the present and future Owners in The Development, and each part thereof, and their respective personal representatives, heirs, successors, and assigns; the provisions hereof shall create mutual equitable servitudes upon the property submitted to these restrictions and each part thereof in favor of each other part thereof; and any property referred to herein as benefited hereby; the provisions hereof shall create reciprocal rights and obligations between the respective Owners of all such property and privity of contract and estate between all Owners thereof; and the provisions hereof shall, as to the Owner of any such property and those Owners respective heirs, personal representatives, successors and assigns, operate as covenants running with the land for the benefit of all such property and the Owners thereof.

#### **10.11. Severability.**

If any article, section, paragraph, sentence, clause or word herein is held by a court of competent jurisdiction to be in conflict with any law, or unenforceable, then the requirements of such law shall prevail and the conflicting provision or language shall be deemed void in such circumstance; provided that the remaining provisions or language of this Declaration shall continue in full force and effect. If the interpretation of any article, section, paragraph, sentence, clause or word is subject to more than one interpretation, the interpretation preserving validity shall be used.

#### **10.12. Enforcement; Waiver.**

Failure of Developer, the Master Owners Association or any Owner to enforce any provision of this Declaration or the Rules in any manner shall not constitute a waiver of any right to enforce any violation of such provision. By accepting a deed to a Lot, Unit, or Parcel each Owner is deemed to waive the defenses of laches and statute of limitations in connection with the enforcement by the Master Owners Association of the provisions hereof or the Rules.

#### **10.13. Notices.**

Notices, demands or other communications to an Owner shall be given in writing by personal delivery at the Owner Property or by depositing such notice in the United States Mail,

first class, postage prepaid, to the address of the Owner Property as shown by the records of the Master Owners Association, or as otherwise designated in writing by the Owner. Any demand, notice or other communication or action given or taken hereunder or by one of the joint Owners shall be deemed to be given, taken, or received by all such joint Owners.

**10.14. Construction.**

In interpreting words and phrases herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

**10.15. Captions.**

The caption of each article, section and paragraph of this Declaration is inserted only for convenience and does not define, limit or describe the scope or intent of its provisions. Any rule of construction to the effect that any ambiguities are resolved against the party who drafted the document shall not be utilized in interpreting this Declaration and the exhibits hereto.

IN WITNESS WHEREOF, the Developer has caused the execution of this Declaration as of the date first above written:

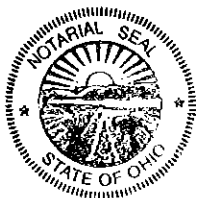
DEC Land Co. I, LLC  
By: DEC/Benchrock LLC

By: *William S Jump*  
William S Jump, Member

**Acknowledgement**

State of Ohio )  
County of Franklin SS:

The foregoing instrument was acknowledged before me this 1st day of April, 2009, by William S Jump the President of DEC Land Co. I, LLC, an Ohio limited liability company, on behalf of the corporation.



*Jeanne Willis*  
JEANNE WILLIS  
Notary Public, State of Ohio  
My Commission Expires 4/5/11 Notary Public

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EXHIBIT A

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Situated in the City of Huber Heights, County of Miami, State of Ohio, and being all of Inlots 352, 353, and 354, Carriage Trails, and 50.832 acres known as Carriage Trails Parkway, as shown on Recorder's Plat Book 22 page 25, and all of Inlots 355 and 356, as shown on Recorder's Plat Book 22 page 37, and Inlot 357, as shown on Recorder's Plat Book 22 page 77; formerly described in Deed Book 790 page 219, and Deed book 792 page 922 and as follows;

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MIAMI COUNTY RECORDER  
JOHN S ALEXANDER

0473728

PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
08/13/2007 03:47:03PM

REFERENCES 0  
RECORDING FEE 68.00  
PAGES: 7

EXHIBIT A

### LIMITED WARRANTY DEED

FIFTH THIRD BANK ("Grantor"), a national banking association, for valuable consideration paid, conveys, with limited warranty covenants, to DEC LAND CO. LLC\* ("Grantee"), whose tax mailing address is 255 Bradenton Avenue, Dublin, Ohio 43017, approximately 525 acres of certain real property situated in the State of Ohio, County of Miami and Township of Bethel, commonly known as the Benchrock Property, and being more particularly described in the attached Exhibit A.

Auditor's Parcel Nos.	P48-000413
	P48-000411
	P48-000423
	P48-000419
	P48-000425
	P48-000421
	P48-000427

~~[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]~~

\* DEC LAND CO. I LLC

Note: This instrument is being re-recorded to correct an error in the Grantee's name.

RE-RECORD MAIL TO: PORTER WRIGHT MORRIS & ARTHUR LLP  
ENVELOPE PROVIDED

~~DHK/MS~~

~~555 A. Street  
The doc Col of 4/22/15~~

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TITLE FIRST AGENCY BOX 124816

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Subject to all easements, restrictions, covenants, conditions, agreements and limitations of record, the provisions of all applicable zoning and building laws, ordinances and regulations and all legal highways, rights-of-way and legal drains, and any real estate taxes and assessments now a lien.

Prior Instrument: Deed Book 0778, Page 139, Recorder's Office, Miami County, Ohio

IN WITNESS WHEREOF, Grantor has caused its duly authorized officer to execute this Limited Warranty Deed this 29<sup>th</sup> day of December, 2006.

**Fifth Third Bank**

By: Terry Warncke

Name: Terry Warncke

Its: Vice President

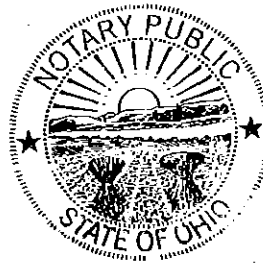
STATE OF OHIO,  
COUNTY OF Montgomery, SS:

The foregoing instrument was executed before me this 29<sup>th</sup> day of December, 2006, by Terry Warncke, the Vice President of Fifth Third Bank, an Ohio banking corporation, on behalf of said banking corporation.

Marian Farley  
Notary Public

**This Instrument Prepared By:**

Matthew E. Moberg, Esq.  
PORTER WRIGHT MORRIS & ARTHUR LLP  
41 South High Street  
Columbus, Ohio 43215



MARIAN FARLEY, Notary Public  
In and for the State of Ohio  
My Commission Expires April 28, 2010

Exhibit "A"

July 16, 2007

DESCRIPTION OF 524.666 ACRES  
WEST OF STATE ROUTE 201  
SOUTH OF U. S. ROUTE 40  
EAST OF STATE ROUTE 202  
HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Inlots 160, 161, 164, 165, 166, 167, and 168 of the City of Huber Heights, Range 9, Township 2, Sections 13, 19 and 25, Between the Miamis Survey, being all of those tracts of land as described in a deed to Fifth Third Bank, of record in Deed Book 778, Page 139, as shown in Volume 51 and Page 23 Miami County Records of Land Surveys, all references herein being to the records of the Recorder's Office, Miami County, Ohio and being more particularly described as follows:

Beginning FOR REFERENCE at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County; thence North 05°13'23" East, along the centerline of State Route 201, a distance of 600.00 feet to a railroad spike set at the northeasterly corner of a 100.042 acre tract described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579 and the TRUE PLACE OF BEGINNING;

Thence North 84°38'09" West, along the northerly line of said 100.042 acre tract, a distance of 75.00 feet to a 3/4" rebar found at the southeasterly corner of that 9.966 acre tract of land as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449 and in the westerly right-of-way line of State Route 201;

Thence North 05°13'23" East, along said westerly right-of-way line, a distance of 499.71 feet to a 3/4" rebar found;

Thence North 08°32'48" East, continuing along said westerly right-of-way line, a distance of 58.51 feet to an 1" hollow iron pin found at the northeasterly corner of said 9.966 acre tract;

Thence along the northerly perimeter of said 9.966 acre tract the following courses:

1. With the arc of a non-tangent curve to the left, having a radius of 188.00 feet, a central angle of 40°05'56", an arc length of 131.57 feet, the chord of which bears North 51°59'59" West, a chord distance of 128.90 feet to an 1" hollow iron pin found;
2. With the arc of a curve to the left, having a radius of 88.00 feet, a central angle of 40°52'41", an arc length of 62.78 feet, the chord of which bears South 87°30'42" West, a chord distance of 61.46 feet to an 1" hollow iron pin found;
3. South 67°04'22" West, a distance of 77.72 feet to an 1" hollow iron pin found;
4. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of 62°23'41", an arc length of 203.64 feet, the chord of which bears North 81°43'48" West, a chord distance of 193.73 feet to an 1" hollow iron pin found;
5. North 50°31'58" West, a distance of 61.99 feet to an 1" hollow iron pin found;
6. With the arc of a curve to the left, having a radius of 138.00 feet, a central angle of 47°03'31", an arc length of 113.34 feet, the chord of which bears North 74°03'43" West, a chord distance of 110.18 feet to an 1" hollow iron pin found;
7. With the arc of a curve to the right, having a radius of 102.00 feet, a central angle of 57°48'52", an arc length of 102.92 feet, the chord of which bears North 68°41'03" West, a chord distance of 98.61 feet to an 3/4" rebar found at the northwesterly corner of said 9.966 acre tract;

Thence South 50°13'23" West, along the westerly perimeter of said 9.966 acre tract, a distance of 39.42 feet to an 3/4" rebar found;

Thence South 05°13'23" West, continuing along said westerly perimeter, a distance of 646.38 feet to an 3/4" rebar found at the southwesterly corner of said 9.966 acre tract and in the northerly perimeter of that aforementioned 100.042 acre tract;

Thence along the perimeter of said 100.042 acre tract the following courses:

1. North 84°38'09" West, a distance of 1,886.17 feet to an iron pin set in the line between Sections 13 and 19;
2. North 05°15'50" East, along said Section line, a distance of 432.42 feet to an iron pin set;
3. North 84°36'44" West, a distance of 2,669.90 feet to an iron pin set in the half section line;

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4. South 05°02'42" West, along said half section line, a distance of 195.52 feet to an iron pin set at the northeasterly corner of a 22.8007 acre tract as described in a deed to Huber Heights City School District, of record in Deed Book 751, Page 550, said iron pin being witnessed by an iron pin found South 84°38'17" East, a distance of 5.00 feet;

Thence North 84°38'17" West, along the northerly line of said 22.8007 acre tract, a distance of 1,344.34 feet to an ¾" rebar found at the northwesterly corner of said 22.8007 acre tract and the northeasterly corner of "Parktown Subdivision Section 9", a subdivision of record in Plat Book 20, Page 72;

Thence North 84°41'12" West, along the northerly line of said "Parktown Subdivision Section 9" and the northerly line of "Parktown Subdivision Section 3", a subdivision of record in Plat Book 19, Page 4, a distance of 1,673.54 feet to an ¾" rebar found at the southeasterly corner of a 10.001 acre tract as described in a deed to Joseph and Janet Blackford, of record in Deed Book 566, Page 613;

Thence along the perimeter of said 10.001 acre tract the following courses:

1. North 06°04'52" East, a distance of 835.59 feet to ¾" rebar an found;
2. South 84°18'05" East, a distance of 477.34 feet to an ¾" rebar found;
3. North 73°56'25" East, a distance of 227.50 feet to an ¾" rebar found;
4. North 05°42'25" East, a distance of 85.00 feet to an ¾" rebar found;
5. North 85°09'35" West, a distance of 1029.76 feet to ¾" rebar found;
6. South 04°07'25" West, a distance of 108.14 feet to an ¾" rebar found;
7. North 84°15'35" West, a distance of 560.19 feet to an 1" hollow iron pin found at the southeasterly corner of that 18.438 acre tract of land as described in a deed to Villas at Benchrock, LLC, of record in Deed Book 754, Page 880 and Deed Book 743, Page 261;

Thence North 05°44'25" East, along the easterly perimeter of said 18.438 acre tract, a distance of 440.50 feet to a 1" hollow iron pin found;

Thence North 16°54'26" West, continuing along said easterly perimeter, a distance of 362.88 feet to a 1" hollow iron pin found at the northeasterly corner of said 18.438 acre tract;

Thence along the northerly perimeter of said 18.438 acre tract and the northerly perimeters of the Villas at Benchrock Condominium Phase 2 (1-62) and Phase 1 (1-60) the following courses:

1. With the arc of a curve to the left, having a radius of 2,900.00 feet, a central angle of 2°10'38", an arc length of 110.20 feet, the chord of which bears South 74°10'53" West, a chord distance of 110.19 feet to an 1" hollow iron pin found;
2. South 73°05'34" West, a distance of 299.71 feet to an 1" hollow iron pin found;
3. With the arc of a curve to the right, having a radius of 1,700.00 feet, a central angle of 10°37'19", an arc length of 315.16 feet, the chord of which bears South 78°24'14" West, a chord distance of 314.71 feet to an 1" hollow iron pin found;
4. North 05°04'21" West, a distance of 25.00 feet to an 1" hollow iron pin found;
5. South 83°53'49" West, a distance of 10.50 feet to an 1" hollow iron pin found;
6. South 05°14'10" East, a distance of 25.00 feet to an 1" hollow iron pin found;
7. With the arc of a non-tangent curve to the right, having a radius of 1,700.00 feet, a central angle of 11°29'49", an arc length of 341.13 feet, the chord of which bears South 89°48'53" West, a chord distance of 340.55 feet to an 1" hollow iron pin found;
8. North 84°26'12" West, a distance of 196.58 feet to an 1" hollow iron pin found;
9. With the arc of a curve to the left, having a radius of 25.00 feet, a central angle of 96°24'22", an arc length of 42.07 feet, the chord of which bears South 47°21'37" West, a chord distance of 37.23 feet to an 1" hollow iron pin found in the easterly right-of-way line of State Route 202;

Thence along said easterly right-of-way line the following courses;

1. South 00°50'34" East, a distance of 44.02 feet to an 1" hollow iron pin found;
2. South 07°51'19" West, a distance of 210.24 feet to an 1" hollow iron pin found;
3. South 05°07'45" West, a distance of 206.14 feet to an 1" hollow iron pin found in the southerly line of Inlot 168;

Thence North 84°15'35" West, along said southerly line, a distance of 39.52 feet to a Mag Nail found in the westerly line of the southeasterly quarter of Section 25;

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Thence North 05°26'12" East, along said westerly line, a distance of 654.88 feet to a Mag Nail set at the southwesterly corner of Bethel Cemetery;

Thence South 84°26'12" East, along the southerly line of Bethel Cemetery, passing a concrete monument found in the easterly right-of-way line of State Route 202 at a distance of 21.00 feet, a total distance of 331.44 feet to an ¾" rebar found at the southeasterly corner of Bethel Cemetery;

Thence North 05°17'45" East, along the easterly line of Bethel Cemetery, a distance of 278.04 feet to an ¾" rebar found at the northeasterly corner of said cemetery in the southerly line of a 1.320 acre tract described in a deed to Fundy LTD., LLC, of record in Deed Book 771, Page 385;

Thence South 84°59'16" East, along said southerly line and the southerly line of a 1.492 acre tract and a 2.189 acre tract both described in a deed to Fundy LTD., LLC, of record in Deed Book 771, Page 385 and the southerly line of a 20.000 acre tract as described in a deed to Collins Allred, of record in Deed Book 737, Page 288, a distance of 947.22 feet to an ¾" rebar found at the southeasterly corner of said 20.000 acre tract;

Thence North 05°33'07" East, along the easterly line of said 20.000 acre tract, a distance of 1,398.01 feet to an ¾" rebar found at the northeasterly corner of said 20.000 acre tract and in the southerly line of a 6.251 acre tract as described in a deed to M.A. Bosma ETAL;

Thence South 85°09'12" East, along said southerly line and the southerly lines of tracts of land described in deeds to Bosma Enterprises, Deed Book 647, Page 868 (3.140 acres), Deed Book 592, Page 487 (3.807 acres) and the 10.102 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 770, Page 43, a distance of 1,381.83 feet to an iron pin set at the southeasterly corner of said 10.102 acre tract and in the westerly right-of-way line of Westfield Drive (50.00 feet in width), as shown and delineated upon the plat "Windbrook Section One", a subdivision of record in Plat Book 21, Pages 41 and 41A;

Thence South 05°19'32" West, along said westerly right-of-way line, a distance of 67.04 feet to an iron pin set at the southwesterly corner of said "Windbrook Section One";

Thence South 84°53'09" East, along the southerly terminus of Westfield Drive, the southerly line of said "Windbrook Section One" and the southerly line of that 24.1469 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 758, Page 830, a distance of 812.26 feet to an ¾" rebar found;

Thence continuing along the southerly perimeter of said 24.1469 acre tract the following courses:

1. North 09°26'01" East, a distance of 14.00 feet to an ¾" rebar found;
2. South 83°51'59" East, a distance of 177.45 feet to an ¾" rebar found;
3. South 10°11'01" West, a distance of 11.00 feet to an ¾" rebar found;
4. South 84°51'58" East, a distance of 300.55 feet to an 1" pinch top pin found at the corner common to said 24.1469 acre tract and a 10.192 acre tract described in a deed to Michael Archer, of record in Deed Book 734, Page 182;

Thence South 84°46'37" East, along the southerly line of said 10.192 acre tract and the southerly line of a 14.839 acre tract as described in a deed to Nickolas and Rita Holmes, of record in Deed Book 675, Page 30, a distance of 905.07 feet to an iron pin set at the corner common to said 14.839 acre tract and a 14 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 84°15'11" East, along the southerly line of said 14 acre tract, a distance of 456.85 feet to a stone found at the southeasterly corner of said 14 acre tract in the half section line of Section 19 and in the westerly line of a 25 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 05°06'04" West, along the westerly line of said 25 acre tract and said half section line, a distance of 613.73 feet to a stone found at the southwesterly corner of said 25 acre tract;

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Thence South 84°54'54" East, along the southerly line of said 25 acre tract, the southerly line of a 95 acre tract described in a deed to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168, a distance of 2,678.46 feet to an iron pin set at the southeasterly corner of said 95 acre tract, in the westerly line of a 24.940 acre tract described in deeds to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168 and in the line between Section 13 and Section 19;

Thence South 05°13'29" West, along the westerly line of said 24.940 acre tract, said section line and the westerly line of that 15.324 acre tract as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449, a distance of 737.60 feet to an ¼" hollow iron pin found;

Thence along the southerly perimeter of said 15.324 acre tract the following courses:

1. South 84°20'09" East, a distance of 517.29 feet to an iron pin set;
2. With the arc of a curve to the right, having a radius of 1,100.00 feet, a central angle of 17°16'34", an arc length of 331.68 feet, the chord of which bears South 75°41'52" East, a chord distance of 330.42 feet to an iron pin set;
3. With the arc of a curve to the left, having a radius of 755.00 feet, a central angle of 32°53'15", an arc length of 433.37 feet, the chord of which bears South 83°30'12" East, a chord distance of 427.44 feet to an iron pin set;
4. With the arc of a curve to the right, having a radius of 645.00 feet, a central angle of 105°10'13", an arc length of 1,183.94 feet, the chord of which bears South 47°21'43" East, a chord distance of 1,024.59 feet to an iron pin set;
5. South 05°13'23" West, a distance of 444.13 feet to an iron pin set;
6. With the arc of a curve to the left, having a radius of 50.00 feet, a central angle of 82°13'02", an arc length of 71.75 feet, the chord of which bears South 35°53'08" East, a chord distance of 65.75 feet to an iron pin set;
7. With the arc of a curve to the left, having a radius of 98.00 feet, a central angle of 35°06'55", an arc length of 60.06 feet, the chord of which bears North 85°26'54" East, a chord distance of 59.13 feet to an iron pin set;
8. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of 53°38'52", an arc length of 175.09 feet, the chord of which bears South 85°17'07" East, a chord distance of 168.77 feet to an iron pin set;
9. South 58°27'42" East, a distance of 79.17 feet to an iron pin set;
10. With the arc of a curve to the left, having a radius of 188.00 feet, a central angle of 61°32'34", an arc length of 201.94 feet, the chord of which bears South 89°13'59" East, a chord distance of 192.57 feet to an iron pin set in the westerly right-of-way line of State Route 201;

Thence North 08°32'48" East, along said right-of-way line, a distance of 379.40 feet to a ¾" rebar found;

Thence North 05°13'23" East, continuing along said right-of-way line, passing a ¾" rebar found at the southerly corner of that 3.274 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 685, Page 599, at a distance of 113.52 feet and continuing along the westerly right-of-way line of Mann Road, a total distance of 763.34 feet to an ¾" rebar found at the northeasterly corner of said 3.274 acre tract and in the southerly line of that 0.3406 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 765, Page 14;

Thence South 84°20'09" East, along said southerly line, a distance of 30.00 feet to a railroad spike found in the centerline of Mann Road at the southeasterly corner of said 0.3406 acre tract;

Thence South 05°13'23" West, along the centerline of Mann Road and State Route 201, a distance of 2,037.90 feet to the TRUE PLACE OF BEGINNING and containing 524.666 acres of land. The above described 524.666 acre tract consists of Inlot 160 (45.152 acres), Inlot 161 (199.666 acres) of which 2.320 acres lies within the right-of-way State Route 201, Bethel Township Section 13, Township 2, Range 9, Inlot 164 (44.525 acres), Inlot 165 (5.001 acres), Inlot 166 (76.540 acres), Inlot 167 (151.239 acres) and Inlot 168 (2.543 acres) of which 0.486 acres lies within the right-of-way State Route 202.

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Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

Iron pins set consist of a 1" (O.D.) iron pipe, 30" long with a plastic cap inscribed "M-E Companies/S-6872".

This description was prepared by M-E Companies, Inc. based on a field survey of the premises in January 2007.



M-E Companies, Inc.

By *David L. Chiesa* 7/16/07  
David L. Chiesa  
Registered Surveyor No. 7740

J:\landprojects\ldwg\07-024\07024524.761.DOC

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DV DATE 7-17-07

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DS/DV DATE 8-13-07

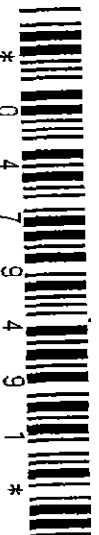
DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DAS DATE 12-4-07  
PER PRIOR APPROVALS

3.50  
~~TRANSFERRED~~  
In compliance with ORC 319.202  
CHRIS A. PEEPLES, Miami County Auditor  
By *Joyce S. ...*  
AUG 13 2007  
Total Fee \$ 10,200.00  
ORC 319.54 \$ 5,100.00  
ORC 322.02 \$ 5,100.00  
Exempt

TRANSFER NOT NECESSARY BY  
Dec 4 2007  
CHRIS A. PEEPLES, AUDITOR  
MIAMI COUNTY, OHIO

REFERENCES 1  
RECORDING FEE 72.00  
PAGES: 7

MIAMI COUNTY RECORDER  
JOHN S ALEXANDER  
0479491  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
12/10/2007 08:04:05AM



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VOL 0790 PAGE 225

VOL 0787 PAGE 031



**GENERAL WARRANTY DEED**

The undersigned, CITY OF HUBER HEIGHTS, OHIO, a municipal corporation, of Montgomery County, Ohio ("Grantor"), for valuable consideration paid, grants, with general warranty covenants, to DEC LAND CO. I LLC, an Ohio limited liability company ("Grantee"), whose tax mailing address is 255 Bradenton Avenue, Dublin, Ohio 43017, the following described real property (the "Property"):

See Exhibit "A" attached hereto and incorporated herein by this reference;

RESERVING from this conveyance, however, unto Grantor and its successors and assigns, the following perpetual, non-exclusive easements:

(i) a public access easement described as the City Portion and delineated in that certain Public Access Easement Agreement, dated as of February 1, 2008, and recorded February 6, 2008, in O. R. Volume 0791, beginning at Page 881, Recorder's Office, Miami County, Ohio, the provisions of which Public Access Easement Agreement are incorporated herein by this reference; and

(ii) a sanitary sewer easement legally described and delineated in Exhibit "B", attached hereto and incorporated herein by this reference.

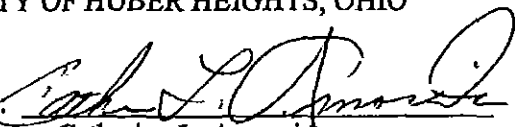
SUBJECT to the lien of real estate taxes and assessments, if any, due and payable hereafter; easements, covenants, conditions and restrictions of record; zoning laws; and legal highways.

Tax Parcel Nos: P48-000415, P48-009330 and A01-016605

Prior Instrument Reference: O. R. Volume 0731, Page 579,  
Recorder's Office, Miami County, Ohio

WITNESS the execution hereof by its duly authorized officer, this 5 day of March, 2008.

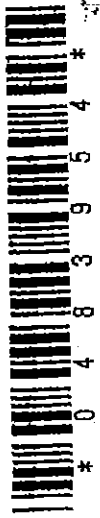
CITY OF HUBER HEIGHTS, OHIO

By:   
Name: Catherine L. Armocida  
Title: City Manager

*Sterling Land Title North  
402 Corporate Center Drive  
Vandalia, OH 45377*

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MIAMI COUNTY RECORDER  
JOHN S ALEXANDER  
**0483954**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
03/13/2008 11:15:43AM

REFERENCES 2  
RECORDING FEE 84.00  
PAGES: 8


Approved as to Form:

By   
Name: Alan B. Schaeffer  
Title: City Law Director

STATE OF OHIO,

COUNTY OF MONTGOMERY, ss:

The foregoing instrument was acknowledged before me this 5 day of March, 2008, by Catherine L. Armocida, the City Manager of City of Huber Heights, Ohio, a municipal corporation, on behalf of the corporation.

  
Notary Public



ALAN B. SCHAEFFER, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration date.  
Section 147.03 O. R. C.

**This Instrument Prepared By:**  
Donald W. Jordan  
Porter, Wright, Morris & Arthur LLP  
41 South High Street  
Columbus, Ohio 43215

COLUMBUS/1412492v1

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# EXHIBIT A

February 6, 2008

## DESCRIPTION OF 100.042 ACRES WEST OF STATE ROUTE 201 SOUTH OF U. S. ROUTE 40 HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Inlot 162 of the City of Huber Heights, Range 9, Township 2, Sections 13, and 19, Between the Miami Survey, also being that 100.042 acre tract of land as described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579, as shown in Volume 34, Page 9, Miami County Engineer's Records of Land Surveys.

The following described tract being part of the above referenced tract and lying within Bethel Township:

Beginning at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County;

Thence North 84°38'09" West, along said common line and the southerly line of said 100.042 acre tract, a distance of 75.00 feet to a 5/8" rebar found in the westerly right-of-way line of State Route 201;

Thence North 05°13'23" East, along said westerly right-of-way line, a distance of 600.00 feet to an 5/8" rebar found in the northerly line of said 100.042 acre tract and at the southeasterly corner of that 9.966 acre tract as described in a deed to State Route 201, L.L.C. of record in Deed Book 741, Page 449;

Thence South 84°38'09" East, along said northerly line, a distance of 75.00 feet to a railroad spike found in the centerline of State Route 201 at the northeasterly corner of said 100.042 acre tract;

Thence South 05°13'23" West, along said centerline, a distance of 600.00 feet to the place of beginning and containing 1.033 acres of land.

The above described 1.033 acre tract lies within Auditor's Parcel No. A01-016605, the remaining portion of the 100.042 acre tract lies within Auditor's Parcel No. P48-000415.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

This description was prepared by M-E Companies, Inc. and is based on Volume 34, Page 9, Miami County Engineer's Records of Land Surveys and Volume 22, Page 25, Miami County Recorder's Plat Records.

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DGS DATE 2-7-08

M-E Companies, Inc.

By David L. Chiesa 2/06/08  
David L. Chiesa  
Registered Surveyor No. 7740

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DGS DATE 3-13-08



TRANSFERRED  
In compliance with ORC § 19.202  
CHRIS A. PEEPLES, Miami County Auditor

Kimberly Connel  
MAR 13 2008

Total Fee \$ \_\_\_\_\_  
ORC 319.54 \$ \_\_\_\_\_  
ORC 322.02 \$ \_\_\_\_\_  
Exempt

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**SANITARY SEWER EASEMENT**

THE CITY OF HUBER HEIGHTS, OHIO, a municipal corporation, ("City"), having an address of 6131 Taylorsville Road, Huber Heights, Ohio 45424, for itself, its successors and assigns, does hereby GRANT, CONVEY and RESERVE unto itself for the benefit of the public a perpetual, non-exclusive easement ("Easement") upon, over, under, across and through property of the City for use of sanitary sewer purposes as set forth herein. The property of the City encumbered by the Easement is depicted and legally described in attached *Exhibit A-1 and A-2* ("City Property"). The property encompassing the Easement is depicted and legally described in attached *Exhibit B-1 and B-2* ("Easement Area").

The right-of-way, easement, rights and privileges herein granted shall be used by the City for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing public utilities for sanitary sewer lines and appurtenances thereto, in, over and through the Easement Area. The City shall restore the surface to its former conditions as soon as practicable following its work within the Easement Area, and reasonably restoring the ground to its previous condition prior to being disturbed

This Easement, together with all agreements, covenants and other provisions recited herein, shall constitute a covenant running with the land for the benefit and use of the City, its successors and assigns forever. Wherever the term City is used herein, the term shall be deemed to include the heirs, legal representatives, agents, employees, successors and assigns of that party.

This instrument is executed this 4 day of March, 2008

CITY OF HUBER HEIGHTS, OHIO

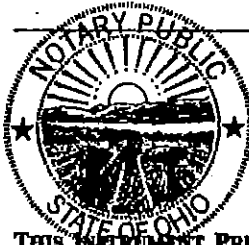
By: *Catherine L. Armocida*

Print Name: Catherine L. Armocida

Title: City Manager

STATE OF OHIO )  
COUNTY OF MONTGOMERY ) SS:

The foregoing was acknowledged before me by the said Catherine L. Armocida on behalf of THE CITY OF HUBER HEIGHTS, OHIO, a municipal corporation, as its \_\_\_\_\_, on this 4 day of March, 2008.



TRISHA N. REENTS, Notary Public  
for and for the State of Ohio  
My Commission Expires Dec. 20, 2011

*[Signature]*  
Notary Public

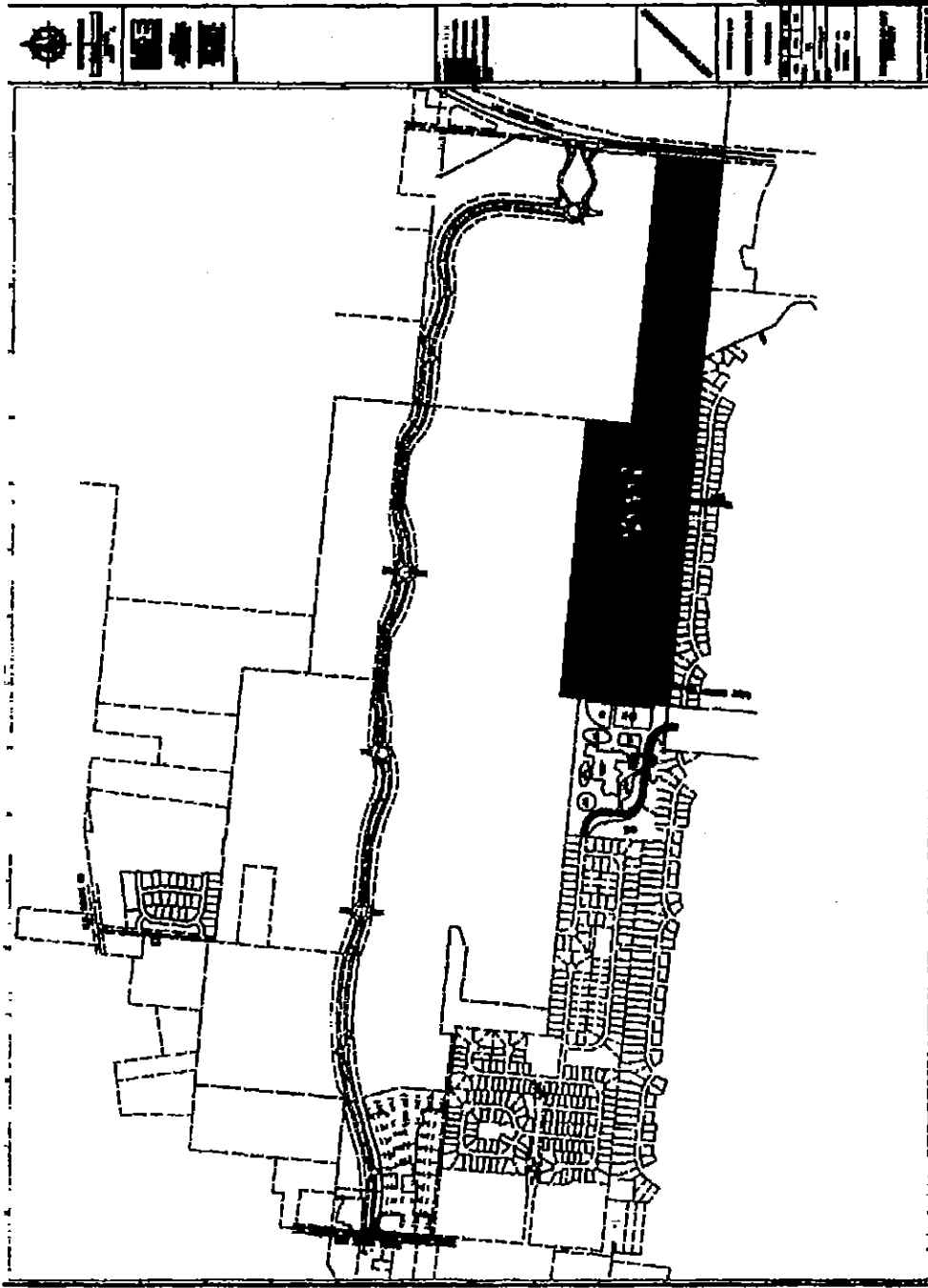
THIS INSTRUMENT PREPARED BY: Alan Schaeffer, Esq., of Pickrel, Schaeffer and Ebeling, Co., L.P.A., 2700 Kettering Tower, Dayton, Ohio 45423-2700.

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DEPICTION OF CITY PROPERTY



C-1-1

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Attachment A-1

Legal Description of the Property

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DESCRIPTION OF 524.666 ACRES  
 WEST OF STATE ROUTE 201  
 SOUTH OF U. S. ROUTE 40  
 EAST OF STATE ROUTE 202  
 HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Inlots 160, 161, 164, 165, 166, 167, and 168 of the City of Huber Heights, Range 9, Township 2, Sections 13, 19 and 25, Between the Miamis Survey, being all of those tracts of land as described in a deed to Fifth Third Bank, of record in Deed Book 778, Page 139, as shown in Volume 51 and Page 23 Miami County Records of Land Surveys, all references herein being to the records of the Recorder's Office, Miami County, Ohio and being more particularly described as follows:

Beginning FOR REFERENCE at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County; thence North 05°13'23" East, along the centerline of State Route 201, a distance of 600.00 feet to a railroad spike set at the northeasterly corner of a 100.042 acre tract described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579 and the TRUE PLACE OF BEGINNING;

Thence North 84°38'09" West, along the northerly line of said 100.042 acre tract, a distance of 75.00 feet to a 3/4" rebar found at the southeasterly corner of that 9.966 acre tract of land as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449 and in the westerly right-of-way line of State Route 201;

Thence North 05°13'23" East, along said westerly right-of-way line, a distance of 499.71 feet to a 3/4" rebar found;

Thence North 08°32'48" East, continuing along said westerly right-of-way line, a distance of 58.51 feet to an 1" hollow iron pin found at the northeasterly corner of said 9.966 acre tract;

Thence along the northerly perimeter of said 9.966 acre tract the following courses:

1. With the arc of a non-tangent curve to the left, having a radius of 188.00 feet, a central angle of 40°05'56", an arc length of 131.57 feet, the chord of which bears North 51°59'59" West, a chord distance of 128.90 feet to an 1" hollow iron pin found;
2. With the arc of a curve to the left, having a radius of 88.00 feet, a central angle of 40°52'41", an arc length of 62.78 feet, the chord of which bears South 87°30'42" West, a chord distance of 61.46 feet to an 1" hollow iron pin found;
3. South 67°04'22" West, a distance of 77.72 feet to an 1" hollow iron pin found;
4. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of 62°23'41", an arc length of 203.64 feet, the chord of which bears North 81°43'48" West, a chord distance of 193.73 feet to an 1" hollow iron pin found;
5. North 50°31'58" West, a distance of 61.99 feet to an 1" hollow iron pin found;
6. With the arc of a curve to the left, having a radius of 138.00 feet, a central angle of 47°03'31", an arc length of 113.34 feet, the chord of which bears North 74°03'43" West, a chord distance of 110.18 feet to an 1" hollow iron pin found;
7. With the arc of a curve to the right, having a radius of 102.00 feet, a central angle of 57°48'52", an arc length of 102.92 feet, the chord of which bears North 68°41'03" West, a chord distance of 98.61 feet to an 3/4" rebar found at the northwesterly corner of said 9.966 acre tract;

Thence South 50°13'23" West, along the westerly perimeter of said 9.966 acre tract, a distance of 39.42 feet to an 3/4" rebar found;

Thence South 05°13'23" West, continuing along said westerly perimeter, a distance of 646.38 feet to an 3/4" rebar found at the southwesterly corner of said 9.966 acre tract and in the northerly perimeter of that aforementioned 100.042 acre tract;

Thence along the perimeter of said 100.042 acre tract the following courses:

1. North 84°38'09" West, a distance of 1,886.17 feet to an iron pin set in the line between Sections 13 and 19;
2. North 05°15'50" East, along said Section line, a distance of 432.42 feet to an iron pin set;
3. North 84°36'44" West, a distance of 2,669.90 feet to an iron pin set in the half section line;

4. South 05°02'42" West, along said half section line, a distance of 195.52 feet to an iron pin set at the northeasterly corner of a 22.8007 acre tract as described in a deed to Huber Heights City School District, of record in Deed Book 751, Page 550, said iron pin being witnessed by an iron pin found South 84°38'17" East, a distance of 5.00 feet;

Thence North 84°38'17" West, along the northerly line of said 22.8007 acre tract, a distance of 1,344.34 feet to an ¾" rebar found at the northwesterly corner of said 22.8007 acre tract and the northeasterly corner of "Parktown Subdivision Section 9", a subdivision of record in Plat Book 20, Page 72;

Thence North 84°41'12" West, along the northerly line of said "Parktown Subdivision Section 9" and the northerly line of "Parktown Subdivision Section 3", a subdivision of record in Plat Book 19, Page 4, a distance of 1,673.54 feet to an ¾" rebar found at the southeasterly corner of a 10.001 acre tract as described in a deed to Joseph and Janet Blackford, of record in Deed Book 566, Page 613;

Thence along the perimeter of said 10.001 acre tract the following courses:

1. North 06°04'52" East, a distance of 835.59 feet to ¾" rebar an found;
2. South 84°18'05" East, a distance of 477.34 feet to an ¾" rebar found;
3. North 73°56'25" East, a distance of 227.50 feet to an ¾" rebar found;
4. North 05°42'25" East, a distance of 85.00 feet to an ¾" rebar found;
5. North 85°09'35" West, a distance of 1029.76 feet to ¾" rebar found;
6. South 04°07'25" West, a distance of 108.14 feet to an ¾" rebar found;
7. North 84°15'35" West, a distance of 560.19 feet to an 1" hollow iron pin found at the southeasterly corner of that 18.438 acre tract of land as described in a deed to Villas at Benchrock, LLC, of record in Deed Book 754, Page 880 and Deed Book 743, Page 261;

Thence North 05°44'25" East, along the easterly perimeter of said 18.438 acre tract, a distance of 440.50 feet to a 1" hollow iron pin found;

Thence North 16°54'26" West, continuing along said easterly perimeter, a distance of 362.88 feet to a 1" hollow iron pin found at the northeasterly corner of said 18.438 acre tract;

Thence along the northerly perimeter of said 18.438 acre tract and the northerly perimeters of the Villas at Benchrock Condominium Phase 2 (1-62) and Phase 1 (1-60) the following courses:

1. With the arc of a curve to the left, having a radius of 2,900.00 feet, a central angle of 2°10'38", an arc length of 110.20 feet, the chord of which bears South 74°10'53" West, a chord distance of 110.19 feet to an 1" hollow iron pin found;
2. South 73°05'34" West, a distance of 299.71 feet to an 1" hollow iron pin found;
3. With the arc of a curve to the right, having a radius of 1,700.00 feet, a central angle of 10°37'19", an arc length of 315.16 feet, the chord of which bears South 78°24'14" West, a chord distance of 314.71 feet to an 1" hollow iron pin found;
4. North 05°04'21" West, a distance of 25.00 feet to an 1" hollow iron pin found;
5. South 83°53'49" West, a distance of 10.50 feet to an 1" hollow iron pin found;
6. South 05°14'10" East, a distance of 25.00 feet to an 1" hollow iron pin found;
7. With the arc of a non-tangent curve to the right, having a radius of 1,700.00 feet, a central angle of 11°29'49", an arc length of 341.13 feet, the chord of which bears South 89°48'53" West, a chord distance of 340.55 feet to an 1" hollow iron pin found;
8. North 84°26'12" West, a distance of 196.58 feet to an 1" hollow iron pin found;
9. With the arc of a curve to the left, having a radius of 25.00 feet, a central angle of 96°24'22", an arc length of 42.07 feet, the chord of which bears South 47°21'37" West, a chord distance of 37.28 feet to an 1" hollow iron pin found in the easterly right-of-way line of State Route 202;

Thence along said easterly right-of-way line the following courses;

1. South 00°50'34" East, a distance of 44.02 feet to an; 1" hollow iron pin found;
2. South 07°51'19" West, a distance of 210.24 feet to an 1" hollow iron pin found;
3. South 05°07'45" West, a distance of 206.14 feet to an 1" hollow iron pin found in the southerly line of Inlot 168;

Thence North 84°15'35" West, along said southerly line, a distance of 39.52 feet to a Mag Nail found in the westerly line of the southeasterly quarter of Section 25;



Thence North 05°26'12" East, along said westerly line, a distance of 654.88 feet to a Mag Nail set at the southwesterly corner of Bethel Cemetery;

Thence South 84°26'12" East, along the southerly line of Bethel Cemetery, passing a concrete monument found in the easterly right-of-way line of State Route 202 at a distance of 21.00 feet, a total distance of 331.44 feet to an ¾" rebar found at the southeasterly corner of Bethel Cemetery;

Thence North 05°17'45" East, along the easterly line of Bethel Cemetery, a distance of 278.04 feet to an ¾" rebar found at the northeasterly corner of said cemetery in the southerly line of a 1.320 acre tract described in a deed to Fundy LTD., LLC, of record in Deed Book 771, Page 385;

Thence South 84°59'16" East, along said southerly line and the southerly line of a 1.492 acre tract and a 2.189 acre tract both described in a deed to Fundy LTD., LLC, of record in Deed Book 771, Page 385 and the southerly line of a 20.000 acre tract as described in a deed to Collins Allred, of record in Deed Book 737, Page 288, a distance of 947.22 feet to an ¾" rebar found at the southeasterly corner of said 20.000 acre tract;

Thence North 05°33'07" East, along the easterly line of said 20.000 acre tract, a distance of 1,398.01 feet to an ¾" rebar found at the northeasterly corner of said 20.000 acre tract and in the southerly line of a 6.251 acre tract as described in a deed to M.A. Bosma ETAL;

Thence South 85°09'12" East, along said southerly line and the southerly lines of tracts of land described in deeds to Bosma Enterprises, Deed Book 647, Page 868 (3.140 acres), Deed Book 592, Page 487 (3.807 acres) and that 10.102 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 770, Page 43, a distance of 1,381.83 feet to an iron pin set at the southeasterly corner of said 10.102 acre tract and in the westerly right-of-way line of Westfield Drive (50.00 feet in width), as shown and delineated upon the plat "Windbrook Section One", a subdivision of record in Plat Book 21, Pages 41 and 41A;

Thence South 05°19'32" West, along said westerly right-of-way line, a distance of 67.04 feet to an iron pin set at the southwesterly corner of said "Windbrook Section One";

Thence South 84°53'09" East, along the southerly terminus of Westfield Drive, the southerly line of said "Windbrook Section One" and the southerly line of that 24.1469 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 758, Page 830, a distance of 812.26 feet to an ¾" rebar found;

Thence continuing along the southerly perimeter of said 24.1469 acre tract the following courses:

1. North 09°26'01" East, a distance of 14.00 feet to an ¾" rebar found;
2. South 83°51'59" East, a distance of 177.45 feet to an ¾" rebar found;
3. South 10°11'01" West, a distance of 11.00 feet to an ¾" rebar found;
4. South 84°51'58" East, a distance of 300.55 feet to an 1" pinch top pin found at the corner common to said 24.1469 acre tract and a 10.192 acre tract described in a deed to Michael Archer, of record in Deed Book 734, Page 182;

Thence South 84°46'37" East, along the southerly line of said 10.192 acre tract and the southerly line of a 14.839 acre tract as described in a deed to Nickolas and Rita Holmes, of record in Deed Book 675, Page 30, a distance of 905.07 feet to an iron pin set at the corner common to said 14.839 acre tract and a 14 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 84°15'11" East, along the southerly line of said 14 acre tract, a distance of 456.85 feet to a stone found at the southeasterly corner of said 14 acre tract in the half section line of Section 19 and in the westerly line of a 25 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 05°06'04" West, along the westerly line of said 25 acre tract and said half section line, a distance of 613.73 feet to a stone found at the southwesterly corner of said 25 acre tract;

Thence South 84°54'54" East, along the southerly line of said 25 acre tract, the southerly line of a 95 acre tract described in a deed to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168, a distance of 2,678.46 feet to an iron pin set at the southeasterly corner of said 95 acre tract, in the westerly line of a 24.940 acre tract described in deeds to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168 and in the line between Section 13 and Section 19;

Thence South 05°13'29" West, along the westerly line of said 24.940 acre tract, said section line and the westerly line of that 15.324 acre tract as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449, a distance of 737.60 feet to an  $\frac{3}{4}$ " hollow iron pin found;

Thence along the southerly perimeter of said 15.324 acre tract the following courses:

1. South 84°20'09" East, a distance of 517.29 feet to an iron pin set;
2. With the arc of a curve to the right, having a radius of 1,100.00 feet, a central angle of 17°16'34", an arc length of 331.68 feet, the chord of which bears South 75°41'52" East, a chord distance of 330.42 feet to an iron pin set;
3. With the arc of a curve to the left, having a radius of 755.00 feet, a central angle of 32°53'15", an arc length of 433.37 feet, the chord of which bears South 83°30'12" East, a chord distance of 427.44 feet to an iron pin set;
4. With the arc of a curve to the right, having a radius of 645.00 feet, a central angle of 105°10'13", an arc length of 1,183.94 feet, the chord of which bears South 47°21'43" East, a chord distance of 1,024.59 feet to an iron pin set;
5. South 05°13'23" West, a distance of 444.13 feet to an iron pin set;
6. With the arc of a curve to the left, having a radius of 50.00 feet, a central angle of 82°13'02", an arc length of 71.75 feet, the chord of which bears South 35°53'08" East, a chord distance of 65.75 feet to an iron pin set;
7. With the arc of a curve to the left, having a radius of 98.00 feet, a central angle of 35°06'55", an arc length of 60.06 feet, the chord of which bears North 85°26'54" East, a chord distance of 59.13 feet to an iron pin set;
8. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of 53°38'52", an arc length of 175.09 feet, the chord of which bears South 85°17'07" East, a chord distance of 168.77 feet to an iron pin set;
9. South 58°27'42" East, a distance of 79.17 feet to an iron pin set;
10. With the arc of a curve to the left, having a radius of 188.00 feet, a central angle of 61°32'34", an arc length of 201.94 feet, the chord of which bears South 89°13'59" East, a chord distance of 192.37 feet to an iron pin set in the westerly right-of-way line of State Route 201;

Thence North 08°32'48" East, along said right-of-way line, a distance of 379.40 feet to a  $\frac{3}{4}$ " rebar found;

Thence North 05°13'23" East, continuing along said right-of-way line, passing a  $\frac{3}{4}$ " rebar found at the southerly corner of that 3.274 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 685, Page 599, at a distance of 113.52 feet and continuing along the westerly right-of-way line of Mann Road, a total distance of 763.34 feet to an  $\frac{3}{4}$ " rebar found at the northeasterly corner of said 3.274 acre tract and in the southerly line of that 0.3406 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 765, Page 14;

Thence South 84°20'09" East, along said southerly line, a distance of 30.00 feet to a railroad spike found in the centerline of Mann Road at the southeasterly corner of said 0.3406 acre tract;

Thence South 05°13'23" West, along the centerline of Mann Road and State Route 201, a distance of 2,037.90 feet to the TRUE PLACE OF BEGINNING and containing 524.666 acres of land. The above described 524.666 acre tract consists of Inlot 160 (45.152 acres), Inlot 161 (199.666 acres) of which 2.320 acres lies within the right-of-way State Route 201, Bethel Township Section 13, Township 2, Range 9, Inlot 164 (44.525 acres), Inlot 165 (5.001 acres), Inlot 166 (76.540 acres), Inlot 167 (151.239 acres) and Inlot 168 (2.543 acres) of which 0.486 acres lies within the right-of-way State Route 202.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

Iron pins set consist of a 1" (O.D.) iron pipe, 30" long with a plastic cap inscribed "M-E Companies/S-6872".

This description was prepared by M-E Companies, Inc. based on a field survey of the premises in January 2007.



M-E Companies, Inc.

By *David L. Chiesa* 7/16/07  
David L. Chiesa  
Registered Surveyor No. 7740

J:\landprojects\dwg\07-024\07024524.761.DOC



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# EXHIBIT A2

February 6, 2008

## DESCRIPTION OF 100.042 ACRES WEST OF STATE ROUTE 201 SOUTH OF U. S. ROUTE 40 HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Inlot 162 of the City of Huber Heights, Range 9, Township 2, Sections 13, and 19, Between the Miami Survey, also being that 100.042 acre tract of land as described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579, as shown in Volume 34, Page 9, Miami County Engineer's Records of Land Surveys.

The following described tract being part of the above referenced tract and lying within Bethel Township:

Beginning at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County;

Thence North 84°38'09" West, along said common line and the southerly line of said 100.042 acre tract, a distance of 75.00 feet to a 5/8" rebar found in the westerly right-of-way line of State Route 201;

Thence North 05°13'23" East, along said westerly right-of-way line, a distance of 600.00 feet to an 5/8" rebar found in the northerly line of said 100.042 acre tract and at the southeasterly corner of that 9.966 acre tract as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449;

Thence South 84°38'09" East, along said northerly line, a distance of 75.00 feet to a railroad spike found in the centerline of State Route 201 at the northeasterly corner of said 100.042 acre tract;

Thence South 05°13'23" West, along said centerline, a distance of 600.00 feet to the place of beginning and containing 1.033 acres of land.

The above described 1.033 acre tract lies within Auditor's Parcel No. A01-016605, the remaining portion of the 100.042 acre tract lies within Auditor's Parcel No. P48-000415.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

This description was prepared by M-E Companies, Inc. and is based on Volume 34, Page 9, Miami County Engineer's Records of Land Surveys and Volume 22, Page 25, Miami County Recorder's Plat Records.

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY DGS DATE 2-7-08

M-E Companies, Inc.

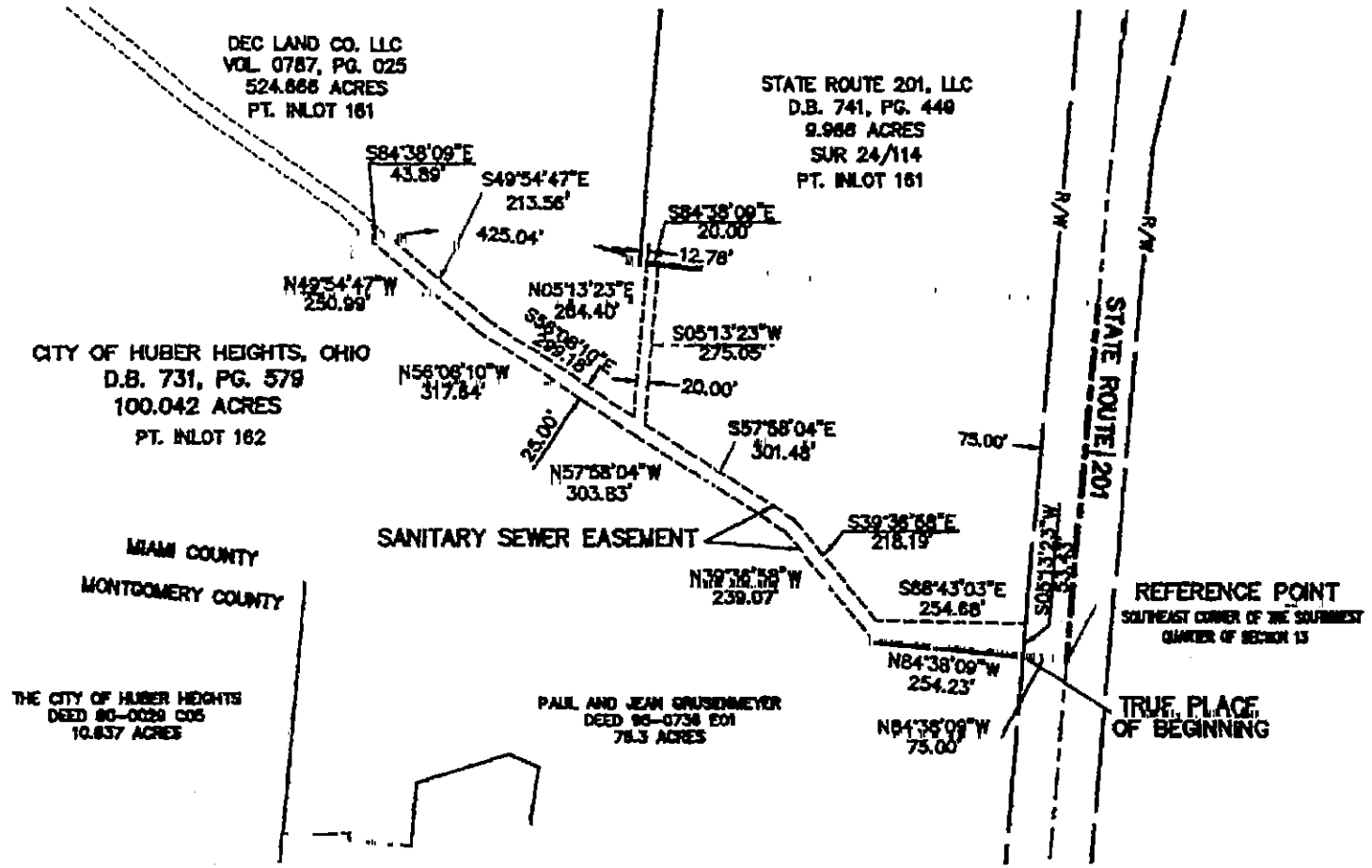


By David L. Chiesa 2/06/08  
David L. Chiesa  
Registered Surveyor No. 7740

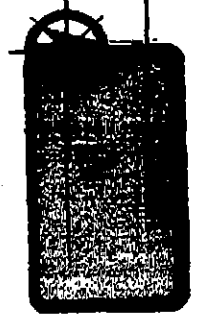
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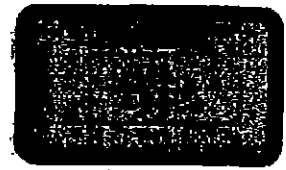
1/1/2010 10:40 AM by [unclear] for [unclear] on 11/20/2009 @ 10:40 AM for [unclear] Company, Inc.



**SANITARY SEWER EASEMENT EXHIBIT**  
 HUBER HEIGHTS, OHIO



November 16, 2007



DESCRIPTION OF A SANITARY SEWER BASEMENT  
WEST OF STATE ROUTE 201  
NORTH OF SHULL ROAD  
COLUMBUS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights, being a strip of land located within that 100.042 acre tract as described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579, all records referenced herein being those located in the Recorder's Office, Miami County, Ohio, and being more particularly described as follows:

Beginning FOR REFERENCE at the intersection of the centerline of State Route 201 with the common line between Miami County and Montgomery County, said intersection also being the southeasterly corner of said 100.042 acre tract; thence North 84°38'09" West, along said common line and the southerly line of said 100.042 acre tract, a distance of 75.00 feet to a point in the westerly right-of-way line of State Route 201 and the TRUE PLACE OF BEGINNING;

Thence North 84°38'09" West, continuing along said southerly line and said common line, a distance of 254.23 feet to a point;

Thence through said 100.042 acre tract the following courses:

1. North 39°36'58" West, a distance of 239.07 feet to a point;
2. North 57°58'04" West, a distance of 303.83 feet to a point;
3. North 56°08'10" West, a distance of 317.64 feet to a point;
4. North 49°54'47" West, a distance of 250.99 feet to a point in the northerly line of said 100.042 acre tract and the southerly perimeter of that 324.666 acre tract as described in a deed to DEC Land Co. LLC, of record in Volume 0787, Page 025;

Thence South 84°38'09" East, along said northerly line and said southerly perimeter, a distance of 43.89 feet to a point;

Thence through said 100.042 acre tract the following courses:

1. South 49°54'47" East, a distance of 213.56 feet to a point;
2. South 56°08'10" East, a distance of 299.18 feet to a point;
3. North 05°13'23" East, a distance of 264.40 feet to a point in the northerly line of said 100.042 acre tract and the southerly line of that 9.966 acre tract as described in a deed to State Route 201, LLC, of record in Deed Book 741, Page 449;

Thence South 84°38'09" East, along said northerly line and said southerly line, a distance of 20.00 feet to a point;

Thence through said 100.042 acre tract the following courses:

1. South 05°13'23" West, a distance of 275.05 feet to a point;
2. South 57°58'04" East, a distance of 301.48 feet to a point;
3. South 39°36'58" East, a distance of 218.19 feet to a point;
4. South 88°43'03" East, a distance of 254.68 feet to a point in the westerly right-of-way line of State Route 201;

Thence South 05°13'23" West, along said right-of-way line, a distance of 53.43 feet to the TRUE PLACE OF BEGINNING.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South.

This description was prepared by M-E Companies, Inc.



M-E Companies, Inc.

By *David L. Chies* 11/16/07  
David L. Chies P.E.  
Registered Surveyor No. 7740

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76403

## Know All Men by These Presents:

That Leo A. GrusenmeyerPaul E. Grusenmeyer

(hereinafter called "Grantors")

in consideration of One Dollar (\$1.00) to them paid by The Dayton Power and Light Company, 25 North Main Street, Dayton, Ohio (hereinafter called "Grantee"), the receipt of which is hereby acknowledged, do hereby grant and convey unto Grantee, its successors and assigns forever, a right of way and easement for lines for the transmission and/or distribution of electric energy for any and all purposes for which electric energy is now, or may hereafter be used, together with the right to construct thereon, either underground or overhead, all towers, poles, structures, and appurtenant wires, cables, conduits, manholes, anchors, grounding systems, counterpoises, communication circuits, equipment and all other apparatus and fixtures necessary or incidental to the use of said right of way and easement; and the right to add to, construct, reconstruct, erect, operate, repair, maintain, use, remove or replace said facilities at any time, subject to the conditions hereinafter contained, in, upon, over, under and through the following described premises:

Situated in Bethel Township, Miami County, Ohio.

and being two (2) tracts of land containing in the aggregate 160.81 acres, more or less, situated in part of the southwest quarter of Section 13, Town 2, Range 9, and being the same premises conveyed in a Warranty Deed recorded in Deed Book No. 416, page 145 of the Deed Records of Miami County, Ohio.

Said right of way and easement shall be 10 feet in width and the centerline shall be approximately along the following course:

Beginning at a point in the south line of the said 160.18 acre tract (which is also the south line of Miami County) 77 feet west from the east property line (which is also the centerline of the Dayton-Lakeview Road-State Route 201); thence north parallel to and 77 feet west from the aforesaid east property line 1,127 feet to a point; thence northwardly 892 feet to point "A", 32 feet west from the said east property line; thence northeastwardly 63 feet, more or less, to a point in the said east property line 563 feet south from the north property line. Also right of way and easement for guys and anchors to be located on the above described premises within a strip of ground 5 feet in width, whose centerline shall be located approximately along the following described course. Beginning at said point "A" on the above described right of way and easement; thence northwestwardly on the bisect of the reflex angle at said point "A", 30 feet to a point. In the event that Dayton-Lakeview Road should be widened or relocated, said The Dayton Power and Light Company, its successors or assigns, may, but shall not be required to relocate or reconstruct said line and appurtenances, so that the centerline of said line as relocated or reconstructed shall not be more than one (1) foot outside of the road as widened or relocated.

Said Grantors and Grantee further agree, each with the other, as follows:

1. Grantee, its successors and assigns, by its employees and agents, shall have the right of ingress and egress over the right of way and the adjoining premises of Grantors to add to, construct, reconstruct, repair, maintain, use or remove its said facilities or parts thereof, and to cut, trim and remove or otherwise control such trees, undergrowth or overhanging branches or other obstructions, both within and without the limits of said right of way and easement, as, in the opinion of Grantee, may now or at any time hereafter interfere with the construction, use, maintenance or successful operation of said facilities and/or the transmission and/or distribution of electric energy thereby, and to pile dirt, material and equipment on the surface of said right of way and easement during periods of construction and/or maintenance.

2. Grantee, its successors and assigns, shall reimburse Grantors, their heirs, successors and assigns, for any damage or loss to growing crops and other property, including buildings and fences, that may arise from or be caused by the negligence of Grantee, its successors or assigns, or its agents, servants, or employees, in the construction, repair, use or removal of said facilities.

3. No buildings or other structures shall be erected within the limits of said right of way and easement by Grantors, their heirs, successors and assigns. No excavating or filling shall be done or be permitted by them within said right of way and easement, which in the opinion of Grantee, its successors and assigns, would either (a) reduce the clearance between Grantee's said facilities and the land surface, (b) impair the land support of said facilities, (c) impair Grantee's ability to maintain said facilities, or (d) create a hazard.

4. Grantors, their heirs, successors and assigns, shall have the right to use the land within the limits of said right of way and easement in any other manner not inconsistent with the rights herein described.

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5. Grantee, its successors and assigns, shall use said right of way and easement, at least in part, within twenty-five (25) years from the date of the grant hereof or the same shall become void and shall revert to the then owners of that part of the premises to which said right of way and easement applies.

6. Grantors, for themselves and their heirs, successors and assigns, covenant with Grantee, its successors and assigns, that they are the true and lawful owners of said premises and have full power to convey the rights hereby conveyed and that they do warrant and will defend the same against the claims of all persons whomsoever.

7. As used herein, words used in the plural number include the singular number.

IN WITNESS WHEREOF, the Undersigned have hereunto subscribed their names this 1st day of June, 19 71.

Witnesses  
Signed and acknowledged in the presence of:

Grantors:

1. Fred. Moore  
James P. DeBolt

Leo A. Grusenmeyer  
Paul E. Grusenmeyer

STATE OF OHIO, COUNTY OF MIAMI, SS:

BE IT REMEMBERED, that on the 1st day of June in the year of our Lord One Thousand Nine Hundred and Seventy-one, before me, the subscriber, a Notary Public in and for said County, personally came Leo A. Grusenmeyer  
Paul E. Grusenmeyer

the Grantors in the foregoing instrument, and acknowledged the signing thereof to be their voluntary act and deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last aforesaid.

TRANSFER NOT NECESSARY

June 11 19 71 3:20  
CARL DAVIS, Auditor  
MIAMI COUNTY, OHIO

RECEIVED  
2:15 O'CLOCK P.M.  
JUN 11 1971  
RECORDED 6-15-71  
BOOK 481 IN RECORD PAGE 268  
MARY B. GUSTIN,  
RECORDER, MIAMI COUNTY, OHIO

James P. DeBolt  
Notary Public

JAMES P. DeBOLT, Notary Public  
In and for Preble, Warren, Montgomery, Butler,  
Clark, Duke, Greck & Miami Counties, Ohio.  
My Commission Expires Feb. 27, 1974



LEGAL DEPARTMENT  
The Dayton Power and Light Company  
This instrument was prepared and approved by

6-9 19 71  
J. Robert Kadlanc

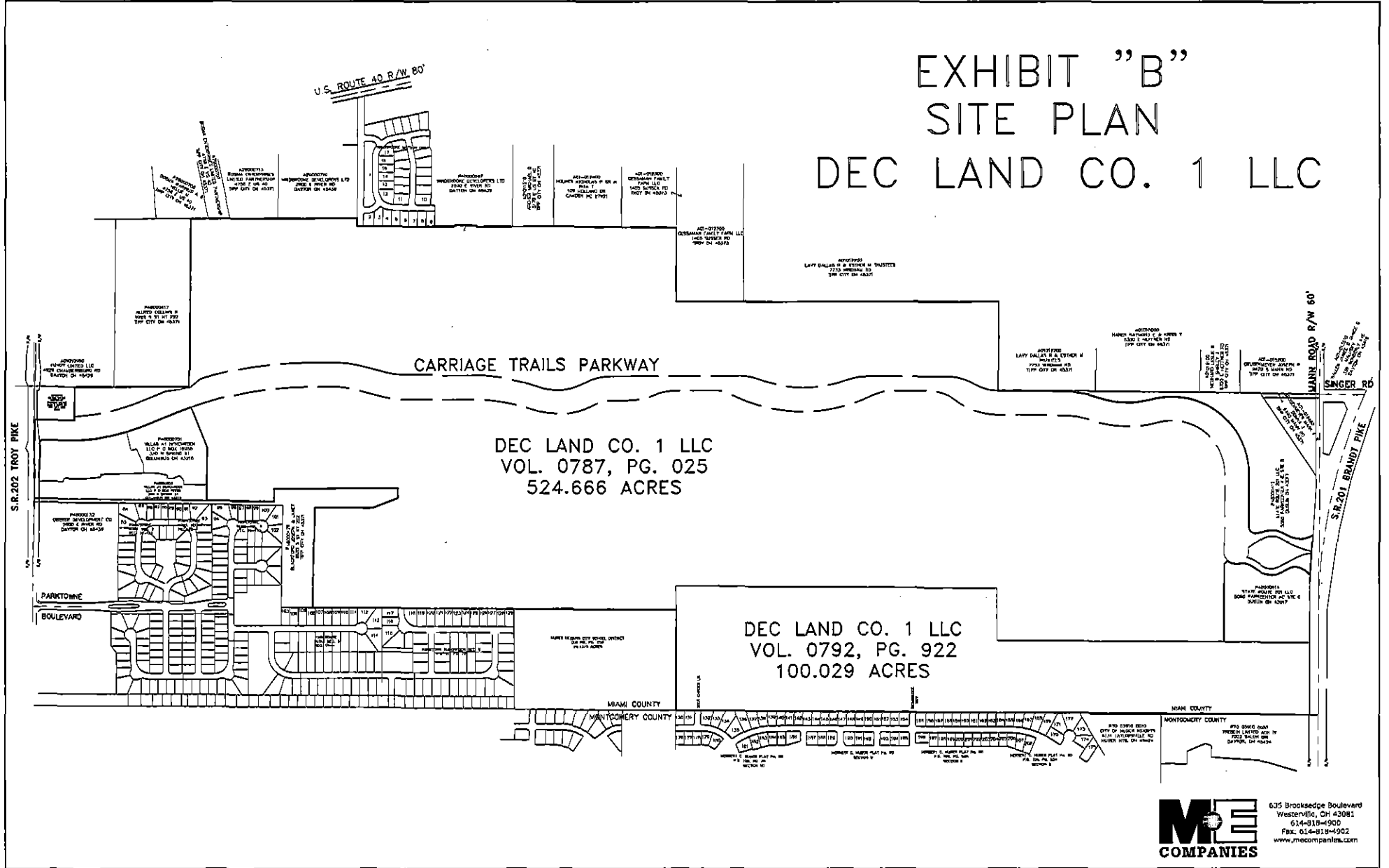
BOOK 481 PAGE 269

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EXHIBIT B

# EXHIBIT "B" SITE PLAN DEC LAND CO. 1 LLC



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EXHIBIT C

AMENDED PETITION FOR SPECIAL ASSESSMENTS AND AFFIDAVIT

July 10, 2008

To the City Council of the City of Huber Heights, Ohio:

WHEREAS, on May 9, 2003, The Kendall Group Limited and the City of Huber Heights, Ohio (the "*Original Petitioners*") submitted to the City of Huber Heights, Ohio an Amended and Restated Affidavit and Petition for Special Assessments, which amended an earlier special assessment petition dated January 13, 2003 (collectively, the "*Original Petition*"), thereby requesting that certain real property owned by the Original Petitioners be assessed for 100% of the cost of constructing and improving a boulevard described in the Original Petition from State Route 201 to State Route 202 and constructing and improving certain other public improvements, including the construction of turn lanes and boulevard improvements, installation of water and sewer lines, storm drains, lighting, irrigation lines and signage, together with all related facilities, site improvements and all necessary appurtenances (collectively, the "*Public Improvements*"); and

WHEREAS, the City Council of the City of Huber Heights, Ohio (the "*City*") has heretofore duly enacted legislation accepting the Original Petition, authorizing the construction of the Public Improvements, and levying the special assessments in accordance with the Original Petition (collectively, the "*Original Assessment Legislation*"); and

WHEREAS, in accordance with the Original Petition and the Original Assessment Legislation, the special assessments will be payable commencing on or about December 15, 2008; and

WHEREAS, DEC Land Co. I LLC ("*Property Owner*"), acting through its authorized representative, Michael T. Radcliffe as the managing member of DEC/Benchrock LLC which is the managing member of Property Owner (the "*Authorized Representative*"), represents that DEC is the owner of certain real property (which real property represents 100% of the real property described on Attachment A-1 attached hereto and by reference made a part hereof and referred to herein as the "*Property*") and further that the Property was included as a portion of the real property described in the Original Petition and according to the Original Petition such Property shall be specially assessed for 67.890% of the actual costs of the Public Improvements; and

WHEREAS, the Property Owner acknowledges that the Property will receive special benefits from the Public Improvements; and

WHEREAS, the Property Owner and the City have entered into a Development Agreement dated November 1, 2007 (the "*Development Agreement*") to provide for the development of the Property; and

WHEREAS, the City and the Property Owner have agreed that 100% of the special assessments related to the residential use of the Property (as described in Attachment B hereto) will be deferred as provided in the Development Agreement and herein; and

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WHEREAS, the Property Owner has determined that the proposed development for the Property has changed since the Original Petition was filed and desires to amend the Original Petition to modify the manner in which the special assessments allocable to the Property will be collected; and

WHEREAS, the Property Owner acknowledges that the remaining 32.11% of the actual costs of the Public Improvements will continue to be collected against the real property (excluding the Property) in the amounts and at the times as described in the Original Petition; and

WHEREAS, the Property Owner is acting through its Authorized Representative and the Authorized Representative, upon being duly sworn, deposes and states that this Amended Petition is, among other things, intended for the purpose of stating facts relating to the happening of any condition or event that may create an interest or estate in the Property; and

WHEREAS, the Authorized Representative, on behalf of the Property Owner, further deposes and states that this Amended Petition and the actions provided for herein impose burdens and obligations upon the Property and provides for special assessments to be levied upon that Property in accordance with this Amended Petition, and that the Amended Petition is available for inspection at the Office of the Clerk of Council of the City of Huber Heights, Ohio;

NOW, THEREFORE, the Property Owner hereby petitions the City Council of the City of Huber Heights, Ohio as follows:

1. *Special Assessments.* The Property Owner states that it is the owner of 100% of the Property. Acting pursuant to Chapter 727, Ohio Revised Code, the Property Owner hereby amends the Original Petition as it relates to the Property as filed with the City Council (the "Council") of the City of Huber Heights, Ohio (the "City") for the construction of the Public Improvements, and in consideration for the construction of those Public Improvements, and in conjunction with the Development Agreement which provides for the deferral of the special assessments requested herein, agrees that the Property will receive special benefits from the construction of the Public Improvements, and respectfully requests that 67.890% of the actual costs of the Public Improvements, including without limitation the compensation, damages and expenses of the Public Improvements, be assessed upon the Property in proportion to the benefits to the Property. The special assessments shall be collected pursuant to the method to be determined by the City and consistent with the methodology set forth in Attachment B of this Amended Petition which is incorporated herein by reference and made a part hereof. To the extent the Property Owner, or its grantees or other successors with respect to the Property, does not pay the special assessments as levied in the time period provided for by Ohio law, the Property Owner acknowledges and agrees that the City may, in accordance with Ohio law, issue notes or bonds in anticipation of the collection of those unpaid special assessments. The Property Owner further agrees that in accordance with Ohio law, the City may increase those unpaid special assessments by an amount necessary to reflect any financing costs, including but not limited to, interest and issuance expenses.

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2. *Duration of Special Assessments.* The Property Owner hereby confirms that the special assessments (which shall be adjusted to include an amount necessary to reflect any financing costs, including but not limited to, interest and issuance expenses on related securities issued by the City) and the interest thereon be payable in twenty (20) annual installments of principal and interest (each annual installment to be payable semi-annually at the time real property taxes in Miami County, Ohio are payable), that the interest on the special assessments be computed at the same interest rate applicable to the notes or bonds to be issued by the City in anticipation of collection of the special assessments, and that the annual amounts for principal and interest be computed utilizing a methodology which produces the same amount, or approximately the same amount, each year. The Property Owner hereby requests that the special assessments and interest thereon be certified to the County Auditor of the County in order that (a) the first installment of assessments in respect of any portion of the Property to be used for single-family or multi-family residential purposes (as described in Attachment B hereto) shall not be due earlier than (i) the first December 15 next following the first September 1 next following provision of written notice by the Property Owner to the City that the deferral for a particular parcel should be terminated or (ii) December 15, 2014; *provided, however*, if the Developer shall default under the Development Agreement with respect to the Letter of Credit required thereby, the City may require that any deferred assessments become due and payable as soon as is practicable under the Development Agreement, and any remaining assessments shall be payable and collected in annual installments (each annual installment to be payable semi-annually at the time real property taxes in Miami County, Ohio are payable) and in approximately equal amounts in each year thereafter through and including 2028, and (b) the first installment of assessments in respect of any portion of the Property to be used for any other use not described in (a) shall not be due earlier than December 15, 2008. Reference is made to the Development Agreement for a more specific discussion of the deferral and collection of special assessments, and such provisions in the Development Agreement, to the extent there is any conflict with this Amended Petition, shall prevail.

3. *Payment of Special Assessments.* In consideration of the Public Improvements, the Property Owner, for itself and its grantees or other successors with respect to the Property, agrees to pay promptly all special assessments levied against the lots and lands which collectively constitute the Property as they become due, and agrees that the determination by the Council of the special assessments in accordance with the terms hereof will be final, conclusive and binding upon the Property Owner and the Property. In further consideration of the Public Improvements, the Property Owner covenants and agrees, upon the transfer of the Property or any portion of the Property to be specially assessed for the actual costs of the Public Improvements, to disclose in the deed to the transferee the existence of any outstanding special assessment for the Public Improvements and to require that transferee to covenant to disclose that information in any subsequent deed to any transferee so long as such special assessments remain unpaid. As a condition to each subsequent transfer while such special assessments remain unpaid, the Property Owner further covenants and agrees to provide expressly in the deed to any transferee (a) for the acquisition by such transferee of the Property subject to any outstanding special assessment and such transferee's assumption of responsibility for payment thereof and for the waiver by such transferee of any rights that the Property Owner has waived pursuant to this Amended Petition and (b) the requirement that each transferee from time to time of the Property covenant to include in the

deed to any subsequent transferee the conditions described in clause (a) so long as such special assessments remain unpaid.

4. *Action by City Council.* Except as modified hereby, the Property Owner, for its successors and assigns, further consents and acknowledges that all legislation passed pursuant to and in connection with the filing of the Original Petition shall remain in effect and any actions taken to implement and carry out the directives and intentions of the Original Assessment Legislation shall continue in order to complete the Public Improvements and levy the assessments against the Property.

5. *No Effect on Real Property Not Described Herein.* The Property Owner acknowledges and agrees that this Amended Petition is not intended and shall not be interpreted as affecting or modifying the method by which special assessments are computed and allocated for any real property (excluding the Property) as described in the Original Petition.

6. *Waivers.* The Property Owner consents and requests that these special assessments be levied and collected without limitation as to the value of the Property, and waives all the following relating to the Public Improvements and the special assessments:

(a) any and all rights, benefits and privileges specified by Sections 727.03 and 727.06 of the Revised Code or by any other provision restricting these special assessments to 33-1/3% of the actual improved value of the lots and lands as enhanced by the Public Improvements to be made;

(b) any and all rights, benefits and privileges specified by Section 727.04 of the Revised Code or by any other provision limiting special assessments for reimprovement when a special assessment has been levied and paid previously;

(c) any and all damages or claims for damages of whatsoever kind, character or description resulting from the Public Improvements or the making of the Public Improvements, including but not limited to all rights, benefits and privileges specified by Sections 727.18 through 727.22 and Section 727.43 of the Revised Code;

(d) any and all resolutions, ordinances and notices required for the making of the Public Improvements, including the notice of the adoption of the resolution of necessity and the filing of estimated special assessments, the equalization of the estimated special assessments, any increase in the cost of labor and materials over the estimated cost, the passage of the assessing ordinance, and the right to apply for deferment of the special assessments pursuant to Section 727.251 of the Revised Code, and including, but not limited to, notices authorized and required by Sections 727.13, 727.16, 727.17, 727.24 and 727.26 of the Revised Code;

(e) any limitation on the addition of interest to the special assessments specified by Section 727.301 of the Revised Code;

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(f) any limitation or restriction on the levy and collection of special assessments against the Property for the Public Improvements as specified in Section 929.03 of the Revised Code; and

(g) any and all irregularities and defects in the proceedings.

7. *Notice.* Notice may be provided to the Property Owner at:

DEC Land Co. ILLC  
255 Bradenton Avenue  
Dublin, Ohio 43017  
Attention: Michael T. Radcliffe, Managing Member

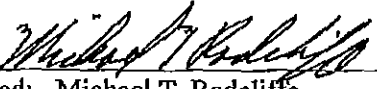
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IN WITNESS WHEREOF, the Property Owner has caused this Amended Petition to be duly executed in its name, all as of the date hereinbefore written.

DECLAND Co. ILLC

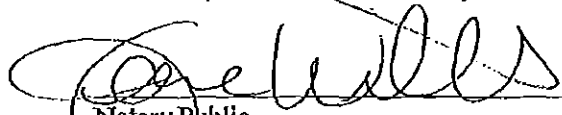
By DEC/Benchrock LLC,  
Its Managing Member

By:   
Printed: Michael T. Radcliffe  
Title: Managing Member

STATE OF OHIO             )  
  ) SS:  
COUNTY OF FRANKLIN     )

On this 14 day of July, 2008, before me, a Notary Public, personally appeared Michael T. Radcliffe, Managing Member of DEC/Benchrock LLC, an Ohio limited liability company, Managing Member of DEC Land Co. I LLC, an Ohio limited liability company, the authorized representative of DEC Land Co. I LLC, and acknowledged the execution of the foregoing instrument, and that the same is his voluntary act and deed on behalf of DEC Land Co. I LLC and the voluntary act and deed of DEC Land Co. I LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the date and year aforesaid.

  
Notary Public



JEANNE WILLS  
Notary Public, State of Ohio  
My Commission Expires 4/6/11

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Attachment A-1

Legal Description of the Property

VOL 0029 PAGE 199

July 16, 2007

DESCRIPTION OF 524.666 ACRES  
WEST OF STATE ROUTE 201  
SOUTH OF U. S. ROUTE 40  
EAST OF STATE ROUTE 202  
HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Lots 160, 161, 164, 165, 166, 167, and 168 of the City of Huber Heights, Range 9, Township 2, Sections 13, 19 and 25, between the Miami Survey, being all of those tracts of lands described in a deed to Fifth Third Bank, of record in Deed Book 778, Page 139, as shown in Volume 51 and Page 23 Miami County Records of Land Surveys, all references herein being to the records of the Recorder's Office, Miami County, Ohio and being more particularly described as follows:

Beginning FOR REFERENCE at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County; thence North  $05^{\circ}13'23''$  East, along the centerline of State Route 201, a distance of 600.00 feet to a railroad spike set at the northeasterly corner of a 100.042 acre tract described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579 and the TRUE PLACE OF BEGINNING;

Thence North  $84^{\circ}38'09''$  West, along the northerly line of said 100.042 acre tract, a distance of 75.00 feet to a  $3/4''$  rebar found at the southeasterly corner of that 9.966 acre tract of land as described in a deed to State Route 201, L.L.C., of record in Deed Book 741, Page 449 and in the westerly right-of-way line of State Route 201;

Thence North  $05^{\circ}13'23''$  East, along said westerly right-of-way line, a distance of 499.71 feet to a  $3/4''$  rebar found;

Thence North  $08^{\circ}32'48''$  East, continuing along said westerly right-of-way line, a distance of 58.51 feet to an  $1''$  hollow iron pin found at the northeasterly corner of said 9.966 acre tract;

Thence along the northerly perimeter of said 9.966 acre tract the following courses:

1. With the arc of a non-tangent curve to the left, having a radius of 188.00 feet, a central angle of  $40^{\circ}05'56''$ , an arc length of 131.57 feet, the chord of which bears North  $51^{\circ}59'59''$  West, a chord distance of 128.90 feet to an  $1''$  hollow iron pin found;
2. With the arc of a curve to the left, having a radius of 88.00 feet, a central angle of  $40^{\circ}52'41''$ , an arc length of 62.78 feet, the chord of which bears South  $87^{\circ}30'42''$  West, a chord distance of 61.46 feet to an  $1''$  hollow iron pin found;
3. South  $67^{\circ}04'22''$  West, a distance of 77.72 feet to an  $1''$  hollow iron pin found;
4. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of  $62^{\circ}23'41''$ , an arc length of 203.64 feet, the chord of which bears North  $81^{\circ}43'48''$  West, a chord distance of 193.73 feet to an  $1''$  hollow iron pin found;
5. North  $50^{\circ}31'58''$  West, a distance of 61.99 feet to an  $1''$  hollow iron pin found;
6. With the arc of a curve to the left, having a radius of 138.00 feet, a central angle of  $47^{\circ}03'11''$ , an arc length of 113.34 feet, the chord of which bears North  $74^{\circ}03'43''$  West, a chord distance of 110.18 feet to an  $1''$  hollow iron pin found;
7. With the arc of a curve to the right, having a radius of 102.00 feet, a central angle of  $57^{\circ}48'52''$ , an arc length of 100.92 feet, the chord of which bears North  $68^{\circ}41'00''$  West, a chord distance of 98.61 feet to an  $3/4''$  rebar found at the northwesterly corner of said 9.966 acre tract;

Thence South  $50^{\circ}13'23''$  West, along the westerly perimeter of said 9.966 acre tract, a distance of 39.42 feet to an  $3/4''$  rebar found;

Thence South  $05^{\circ}13'23''$  West, continuing along said westerly perimeter, a distance of 646.38 feet to an  $1''$  rebar found at the southwesterly corner of said 9.966 acre tract and in the northerly perimeter of that aforementioned 100.042 acre tract;

Thence along the perimeter of said 100.042 acre tract the following courses:

1. North  $84^{\circ}38'09''$  West, a distance of 1,886.17 feet to an iron pin set in the line between Sections 13 and 19;
2. North  $05^{\circ}13'50''$  East, along said Section line, a distance of 432.42 feet to an iron pin set;
3. North  $84^{\circ}36'44''$  West, a distance of 2,669.90 feet to an iron pin set in the half section line;

4. South 05°02'42" West, along said half section line, a distance of 193.52 feet to an iron pin set at the northeasterly corner of a 22.8007 acre tract as described in a deed to Huber Heights City School District, of record in Deed Book 731, Page 530, said iron pin being witnessed by an iron pin found South 84°38'17" East, a distance of 5.00 feet;

Thence North 84°38'17" West, along the northerly line of said 22.8007 acre tract, a distance of 1,344.34 feet to an  $\frac{3}{4}$ " rebar found at the northwesterly corner of said 22.8007 acre tract and the northeasterly corner of "Parktown Subdivision Section 9", a subdivision of record in Plat Book 20, Page 72;

Thence North 84°41'12" West, along the northerly line of said "Parktown Subdivision Section 9" and the northerly line of "Parktown Subdivision Section 3", a subdivision of record in Plat Book 19, Page 4, a distance of 1,673.54 feet to an  $\frac{3}{4}$ " rebar found at the southeasterly corner of a 10.001 acre tract as described in a deed to Joseph and Janet Dickford, of record in Deed Book 566, Page 613;

Thence along the perimeter of said 10.001 acre tract the following courses:

1. North 06°04'52" East, a distance of 835.59 feet to  $\frac{3}{4}$ " rebar as found;
2. South 84°18'05" East, a distance of 477.34 feet to an  $\frac{3}{4}$ " rebar found;
3. North 73°56'25" East, a distance of 227.50 feet to an  $\frac{3}{4}$ " rebar found;
4. North 05°42'25" East, a distance of 85.00 feet to an  $\frac{3}{4}$ " rebar found;
5. North 85°09'35" West, a distance of 1029.76 feet to  $\frac{3}{4}$ " rebar found;
6. South 04°07'25" West, a distance of 108.14 feet to an  $\frac{3}{4}$ " rebar found;
7. North 84°15'35" West, a distance of 560.19 feet to an 1" hollow iron pin found at the southeasterly corner of that 18.438 acre tract of land as described in a deed to Villar at Benchrock, LLC, of record in Deed Book 754, Page 880 and Deed Book 743, Page 261;

Thence North 05°44'25" East, along the easterly perimeter of said 18.438 acre tract, a distance of 440.50 feet to a 1" hollow iron pin found;

Thence North 16°54'26" West, continuing along said easterly perimeter, a distance of 362.88 feet to a 1" hollow iron pin found at the northeasterly corner of said 18.438 acre tract;

Thence along the northerly perimeter of said 18.438 acre tract and the northerly perimeters of the Villar at Benchrock Condominium Phase 2 (1-62) and Phase 1 (1-60) the following courses:

1. With the arc of a curve to the left, having a radius of 2,900.00 feet, a central angle of 2°10'38", an arc length of 110.20 feet, the chord of which bears South 74°10'53" West, a chord distance of 110.19 feet to an 1" hollow iron pin found;
2. South 73°05'34" West, a distance of 299.71 feet to an 1" hollow iron pin found;
3. With the arc of a curve to the right, having a radius of 1,700.00 feet, a central angle of 10°37'19", an arc length of 315.16 feet, the chord of which bears South 78°24'14" West, a chord distance of 314.73 feet to an 1" hollow iron pin found;
4. North 03°04'21" West, a distance of 25.00 feet to an 1" hollow iron pin found;
5. South 83°33'49" West, a distance of 10.50 feet to an 1" hollow iron pin found;
6. South 03°14'10" East, a distance of 25.00 feet to an 1" hollow iron pin found;
7. With the arc of a non-tangent curve to the right, having a radius of 1,700.00 feet, a central angle of 11°29'49", an arc length of 341.13 feet, the chord of which bears South 89°48'53" West, a chord distance of 340.55 feet to an 1" hollow iron pin found;
8. North 84°26'12" West, a distance of 196.58 feet to an 1" hollow iron pin found;
9. With the arc of a curve to the left, having a radius of 25.00 feet, a central angle of 96°24'22", an arc length of 42.07 feet, the chord of which bears South 47°21'37" West, a chord distance of 37.72 feet to an 1" hollow iron pin found in the easterly right-of-way line of State Route 202;

Thence along said easterly right-of-way line the following courses:

1. South 00°50'34" East, a distance of 44.02 feet to an 1" hollow iron pin found;
2. South 07°51'19" West, a distance of 210.24 feet to an 1" hollow iron pin found;
3. South 05°07'45" West, a distance of 206.14 feet to an 1" hollow iron pin found in the southerly line of Inlet 16B;

Thence North 84°15'35" West, along said southerly line, a distance of 39.52 feet to a Mag Nail found in the westerly line of the southeasterly quarter of Section 25;

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Thence North 05°26'12" East, along said westerly line, a distance of 654.88 feet to a Nag Nail set at the southwestly corner of Bethel Cemetery;

Thence South 84°26'12" East, along the southerly line of Bethel Cemetery, passing a concrete monument found in the easterly right-of-way line of State Route 202 at a distance of 21.00 feet, a total distance of 331.44 feet to an 1/2" rebar found at the southeastly corner of Bethel Cemetery;

Thence North 05°17'45" East, along the easterly line of Bethel Cemetery, a distance of 278.04 feet to an 1/2" rebar found at the northeastly corner of said cemetery in the southerly line of a 1.320 acre tract described in a deed to Fundy LTD., LLC, of record in Deed Book 171, Page 385;

Thence South 84°59'16" East, along said southerly line and the southerly line of a 1.492 acre tract and a 2.389 acre tract both described in a deed to Fundy LTD., LLC, of record in Deed Book 771, Page 385 and the southerly line of a 20,000 acre tract as described in a deed to Collins Allied, of record in Deed Book 737, Page 288, a distance of 947.72 feet to an 1/2" rebar found at the southeastly corner of said 20,000 acre tract;

Thence North 05°33'07" East, along the easterly line of said 20,000 acre tract, a distance of 1,398.01 feet to an 1/2" rebar found at the northeastly corner of said 20,000 acre tract and in the southerly line of a 6,251 acre tract as described in a deed to M.A. Norma BTAL;

Thence South 85°09'12" East, along said southerly line and the southerly lines of tracts of land described in deeds to Dorina Enterprises, Deed Book 647, Page 868 (3.140 acres), Deed Book 592, Page 487 (3.807 acres) and the 10.102 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 770, Page 43, a distance of 1,381.83 feet to an iron pin set at the southeastly corner of said 10.102 acre tract and in the westerly right-of-way line of Westfield Drive (50.00 feet in width), as shown and delineated upon the plat "Windbrook Section One", a subdivision of record in Plat Book 21, Pages 41 and 41A;

Thence South 05°19'32" West, along said westerly right-of-way line, a distance of 67.04 feet to an iron pin set at the southwestly corner of said "Windbrook Section One";

Thence South 84°53'09" East, along the southerly terminus of Westfield Drive, the southerly line of said "Windbrook Section One" and the southerly line of that 24.1469 acre tract as described in a deed to Windbrooke Developers, LTD., of record in Deed Book 758, Page 830, a distance of 812.26 feet to an 1/2" rebar found;

Thence continuing along the southerly perimeter of said 24.1469 acre tract the following courses:

1. North 09°26'01" East, a distance of 14.00 feet to an 1/2" rebar found;
2. South 83°51'59" East, a distance of 177.45 feet to an 1/2" rebar found;
3. South 10°11'01" West, a distance of 11.00 feet to an 1/2" rebar found;
4. South 84°51'58" East, a distance of 300.55 feet to an 1" pinch top pin found at the corner common to said 24.1469 acre tract and a 10.192 acre tract described in a deed to Michael Archer, of record in Deed Book 734, Page 182;

Thence South 84°16'37" East, along the southerly line of said 10.192 acre tract and the southerly line of a 14.839 acre tract as described in a deed to Nicholas and Ulta Holmes, of record in Deed Book 675, Page 30, a distance of 905.07 feet to an iron pin set at the corner common to said 14.839 acre tract and a 14 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 84°15'11" East, along the southerly line of said 14 acre tract, a distance of 456.85 feet to a stone found at the southeastly corner of said 14 acre tract in the half section line of Section 19 and in the westerly line of a 25 acre tract described in a deed to Gessaman Family Farms LLC, of record in Deed Book 722, Page 610;

Thence South 05°06'04" West, along the westerly line of said 25 acre tract and said half section line, a distance of 613.73 feet to a stone found at the southwestly corner of said 25 acre tract;

Thence South 84°54'54" East, along the southerly line of said 25 acre tract, the southerly line of a 95 acre tract described in a deed to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168, a distance of 2,678.46 feet to an iron pin set at the southeasterly corner of said 95 acre tract, in the westerly line of a 24,940 acre tract described in deeds to Dallas R. Lavy, Trustee, of record in Deed Book 658, Page 160 and Esther M. Lavy Trustee, of record in Deed Book 658, Page 168 and in the line between Section 13 and Section 19;

Thence South 05°13'29" West, along the westerly line of said 24,940 acre tract, said section line and the westerly line of that 15,324 acre tract as described in a deed to State Route 201, L.L.C., of record in Deed Book 741, Page 449, a distance of 737.60 feet to an  $\frac{3}{4}$ " hollow iron pin found;

Thence along the southerly perimeter of said 15,324 acre tract the following courses:

1. South 84°20'09" East, a distance of 517.29 feet to an iron pin set;
2. With the arc of a curve to the right, having a radius of 1,100.00 feet, a central angle of 17°16'34", an arc length of 311.68 feet, the chord of which bears South 75°41'52" East, a chord distance of 330.42 feet to an iron pin set;
3. With the arc of a curve to the left, having a radius of 755.00 feet, a central angle of 32°53'15", an arc length of 493.37 feet, the chord of which bears South 83°30'12" East, a chord distance of 427.14 feet to an iron pin set;
4. With the arc of a curve to the right, having a radius of 645.00 feet, a central angle of 105°10'13", an arc length of 1,183.94 feet, the chord of which bears South 47°21'43" East, a chord distance of 1,021.59 feet to an iron pin set;
5. South 05°13'23" West, a distance of 444.13 feet to an iron pin set;
6. With the arc of a curve to the left, having a radius of 50.00 feet, a central angle of 82°13'02", an arc length of 71.75 feet, the chord of which bears South 35°53'08" East, a chord distance of 65.75 feet to an iron pin set;
7. With the arc of a curve to the left, having a radius of 98.00 feet, a central angle of 35°06'55", an arc length of 66.06 feet, the chord of which bears North 85°26'54" East, a chord distance of 59.13 feet to an iron pin set;
8. With the arc of a curve to the right, having a radius of 187.00 feet, a central angle of 53°38'52", an arc length of 175.09 feet, the chord of which bears South 85°17'07" East, a chord distance of 168.77 feet to an iron pin set;
9. South 58°27'42" East, a distance of 79.17 feet to an iron pin set;
10. With the arc of a curve to the left, having a radius of 188.00 feet, a central angle of 61°32'34", an arc length of 201.94 feet, the chord of which bears South 89°13'39" East, a chord distance of 192.37 feet to an iron pin set in the westerly right-of-way line of State Route 201;

Thence North 08°32'48" East, along said right-of-way line, a distance of 379.40 feet to a  $\frac{3}{4}$ " rebar found;

Thence North 05°13'23" East, continuing along said right-of-way line, passing a  $\frac{1}{4}$ " rebar found at the southerly corner of that 3,274 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 685, Page 599, at a distance of 113.52 feet and continuing along the westerly right-of-way line of Mann Road, a total distance of 763.34 feet to an  $\frac{1}{2}$ " rebar found at the southeasterly corner of said 3,274 acre tract and in the southerly line of that 0.3406 acre tract as described in a deed to Mark and Donna Grusenmeyer, of record in Deed Book 765, Page 14;

Thence South 84°20'09" East, along said southerly line, a distance of 30.00 feet to a railroad spike found in the centerline of Mann Road at the southeasterly corner of said 0.3406 acre tract;

Thence South 05°13'23" West, along the centerline of Mann Road and State Route 201, a distance of 7,037.90 feet to the TRUE PLACE OF BEGINNING and containing 524.666 acres of land. The above described 524.666 acre tract consists of Inlet 160 (45.152 acres), Inlet 161 (199.666 acres) of which 2,320 acres lies within the right-of-way State Route 201, Bethel Township Section 13, Township 2, Range 9, Inlet 164 (44.525 acres), Inlet 165 (5.001 acres), Inlet 166 (76.540 acres), Inlet 167 (151.339 acres) and Inlet 168 (2.543 acres) of which 0.486 acres lies within the right-of-way State Route 202.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

Iron pins set consist of a 1" (O.D.) iron pipe, 30" long with a plastic cap inscribed "M-B Companies/S-6872".

This description was prepared by M-B Companies, Inc. based on a field survey of the premises in January 2007.



M-B Companies, Inc.

*David L. Chiesa* 7/16/07  
David L. Chiesa  
Registered Surveyor No. 7740

February 6, 2008

DESCRIPTION OF 100.042 ACRES  
WEST OF STATE ROUTE 201  
SOUTH OF U. S. ROUTE 40  
HUBER HEIGHTS, OHIO

Situated in the State of Ohio, County of Miami, City of Huber Heights & Bethel Township, being Inlot 162 of the City of Huber Heights, Range 9, Township 2, Section 13, and 19, Between the Miami Survey, also being that 100.042 acre tract of land as described in a deed to the City of Huber Heights, Ohio, of record in Deed Book 731, Page 579, as shown in Volume 34, Page 9, Miami County Engineer's Records of Land Surveys.

The following described tract being part of the above referenced tract and lying within Bethel Township:

Beginning at an Ohio Department of Transportation monument found in the centerline of State Route 201 at the southeasterly corner of the southwesterly quarter of Section 13 in the common line between Miami County and Montgomery County;

Thence North 84°38'09" West, along said common line and the southerly line of said 100.042 acre tract, a distance of 75.00 feet to a 3/8" rebar found in the westerly right-of-way line of State Route 201;

Thence North 05°13'23" East, along said westerly right-of-way line, a distance of 600.00 feet to an 3/8" rebar found in the northerly line of said 100.042 acre tract and at the southeasterly corner of that 9.966 acre tract as described in a deed to State Route 201, L.L.C. of record in Deed Book 741, Page 449;

Thence South 84°38'09" East, along said northerly line, a distance of 75.00 feet to a railroad spike found in the centerline of State Route 201 at the northeasterly corner of said 100.042 acre tract;

Thence South 05°13'23" West, along said centerline, a distance of 600.00 feet to the place of beginning and containing 1.033 acres of land.

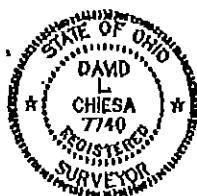
The above described 1.033 acre tract lies within Auditor's Parcel No. A01-016605, the remaining portion of the 100.042 acre tract lies within Auditor's Parcel No. P48-000415.

Bearings herein are based on NAD 83 Ohio State Plane Coordinate System, Grid South Zone.

This description was prepared by M-B Companies, Inc. and is based on Volume 34, Page 9, Miami County Engineer's Records of Land Surveys and Volume 22, Page 25, Miami County Recorder's Plat Records.

DESCRIPTION APPROVED  
MIAMI COUNTY ENGINEER  
BY EXGS DATE 2-7-08

M-B Companies, Inc.



By *David L. Chiesa* 2/06/08  
David L. Chiesa  
Registered Surveyor No. 7740

LESS AND EXCEPT:

1. That portion of the above-described property subject to the Public Access Easement Agreement recorded in Volume 0791, Page 881, Recorder's Office, Miami County, Ohio.
2. Those portions of the above-described property within the public rights-of-way for S.R. 201 and Carriage Trails Parkway (PB 22, P.25).

MIAMI COUNTY ENGINEER'S RECORDS OF LAND SURVEYS

VOL 0029 PAGE 205



**Attachment A-2**

**Depletion of the Property**

VOL 0029 PAGE 206



## Attachment B

### Estimate of Special Assessments

#### Residential Subareas:

The current estimated portion of the actual costs of the Public Improvements to be assessed against the residential areas of the Property (such portion of the Property as depicted on Attachment A-2 and the various phases each being referred to herein as a "Residential Subarea") is 56.891% of the actual costs of the Public Improvements, which actual costs shall be increased to include any financing costs, including but not limited to, interest and issuance expenses on notes or bonds to be issued by the City in anticipation of the collection of the special assessments. The current estimated acreage of the Residential Area is 468.816 acres. Therefore, the Residential Subareas will, subject to the more specific apportionment methodology which follows, be assessed on average at a rate of approximately 0.12135% of the actual costs of the Public Improvements per acre (subject to any adjustments for City Property and Right-of-Way Area as described below).

The Property Owner expects that the Residential Subareas will be developed in various phases and requests that the assessments apportioned against each lot within a specific development phase be approximately equal. Therefore, the Property Owner requests that, upon the initial certification to the Miami County Auditor that the collection of assessments in respect of a particular lot should commence (in accordance with the Development Agreement), and working cooperatively with the Property Owner, the City will apportion the assessments against that lot in such a manner that (1) if that lot is included within a subdivision previously approved by the City, all lots within that subdivision will be assessed in approximately equal amounts, and (2) if that lot is not included within a subdivision previously approved by the City, that lot will be assessed at the approximate per acreage rate as described in the preceding paragraph *provided* that (a) if that lot is thereafter split into separate lots pursuant to a subdivision certification approved by the City, the City will, to the extent permitted by law, reapportion the original aggregate assessment against that lot such that all lots within that subdivision will be assessed in approximately equal amounts or (b) if that lot is thereafter split into separate lots but not subject to a subdivision certification approved by the City, the City will reapportion the original aggregate assessment on the per acreage basis against the newly created lots.

The Property Owner further requests that the City may, when apportioning assessments in the manner described in the preceding paragraph and if requested by the Property Owner, apportion assessments to a particular lot at a rate different than the per acreage basis described above; *provided* that the Property Owner acknowledges and agrees that the final determination to adjust the basis for apportionment shall be in the sole discretion of the City.

The residential areas of the Property presently consist of three parcels, Each of the three parcels will have total allocations of the assessments in accordance with the following schedule.

PARCEL	ACREAGE	PERCENTAGE OF ASSESSMENT
Inlot 352N P48 000943	126.663	14.900%
Inlot 353S P48 00945	268.778	33.206%
P48 000951	<u>73.375</u>	8.785%
TOTAL RESIDENTIAL	468.816	56.891%

**Non-Residential Area:**

The current estimated portion of the actual costs of the Public Improvements to be assessed against the non-residential areas of the Property (such portion of the Property as depicted on Attachment A-2 and being referred to herein as the "Non-Residential Area") is 10.999% of the actual costs of the Public Improvements, which actual costs shall be increased to include any financing costs, including but not limited to, interest and issuance expenses on notes or bonds to be issued by the City in anticipation of the collection of the special assessments. The current estimated acreage of the Non-Residential Area is 9.76 acres. Therefore, the Non-Residential Area will be assessed at a rate of approximately 1.1269% of the actual costs of the Public Improvements per acre (subject to any adjustments for City Property and Right-of-Way Area as described below).

**City Property and Right-of-Way Areas:**

The Property Owner further acknowledges that any portion of the Property within either a Residential Subarea or the Non-Residential Area that is hereafter dedicated to the City or in respect of which a perpetual easement is granted to the City ("City Property") or platted for use as a public right-of-way (a "Right-of-Way Area") shall not be assessed and that the costs of the Public Improvements which would have been assessed to such City Property or Right-of-Way Area shall be reallocated in a pro rata manner against all remaining real property located within the respective Residential Subareas or the Non-Residential Area.

**Schedule of Special Assessments Allocation:**

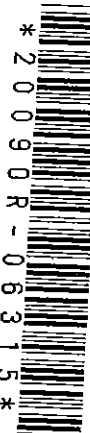
Attached as Exhibit A to this Amended Assessment Petition is a schedule of the allocation to the Property of the Special Assessment payments over the term of the Amended Assessment Petition.

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**DEC Land Co. I LLC Amended Petition for Special Assessments and Affidavit**  
**EXHIBIT A**  
**SCHEDULE OF SPECIAL ASSESSMENTS**

<u>Parcel</u>	<u>Owner</u>	<u>Residential</u>	<u>Commercial</u>	<u>Total</u>	<u>Total Assessment Percentages</u>
P48- 000949	DEC Land Co I LLC	-	1,454,060.00	1,454,060.00	10.999%
P48- 000943	DEC Land Co I LLC	1,969,840.00	-	1,969,840.00	14.900%
P48- 000945	DEC Land Co I LLC	4,389,820.00	-	4,389,820.00	33.206%
P48- 000951	DEC Land Co I LLC	1,161,340.00	-	1,161,340.00	8.785%
<b>Total</b>		<b>7,521,000.00</b>	<b>1,454,060.00</b>	<b>8,975,060.00</b>	<b>67.890%</b>

MIAMI COUNTY RECORDER  
 JOHN S ALEXANDER  
**20090R-06315**  
 PRESENTED FOR RECORD  
 MIAMI COUNTY, TROY, OHIO  
 05/01/2009 11:24:41AM  
 REFERENCES 0  
 RECORDING FEE 620.00  
 PAGES: 76



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16/PC/1



MIAMI COUNTY RECORDER  
JOHN S ALEXANDER  
**20100R-09755**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
08/18/2010 09:20:57AM

REFERENCES 1  
RECORDING FEE 164.00  
PAGES: 16

**FIRST AMENDMENT TO THE MASTER DECLARATION OF COVENEANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

This First Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "First Amendment") is made as of this 6<sup>th</sup> day of July, 2010, by DEC Land Co. I LLC an Ohio limited liability company (the "Developer").

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, on May 1, 2009, at 11:24:41 am, in OR Volume 0029, Page 135 through Page 210, Recorder's Office, Miami County, Ohio, (the "Original Declaration")

Whereas the Developer established in said Original Declaration specific restrictions and conditions affecting the Owner Property described herein.

Whereas at the time of filing of the Original Declaration, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners.

**NOW, THEREFORE:**

1. The Developer is hereby filing the Design Standards, the architectural standards governing the construction, replacement and modification of improvements in the Development as set forth in the Major Modification to the Carriage Trails Development in Case #08-02A, pursuant to the Planning Commission recommendations and as further modified by City Council, adopted December 15, 2008, as Ordinance No. 2008-O-1766, which are attached hereto as Exhibit "A" and incorporated herein, as may be amended by the Developer from time to time.
2. The Developer is hereby filing the Carriage Trails Master Design Review Board Architectural And Design Standards, general guidelines applicable to all single-family lots (the "Architectural And Design Standards"), which are attached hereto as Exhibit "B" and incorporated herein, as may be amended by the Developer from time to time.

OR  
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3. The Developer is hereby appointing one waste management company for the Development and reserves the right to amend this appointment from time to time. Individual Members will be responsible for contracting with and paying directly the waste management company.
4. Initial Special Assessment. The Master Owners Association will collect an initial special assessment from home buyers when they purchase homes.
5. Loans by Developer for Common Area Improvements. The Developer has loaned and may in the future loan monies to the Master Owners Association to construct some of the capital improvements to the common areas. The Master Owners Association will repay the loans to the Developer plus interest.
6. The Developer is correcting the incorrect reference to "Developer" in the Original Declaration, as DEC Land Co I, LLC to DEC Land Co. I LLC.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this First Amendment as of the date first above written:

DEC Land Co. I LLC  
 By: DEC/Carriage Trails LLC  
 Its: Managing Member

By: George L. Jenkins  
 George L. Jenkins  
 Managing Member

Acknowledgement

State of Ohio)

SS:

County of Franklin)

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of July, 2010, by George L. Jenkins, the managing member of DEC/Carriage Trails LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company.

Jeanne Wills  
 Notary Public

This Instrument Prepared By:

George L. Jenkins, Esq.  
 DEC Land Co. I LLC  
 255 Bradenton Avenue  
 Dublin, Ohio 43017  
 (614) 717-4444, extension 110



**JEANNE WILLS**  
 Notary Public, State of Ohio  
 My Commission Expires 4/5/11

EXHIBIT A  
CITY OF HUBER HEIGHTS  
STATE OF OHIO

ORDINANCE No. 2008-0-1766

AN ORDINANCE APPROVING THE MAJOR MODIFICATION TO THE APPROVED POD ORIGINALLY FILED BY THE KENDALL GROUP FOR THE BENCHROCK PROJECT NOW KNOWN AS THE CARRIAGE TRAILS PROJECT BEING DEVELOPED BY DEC LAND CO. I, LLC CASE # 08-02A AND DECLARING AN EMERGENCY.

WHEREAS, the City Council for the City of Huber Heights, Ohio originally approved the Basic Development Plan for the Benchrock Development then being developed by The Kendall Group; and

WHEREAS, DEC Land Co. I, LLC is the successor developer of the development now known as Carriage Trails who has requested a Major Modification to the originally approved POD in Case # 08-02A

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HUBER HEIGHTS, STATE OF OHIO:

- Section 1: City Council hereby approves the Major Modification to the Carriage Trails development in Case # 08-02A pursuant to the Planning Commission recommendations set forth in Exhibit A and as further modified by City Council as set forth in Exhibit B, which Exhibits are attached hereto and incorporated herein.
- Section 2: This Ordinance shall be published in accordance with the Charter and Ordinances the City of Huber Heights, Ohio.
- Section 3: That in order to preserve the public peace, health and safety of the City of Huber Heights and its inhabitants, and in order allow DEC Land Co. I, LLC to proceed with the development of the Carriage Trails Project at the earliest possible time, an emergency is hereby declared to exist and this Ordinance shall be an emergency measure and shall take effect immediately upon its passage.

Passed by Council on the 15<sup>th</sup> day of December, 2008;

\_\_\_ 8 \_\_\_ Years; \_\_\_ 0 \_\_\_ Days.

AUTHENTICATION:

Anthony C. Rudzka      Ronald A. Fisher  
Clerk of Council                      Mayor  
12-18-08                              12-18-08  
Date    Date

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# EXHIBIT A

October 14, 2008

Huber Heights City Council  
6131 Taylorsville Road  
Huber Heights, Ohio 45424

Re: Resolution, Zoning Case 07-19

Dear Council Members:

WHEREAS, on August 22, 2008, the applicant, DEC Land Co. I LLC, requested approval of a major amendment to the Basic Development Plan for approximately 622 acres of land located west of Brand Pike and east of Old Troy Pike North of Shull Road for approval of a modified Basic Development Plan for the Development known as Carriage Trails, and;

WHEREAS, the Planning Commission finds that the application submitted provides adequate information to serve as a Basic Development Plan with the conditions stated below,

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approves the Basic Development Plan including the following documents and conditions.

The Basic Development Plan for the Carriage Trails Development proposed by DEC Land Co shall officially include and be referred to as:

1. The "Basic Development Plan" Exhibit B, stamped received August 22, 2008 by the Planning Department.
2. The legal description of the land "Exhibit A."
3. The "Conceptual Connectivity Plan" stamped received September 22, 2008 by the Planning Department.
4. "Conceptual Site Plan, Exhibit D" stamped received September 16, 2008 by the Planning Department.
5. "Carriage Trails Pattern Book" stamped received August 25, 2008 by the Planning Department.
6. "Carriage Trails Phasing Plan" stamped received September 22, 2008 by the Planning Department.
7. the "Narrative Statement" received August 22, 2008 by the Planning Department, as amended by the following criteria

**Conditions for Additional & Modified Standards**

1. The maximum number of residential units permitted in the development shall not exceed 2045 units.
2. Multi-family units shall be defined as multi-unit residential structures with stacked flats that share common hallways.
3. Attached single-family shall be defined as two or more residential units sharing a common wall with individual grade level entrances for each unit. Townhouses and garden condos are included in this category.
4. The maximum number of multi-family and attached-single-family units combined shall not exceed 875 units or 45% of the total units in Carriage Trails, whichever is less.
5. Multi-family units shall only be permitted in Section 1, and 3 (See conceptual site plan).
6. Detached single-family homes shall be required in Sections 6, 8, 9, 10, 12, 13, and 15.
7. Minimum lot dimensions for each lot type per the pattern book and the "conceptual site plan" shall be as follows. Larger lots are also permitted.

Lot Type	Minimum Width	Minimum Area	Maximum Building Coverage of Lot Area
Cluster Homes/Townhomes	35'	3,850	60%
Village Homes	50'	6,000	60%
Small Single-Family	60'	7,800	50%

8. Minimum lot dimensions for non-residential components shall be approved with the Detailed Development Plan. However, the maximum building coverage for non-residential buildings shall not exceed 50% of the lot area.

9. Setbacks in the development shall be as follows:

Unit Type	Front Yard	Minimum Side Yard	Minimum Rear Yard	Minimum Building Separation
Single-family	25' from right-of-way	5 ft.	25 ft.	10 ft.
Multi-Family	20 ft. from right-of-way	NA	25 ft.	6 ft.
Commercial	10 ft. from right-of-way	per detailed development plan	per detailed development plan	50 ft. from a residential structure

10. Lots in Sections 6, 8, 10 and 13, which are located along the southern project line and/or abut existing single-family lots shall have dimensions equal to or greater than the dimensions of the existing lots outside of Carriage Trails to create a transition between the existing and new development.
11. A minimum of 20% of the total site area of (622 acres) or 133 acres of land shall be permanently dedicated to open or green spaces, this total may include both public access land and private areas within the subdivisions.
12. Open spaces in the public access easement shall be developed in phases with the submission of Detailed Development Plans for various sections.
13. Green space shall be provided in Section 10 adjacent to the southern boundary of the site to provide an open space amenity for the neighborhood. The green space shall be a minimum of 400' in width measured east to west, and shall be as deep (north to south) as the adjacent lots proposed in the subdivision of Section 10, but shall not be less than 130' in depth. The green area shall be maintained with natural ground cover and a mix of deciduous and evergreen trees native to the area.
14. Roadway connectivity shall be guided by the "Conceptual Connectivity Plan" as received, September 22, 2008. Significant flexibility shall be permitted in the final design of roads within each section in regard to road width and geometries. Unless the Detailed Development Plan reduces the number of connections for a section the applicant will not be required to apply for a major change to the Basic Development Plan. All public roads shall be approved by the City Engineer with the Detailed Development Plans.
15. Basic architecture shall be based on the concepts provided in the Pattern Book, and the following minimum standards:
  - \* Minimum floor areas shall be:

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- single family residential lots up to and including 55 feet in width,
  - one-story dwellings shall have a minimum floor area of 1,100 square feet,
  - one and one-half story dwellings shall have a minimum floor area of 1,200 square feet, and
  - two-story dwellings shall have a minimum floor area of 1,300.
  
- single family residential lots 55 feet to 70 feet in width,
  - one-story dwellings shall have a minimum floor area of 1,200 square feet,
  - one and one-half story dwellings shall have a minimum floor area of 1,300 square feet, and
  - two-story dwellings shall have minimum floor area of 1,400 square feet.
  
- single family residential lots 70 feet to 80 feet in width,
  - one-story dwellings shall have a minimum floor area of 1,400 square feet,
  - one and one-half story dwellings shall have a minimum floor area of 1,500 square feet, and
  - two-story dwellings shall have minimum floor area of 1,600 square feet.
  
- single family residential lots 80 feet plus in width,
  - one-story dwellings shall have a minimum floor area of 1,800 square feet,
  - one and one-half story dwellings shall have a minimum floor area of 2,000 square feet, and
  - two-story dwellings shall have a minimum floor area of 2,200 square feet.
  
- multi-family units, the minimum floor area shall be 700 square feet.
  
- Maximum building heights shall be 35 feet for all structures.
  
- Any commercial building over 20 feet in height shall be designed with multiple floors or the appearance of multiple floors.
  
- The major roof slopes on all single-family residential structures shall have a minimum pitch of 5/12. Softer pitches may be accepted as a minor accent roof and on porches.
  
- Gable roofs, hip roofs, minor variations and combinations of the two are preferred.

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- Roof materials and colors should be compatible throughout the community. Earth tone colors are preferred. Roof fans, vents and flashing are to be painted or finished to match the roof.
- All multi-family or commercial buildings shall be required to have: pitched roofs with gable or hip ends; mansard style roofs; or flat roofs with mansard style roof or detailed parapet appearance so as to screen any roof top equipment.
- Exterior building materials shall be wood, brick, stone, stucco, fiber-cement products (such as Hardie Plank) or vinyl siding with a minimum gauge of .04.
- Natural earth tone colors are preferred. Accent colors can only be used to carefully add a highlight or detail to the natural earth tone colors. Gutters and downspouts are to be finished to compliment fascia color. Trim is to be stained or painted to compliment the exterior walls and roof.
- All exterior building materials and colors are subject to review by the architectural review board of the master homeowners association.
- A minimum of 50% of the single-family homes within the development shall have primary façades finished with masonry products such as brick, stone, stucco, and Hardie Plank. The masonry product shall be used over a minimum of 25% of the surface area of the façade. Alternate materials may be used for detail and trim. The masonry coverage area shall be applied to the façade area remaining after removing the area occupied by windows and doors or roofing surfaces.
- A minimum of 30% of the primary façade(s) of a multi-family structure or attached single family structure shall be finished with masonry products.
- A minimum of 50% of the primary façade(s) of all non-residential structures shall be finished with masonry products.

#### *Procedural Conditions*

16. All of the above standards shall be included in the covenants and restrictions for the master homeowners association, which shall be revised and resubmitted to Planning Commission in conjunction with or prior to the first detailed development plan.
17. Prior to the submission of any Detailed Development Plan, a master landscaping plan for the common areas of the site including any buffering or transitions between uses and landscaping of the public access green areas shall be submitted for approval by Planning Commissions. The plan shall include, a site plan showing existing and proposed topography, preserved or maintained trees, proposed plantings, and a schedule or proposed plant types.

18. Prior to the submission of any Detailed Development Plans, a master sign plan for the development shall be submitted for approval by Planning Commission. The sign plan shall include a plan showing the location and type of each sign, and spec sheets showing typically materials, appearance, and lighting of each type of sign. Maximum size/area for each type shall be provided, and a list of permitted materials and colors shall be included.
19. All Detailed Development Plans for the various sections shall include green spaces including both those with and without public access easements which must be approved by Planning Commission.
20. All Detailed Development Plans for the various sections shall include landscape and buffering plans which must be approved by Planning Commission.
21. All Detailed Development Plans for the various sections shall include water plans which must be approved by the City Engineer based on the City's standard requirements.
22. All Detailed Development Plans for the various sections shall include sanitary sewer plans which must be approved by the City Engineer based on the City's standard requirements.
23. All Detailed Development Plans for the various sections shall include storm water management plans which must be approved by the City Engineer based on the City's standard requirements.
24. No specific elevations approved with this approval. Specific elevations to be provided with the Detailed Development Plan submittals.

Mr. Hallett moved to approve the application by the applicant, DEC Land Co. I LLC, requesting approval of a major change to the Basic Development Plan for the planned mixed use development to be known as Carriage Tralls located west of Brandt Pike and east of Old Troy Pike (ZC 08-02A) in accordance with staff's memorandum dated October 9, 2008, and the proposed Planning Commission Decision Record.

Seconded by Ms. LaGrone. Roll call showed: YEAS: Ms. LaGrone, Mr. Rodriguez, Mr. Walton, and Mr. Hallett. NAYS: None. Motion to approve carried 4-0.

Sincerely,

Jeff Hallett, Chairman  
Planning Commission

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Exhibit B  
**McBride DALE**  
CORPORATION

Memorandum

To: Anthony Rodgers-Clerk of Council, Huber Heights      Date: December 11, 2008  
CC: Margaret Muhl, Administrative Assistant, Huber Heights  
Alan Schaffer, City Attorney, Pickrel, Shaffer and Ebeling  
Ken Conaway, DEC Investment Group  
From: Emily Crow, AICP      File Loc: 2387/ DEC  
McBride Dale Clarion  
Re: Carriage Trails, Committee Recommendations      For: Record

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Discussions with the Public Works Committee of Council lead to the crafting of three amendments or additional conditions to the approval of the Basic Development Plan for the development known as Carriage Trails. The proposed language for these amendments is included below and is based on the Letter to City Council Dated October 14, 2008 Re: Zoning Case 08-02A as it pertains to the resolution for approval of the Basic Development Plan.

1. Amend the eighth bullet in Item 15 to read  
*Exterior building materials shall be wood, brick, stone, stucco, fiber-cement products (such as Hardie Plank) or vinyl siding with a minimum gauge of 0.40.*
  
2. Amend the eleventh bullet to read  
*A minimum of 50% of the single-family homes within the total development shall have primary façades finished with masonry products such as brick, stone, stucco, and Hardie Plank. The masonry product shall be used over a minimum of 25% of the surface area of the façade. Alternate materials may be used for detail and trim. The masonry coverage area shall be applied to the façade area remaining after removing the area occupied by windows and doors or roofing surfaces. A minimum of 50% of the single-family homes in each of the four areas shown on the plan labeled "Basic Development Plan Exhibit B" of the development shall have a primary façade finished with masonry product such as brick, stone, stucco, or Hardie Plank. When market conditions allow, full masonry buildings are encouraged.*
  
3. Add a requirement that reads  
*Lots in Section 6 per the "Conceptual Site Plan, Exhibit D", which are located along the southern project line and/or abut existing brick-wrapped Huber homes, shall have exterior building materials which are comparable to or exceed the brick-wrap on the existing homes. To comply, the homes on the lots in Carriage Trail shall, at a minimum have a brick or masonry product wrap of the first floor. Brick or masonry shall be as defined in the City's Zoning ordinance but may include brick, stone, stucco, or fiber cement products which replicate the appearance of brick, wood, or stone.*

**EXHIBIT B**

**CARRIAGE TRAILS  
MASTER DESIGN REVIEW BOARD  
ARCHITECTURAL AND DESIGN STANDARDS**

**GENERAL GUIDELINES APPLICABLE TO ALL SINGLE-FAMILY LOTS**

**House Placement and Yard Grading.** Dwelling units shall conform to approved grading and drainage patterns. Each lot Owner and/or builder shall endeavor to retain as many existing trees as is practical. Builders shall be responsible to re-grade the lot to conform to the drainage plan approved for the subdivision.

**Dwelling Type.** No building shall be erected, altered, placed or be permitted to remain on any lot other than one single-family dwelling and a garage for at least two cars. A single-family dwelling shall meet the following requirements:

- a. A one story dwelling structure; the living area being the first floor space only, constructed with a basement or on a slab.
- b. A story and a half dwelling structure; the living area of which is on two levels connected by a stairway and constructed with a basement or on a slab. All or a portion thereof of the upper level is constructed within the gable portion of the roof. Window penetrations are made by use of dormers or on gable ends.
- c. A two-story dwelling structure; the living area of which is on two levels connected by a stairway, constructed with a basement or on a slab.

**Dwelling Unit Size.** The exterior and interior architectural design, detail, quality, character and style shall be considered in the determination of the size of the unit to establish and maintain uniformity and control in the overall quality of the community. Home plan designs must be submitted for review and approval to Developer prior to construction. Developer reserves the right to give "blanket" approvals for multiple plans made up by a



singe plan submission. Developer may make minor variances if, in its sole opinion, the intent of this section is maintained.

**Roof.** Major roof slopes on all single-family residential structures shall have a minimum pitch of 5/12. Softer pitches may be accepted as a minor roof accent and on porches.

**Exterior Siding.** Exterior building materials shall be wood, brick, stone, stucco, fiber-cement products or vinyl siding with a minimum gauge of 0.40. No sheet materials shall be used as siding. Cedar or redwood siding must be treated with stain and sealed or painted. Prefinished aluminum or vinyl soffits and rake trim are permitted. A minimum of 50% of the single-family homes within each of the sub-areas of the Basic Development Plan shall have primary facades with masonry products such as brick, stone, stucco and fiber-cement board. The masonry product shall be used to cover a minimum of 25% of the surface area on the primary façade after eliminating the area occupied by windows and doors or roofing surfaces.

**Garages.** A minimum two-car garage is required.

**Yards, Driveways and Walks.** Front, and side yards shall be seeded and landscaped as soon after completion of the dwelling unit as is practical, weather permitting. Rear yards, which shall be defined as that portion of the lot which is behind the rear elevation of the dwelling unit extended to each rear Lot line shall be seeded or sodded after proper preparation as soon as is practical, but no later than (7) seven months after closing with the Home Buyer, reserving the right to so such work after the (7) month period and assessing such lot for expenses. All driveways shall be paved with concrete.

**Underground and Log Houses.** Underground and log structures are prohibited.

**Porches, Appendages and Additions.** No porches, appendages, or additions shall be permitted unless they are of a size, style, color and type compatible with the original design of the house and shall match the house material and coloring exactly. Porches, appendages or additions must be integrated into the design of the house. Compatibility shall be at the discretion of the Developer.

**Front Storage.** No front porch shall be used for the storage of any items except normal porch furniture. No front yard or side yard shall be used for the storage of any item of any kind.

**Awnings.** No metal or plastic awnings for windows, doors, decks or patios may be erected or used. Canvas awnings may be used subject to prior approval by Developer for size, color, location and manner of installation for the particular lot in question.

**Exterior Carpeting.** No exterior carpeting may be used.

**Decks and Railings.** All exterior decks and balcony railings shall be pressure treated wood, Cedar, Redwood, engineered or composite wood, (from recycled plastic and reclaimed wood) or other material as approved by Developer.

**Solar Panels.** No solar panels shall be permitted on primary facades or in front or side yards.

**Chimneys, Vents, Flues.** All prefabricated fireplace flues must be enclosed within a chase that may be sided with vinyl siding, wood siding, brick or stone or an approved combination thereof. Any furnace flues, hot water heater or any other flues or vents shall be placed only to the rear roof planes of the Dwelling Unit.

**Water Discharge.** Storm water must be disposed of in accordance with the drainage plan for the subdivision and those governmental agencies having jurisdiction.

**Skylights.** Skylights may be used on a back roof facing the rear of a lot. Depending upon the house design and the particulars of the lot, Developer may approve other locations.

**Entrance Structures.** No additional driveway entrance structures shall be permitted.

**Swimming Pools, Spas and Hot Tubs.** In-ground swimming pools, hot tubs and spas shall be permitted provided that such pool, hot tub or spa is located in the rear yard and at least fifteen (15) feet from any property line. In addition, spas and hot tubs cannot be more than 8'x10' in size and must be located on a patio or deck. Fencing for in-ground pools is required and must meet all Code requirements and be submitted to Developer for approval. The Developer must approve the style, location and size of all in-ground swimming pools. Above ground swimming pools are not permitted.

**Play Equipment.** Play equipment or structures (swing sets) shall be located in the Rear Yard and not located within any side or rear setback lines. All structures must be maintained. Any structure that becomes broken or damaged must be repaired, replaced or removed.

**Basketball Hoops and Tennis Courts.** A permanently installed basketball hoop or goal may be placed on a lot with its specifications and location having to be approved by the Developer. Tennis courts are not permitted. Portable basketball goals are permitted so long as they are stored in a garage while not in use. In general, any commercially available goal will be acceptable. Goals with homemade backboards or posts will not be acceptable. Backboards must be clear or painted white. The post should be painted black, dark brown, gray or green. All goals must be maintained. Any backboard or goal that becomes broken or

damaged, must be repaired, replaced or removed. Lighting installed for the specific purpose to illuminate a goal shall not be permitted. No goal may be attached to any dwelling or garage. All goals must be located at least fifteen (15) feet back from any property line. Use shall be limited to reasonable play hours depending upon seasons. No use will be permitted after 10:00 p.m., or earlier than 10:00 a.m. The Developer shall have the right to set different hours in the event that use creates an unreasonable disturbance.

**Pool Equipment Buildings, Storage Sheds and Gazebos.** Pool Equipment Buildings and Storage Sheds, whether attached or unattached, shall be permitted in the rear yard. A copy of the drawings and specifications and location for such structures must be submitted to Developer for review and approval prior to construction. Such structures cannot exceed 120 square feet in size and must be a wood framed structure covered with approved exterior building materials and must be roofed with shingles. Exterior building material and roof shingles must match exact color of exterior building material and roof shingles found on the Dwelling Unit. No structure may be located within five (5) feet of any property line or as approved by governmental agencies having jurisdiction, whichever is greater. Gazebos are not permitted.

**Air Conditioning and Heat Pump Equipment.** Air conditioning and hear pump equipment shall be located in side yards or rear yards.

**Perimeter Fencing.** Standard chain link or other metal fences shall not be permitted. Fences may be erected only in the rear yard. On corner lots, fences may not be placed within the side yard on the street side. Perimeter fence in the rear yard is permitted, but must be approved by the Developer. The neighboring lot shall share any fence erected between any two lots. **In other words, two fences running side by side along a shared property line shall not be permitted.** Finished side of fence is to face neighboring lots or outward. Swimming pool and patio privacy fencing shall be reviewed on an individual basis. The Developer reserves the right to restrict fencing in areas where its presence would adversely impact the aesthetics of the community. Maximum height of any perimeter fence shall be 48", no privacy fencing styles are permitted but the use of a mesh liner in green or black will be allowed. A plot plan indicating proposed location and style of fence shall be submitted to Developer for approval prior to the installation of any fence. Invisible pet fences in rear yards are allowed.

**Satellite Dishes, Radio and Television Antennas.** These guidelines are to be interpreted so as to balance the right of the individual Owners to receive acceptable quality broadcast signals in accordance with F.C.C. regulations with the right and duty of the Association to preserve, protect and enhance the value of the properties within the subdivision.

A. Prohibited Apparatus. All exterior antennas, except the following, are prohibited:

1. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
2. An antenna that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
3. An antenna that is designed to receive television broadcast signals.

B. Permitted Locations.

An antenna must be located in the rear yard or on the rear of the dwelling unit in such a manner so as not to be visible by a person of normal height standing at the edge of the street directly in front of the dwelling unit. Other locations are permitted if placement under these guidelines precludes reception of an acceptable quality signal. In such case, the Owner and the Developer shall attempt to find a location with the least visual impact upon the surrounding properties. An "acceptable quality signal" is one that is intended for reception in the viewing area and is consistent with the quality of signals received by others in the immediate vicinity. No location shall be permitted if installation creates a line of sight problem for drivers in the vicinity. The Developer may prohibit a location that imposes a legitimate safety concern. An example of a location that imposes a legitimate safety concern is one that is near high voltage power lines or one where the guy wires obstruct legitimate pedestrian access.

C. Other Requirements.

The Developer may require that the antenna be painted in a fashion that will not interfere with reception so that it blends into the background against which it is mounted or that the antenna be screened so as to reduce the visual impact. Any such requirements must be reasonable in light of the cost of the equipment or services and the visual impact of the antenna. The Developer may impose restrictions on methods of installation that create legitimate safety concerns. For example, permitted methods of installation may include reasonable height restrictions and adequate bolting and guying.

D. Continued Maintenance.

Each Owner shall maintain any antenna in a reasonable manner so as not to become unsightly. Each Owner shall remove any antenna upon cessation of its use.

**Landscaping.** Landscaping and lawn shall be installed around a dwelling unit at the time of its completion, weather permitting or at maximum of seven (7) months after the home is closed. All landscaping plans shall be submitted, individually (for one home) or in bulk (for multiple homes), to the Developer for review and approval prior to installation. All landscaping and lawns shall be regularly maintained so as to present an upscale community.

**Lot Maintenance.** All lots must be kept mowed and free of debris and clutter. During any construction, each Owner and Builder shall be responsible for keeping the streets and adjacent lots clean and free of debris. No fill material shall be dumped on any lot without the consent of the Developer. The Developer or MHOA shall have the right to assess any Owner for the costs of mowing or clean up in the event that the Owner or Builder fails to do so.

**Lot Grading.** The Builder and Owners shall be responsible to re-grade the Lot in accordance with the grading plan as approved by the City of Huber Heights. Any deviations from such plan must be approved by the City Engineer and the Developer.

**Mailboxes, Lampposts and House Numbers.** All mailboxes and house numbers must be uniform in design, size, style and color as determined by Builder and approved by Developer.

**Exterior Lighting.** Exterior lighting must be directed in such manner so as not to intrude into neighboring lots and houses.

**Discretion.** Any discretion to be exercised in the review of plans shall be that of the Developer.

**Variations.** The Developer may grant variations from these guidelines if such variance will not be of substantial detriment to adjacent lots and will not materially impair these guidelines and the overall best interest of the subdivision.

**Right to Modify Guidelines.** The Developer reserves the right to modify these guidelines, provided, however, that no such modification shall be made that will materially and adversely affect the overall character of the property.



First Title By

MIAMI COUNTY RECORDER  
JESSICA A LOPEZ  
**2013OR-13495**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
08/29/2013 10:36:09AM

REFERENCES 2  
RECORDING FEE 36.00  
PAGES: 2

**SECOND AMENDMENT TO THE MASTER DECLARATION OF COVENEANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

This Second Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "Second Amendment") is made as of this 1<sup>st</sup> day of July, 2013, by DEC Land Co. I LLC an Ohio limited liability company (the "Developer").

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, on May 1, 2009, at 11:24:41 am, in OR Volume 0029, Page 135 through Page 210, Recorder's Office, Miami County, Ohio, (the "Original Declaration")

Whereas, the Developer established in said Original Declaration specific restrictions and conditions affecting the Owner Property described herein.

Whereas, at the time of filing of the Original Declaration, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "First Amendment") on August 18, 2010, at 9:20:57 am, in OR Volume 0030, Page 923 through Page 938, Recorder's Office, Miami County, Ohio.

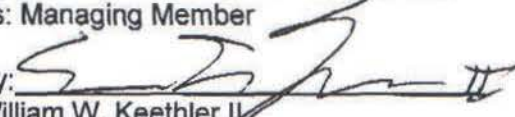
NOW, THEREFORE:

1. Effective 7/1/2013 the Developer hereby defers their right to designate a single waste management company as require by the City of Huber Heights, Ohio Ordinance No. 2013-O-2026 passed on the 14<sup>th</sup> day of March, 2013.

OR VOL 01458 PAGE 334

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Second Amendment as of the date first above written:

DEC Land Co. I LLC  
By: Carriage Trails at The Heights LLC  
Its: Managing Member

By:   
William W. Keethler II  
Vice President - Development

Acknowledgement

State of Ohio)

SS:

County of Franklin)

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of July, 2013, by William W. Keethler II, the Vice President - Development of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company.



CASSANDRA L. RIEHLE  
Notary Public, State of Ohio  
My Comm. Expires Aug. 16, 2015

  
Notary Public

This Instrument Prepared By:

George L. Jenkins, Esq.  
DEC Land Co. I LLC  
6375 Riverside Dr.  
Suite 220  
Dublin, Ohio 43017  
(614) 717-4444, extension 110

VOL 0458 PAGE 335





8 0 0 7 6 6 5

Tx:4004511

MIAMI COUNTY RECORDER

JESSICA A LOPEZ

2014OR-10744

PRESENTED FOR RECORD

MIAMI COUNTY, TROY, OHIO

09/29/2014 10:30:48 AM

REFERENCES 0

RECORDING FEE 28.00

PAGES: 2

*Carriage Trails*

**THIRD AMENDMENT TO THE MASTER DECLARATION OF COVENANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

This Third Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "**Third Amendment**") is made as of this 18<sup>th</sup> day of September, 2014, by DEC Land Co. I LLC an Ohio limited liability company (the "**Developer**").

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed May 1, 2009, in Volume 0029, Page 135 through Page 210, Recorder's Office, Miami County, Ohio, (the "**Original Declaration**"), a First Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 18, 2010, in Volume 0130, Page 923, Instrument No. 2010OR-09755, Recorder's Office, Miami County, Ohio (the "First Amendment"), and a Second Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 29, 2013, in Volume 0458, Page 334, Instrument No. 2013OR-13495, Recorder's Office, Miami County, Ohio (the "Second Amendment").

Whereas, the Developer established in said Original Declaration and Amendments specific restrictions and conditions affecting the Owner Property described herein.

Whereas, at the time of filing of the Original Declaration and Amendments, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment and Second Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens.

DOCUMENTS APPROVED  
MIAMI COUNTY RECORDER  
BY *[Signature]*  
DATE



NOW, THEREFORE:

1. Effective October 1, 2014 the Developer is hereby filing the Carriage Trails Master Design Review Board Architectural And Design Standards, general guidelines applicable to all single-family lots (the "Architectural And Design Standards"), which are as follows and as may be amended by the Developer from time to time:

**Trash Enclosures and Storage Areas:** Garbage, trash, or refuse shall be placed in containers that shall be stored within the dwelling unit (garage) or shall be concealed by means of a screening wall of materials similar to and compatible with that of the dwelling unit. The structure may be constructed to the side or rear of the dwelling unit (not in front of the dwelling unit), as long as it is not within a designated building set-back of the Lot and is a maximum height of 54". All trash enclosures must be maintained in good order and condition. No burning or storage of trash of any kind or storage of trash outside the container within the enclosure shall be permitted.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Third Amendment as of the date first above written:

DEC Land Co. I LLC  
By: Carriage Trails at The Heights LLC  
Its: Managing Member

By:   
William W. Keethler II  
Vice President - Development

Acknowledgement

State of Ohio)

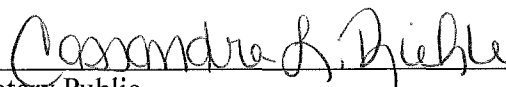
SS:

County of Franklin)

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of September, 2014, by William W. Keethler II, the Vice President - Development of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company.



CASSANDRA L. RIEHLE  
Notary Public, State of Ohio  
My Comm. Expires Aug. 16, 2015

  
Notary Public

This Instrument Prepared By:  
George L. Jenkins, Esq.  
DEC Land Co. I LLC  
6375 Riverside Dr., Suite 200  
Dublin, Ohio 43017  
(614) 717-4444, extension 110



8 1 2 4 4 0 0  
Tx:4066884

MIAMI COUNTY RECORDER  
JESSICA A LOPEZ  
**2019OR-10036**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
08/30/2019 11:18:21 AM  
REFERENCES 6  
RECORDING FEE 76.00  
PAGES: 5



8 1 2 3 0 4 9  
Tx:4066452

MIAMI COUNTY RECORDER  
JESSICA A LOPEZ  
**2019OR-09455**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
08/30/2019 09:18:21 AM  
REFERENCES 5  
RECORDING FEE 64.00  
PAGES: 4

5/16  
MIAMI COUNTY

**FOURTH AMENDMENT TO THE  
MASTER DECLARATION OF COVENANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

This Fourth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "Fourth Amendment") is made as of this 17<sup>th</sup> day of July, 2019, by DEC Land Co. I LLC an Ohio limited liability company (the "Developer").

**\*This document is being RE-RECORDED to include the Exhibit A.**

**RECITALS**

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed May 1, 2009, in Volume 0029, Page 135 through Page 210, Recorder's Office, Miami County, Ohio, (the "**Original Declaration**"), a First Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 18, 2010, in Volume 0130, Page 923, Instrument No. 2010OR-09755, Recorder's Office, Miami County, Ohio (the "First Amendment"), a Second Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 29, 2013, in Volume 0458, Page 334, Instrument No. 2013OR-13495, Recorder's Office, Miami County, Ohio (the "Second Amendment"); and a Third Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed September 29, 2014, Instrument No. 2014OR-10744, Recorder's Office, Miami County, Ohio (the "Third Amendment"), collectively the First Amendment, Second Amendment and Third Amendment being referred to herein as the Amendments (the "Amendments").

Whereas, the Developer established in said Original Declaration and Amendments specific restrictions and conditions affecting the Owner Property described therein.

Whereas, at the time of filing of the Original Declaration and Amendments, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners, including the right to designate "Additional Property" (as defined in the Original Declaration) to be part of the Development (as defined in the Original Declaration) and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer intends to designate Windbrooke-Section 2 (as defined below) as Additional Property to be part of the Development and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment, Second Amendment and Third Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens.

NOW, THEREFORE:

1. Carriage Trails at The Heights LLC (hereinafter "Carriage Trails", "Declarant" or "Owner") filed an Affidavit of Facts (hereinafter "Affidavit") in the Miami County Recorder's Office on AUGUST 8, 2019, and containing 6 pages, as instrument #2019OR-08903. The Affidavit involves approximately 10.102 acres commonly known as the Windbrooke-Section 2 Subdivision, having permanent Parcel No. A29-000719 and located at 5060 East US Route 40, Tipp City, OH 45371, within the City of Huber Heights, Miami County, Ohio, and more fully described in the attached **Exhibit A** ("Windbrooke-Section 2"), whereby Carriage Trails, as fee owner of Windbrooke-Section 2, averred its intent to adopt the Original Declaration and Amendments to govern Windbrooke-Section 2.
2. Developer hereby adopts the findings of the Affidavit and the Original Declaration and all Amendments thereto to Windbrooke-Section 2.
3. Developer hereby designates Windbrooke-Section 2 to be part of the Development and subjects the same to the provisions of the Original Declarations and all Amendments thereto.
4. Effective May 15, 2019, the Developer hereby amends the Architectural and Design Standards (as such term is defined in the Original Declaration and Amendments), as the same may be amended by the Developer from time to time, applicable to the single family lots for Windbrooke-Section 2, including any future areas developed by the Developer and required or designated CBU developments, and which are subject to the Original Declarations and all Amendments thereto, to include the following:

**Cluster Box Units (CBU):** The Developer shall construct and install Cluster Box Units (CBUs) in the above sections of the subdivision and shall follow the United States Postal Service (USPS) approved specifications for concrete pads and anchoring methods and prepare any agreements necessary to comply with the USPS. At each lot closing, the builder shall pay to the Developer, an agreed upon amount, pursuant to each builder's lot purchase agreement, to cover the cost of the CBUs and the surrounding infrastructure. Upon final installation, the CBUs shall be managed by either the Developer or the MOA. The management of the CBUs and any fees associated with the maintenance of the CBUs, such as replacement keys, repairs, etc. shall be determined by the MOA.

5. The Developer hereby amends the Architectural and Design Standards, as may be amended by the Developer from time to time, applicable to all single-family lots thereto, to include the following:

There shall be a one-time capital contribution, as determined by the builder's lot purchase agreement, and payable to Developer, at such time as builder's third-party customer closes the purchase and sale of a lot as improved with a residence built thereon.

6. All Recitals identified above are incorporated herein by reference. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Original Declaration and Amendments.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Fourth Amendment as of the date first above written:

DEC Land Co. I LLC  
By: Carriage Trails at The Heights LLC  
Its: Managing Member

By:   
William W. Keethler II, President

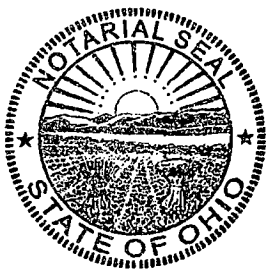
Acknowledgement

State of Ohio)

SS:

County of Franklin)

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of July, 2019, by William W. Keethler II, the President of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company.



CASSANDRA L. RIEHLE  
Notary Public, State of Ohio  
My Comm. Expires Aug. 16, 2020

Cassandra Riehle  
Notary Public

This Instrument Prepared By:  
When recorded, return to:  
Charles L. Kidder, Esq.  
Kidder Law Firm  
6375 Riverside Dr., Suite 200  
Dublin, Ohio 43017  
(614) 717-1788

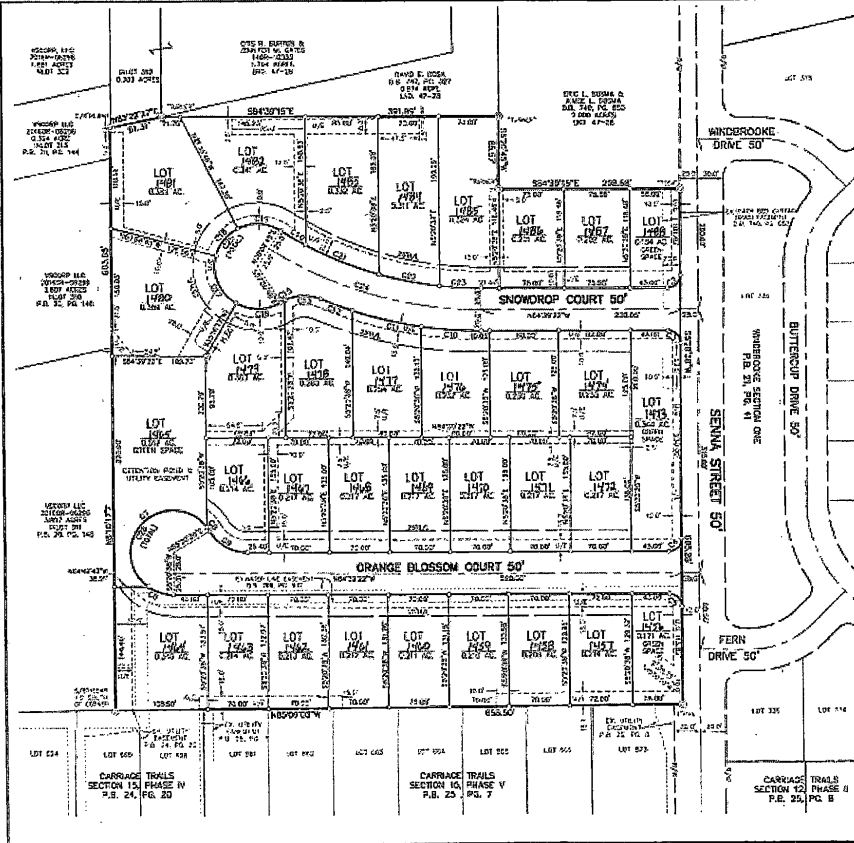


## WINDBROOKE SECTION 2

- LEGEND**
- 1/4 SECTION
  - 1/8 SECTION
  - 1/2 SECTION
  - 3/4 SECTION
  - 1/4 SECTION
  - 1/8 SECTION
  - 1/2 SECTION
  - 3/4 SECTION

**Exhibit A**

**WINDBROOKE SECTION 2**  
 8,562 ACRES LOTS  
 +1,523 ACRES RIGHT-OF-WAY  
 10,085 ACRES TOTAL



Case #	Length	Width	Date	OWNER	STREET
C1	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-1
C2	23.50'	15.00'	8/20/2003	HAYGROVE INC	C-2
C3	23.50'	15.00'	8/20/2003	HAYGROVE INC	C-3
C4	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-4
C5	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-5
C6	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-6
C7	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-7
C8	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-8
C9	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-9
C10	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-10
C11	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-11
C12	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-12
C13	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-13
C14	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-14
C15	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-15
C16	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-16
C17	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-17
C18	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-18
C19	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-19
C20	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-20
C21	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-21
C22	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-22
C23	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-23
C24	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-24
C25	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-25
C26	30.00'	15.00'	8/20/2003	HAYGROVE INC	C-26

2/2



8 1 3 9 3 7 4  
Tx:4073455

MIAMI COUNTY RECORDER  
JESSICA A LOPEZ  
**2020OR-02128**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
02/18/2020 10:20:09 AM  
REFERENCES 5  
RECORDING FEE 70.00  
PAGES: 4

5115  
JB  
Stewart-ew

**FIFTH AMENDMENT TO THE MASTER DECLARATION OF COVENANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

2085  
402384-3  
Stewart Title Agency  
of Columbus Box, OH

This Fifth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the "Fifth Amendment") is made as of this 13<sup>th</sup> day of February, 2020, by DEC Land Co. I LLC an Ohio limited liability company (the "Developer").

**RECITALS**

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed May 1, 2009, in Volume 0029, Page 135 through Page 210, Recorder's Office, Miami County, Ohio, (the "Original Declaration"), a First Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 18, 2010, in Volume 0130, Page 923, Instrument No. 2010OR-09755, Recorder's Office, Miami County, Ohio (the "First Amendment"), a Second Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 29, 2013, in Volume 0458, Page 334, Instrument No. 2013OR-13495, Recorder's Office, Miami County, Ohio (the "Second Amendment"); a Third Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed September 29, 2014, Instrument No. 2014OR-10744, Recorder's Office, Miami County, Ohio (the "Third Amendment"); and a Fourth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 30, 2019, Instrument No. 2019OR-10036, Recorder's Office, Miami County, Ohio (the "Fourth Amendment"), collectively the First Amendment, Second Amendment, Third Amendment and Fourth Amendment being referred to herein as the Amendments (the "Amendments").

Whereas, the Developer established in said Original Declaration and Amendments specific restrictions and conditions affecting the Owner Property described herein.

Whereas, at the time of filing of the Original Declaration and Amendments, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment, Second Amendment, Third Amendment and Fourth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens.

NOW, THEREFORE:

1. The Developer has acquired additional property, having Parcel No. P48-000417 and located at S SR 202, Tipp City, Ohio 45371, located within the City of Huber Heights, Miami County, Ohio, and now referred to as the Carriage Trails – Section 17, and more fully described in the attached **Exhibit A** (hereinafter “Carriage Trails-Section 17” or the “Additional Property”).
2. Developer intends to subject Carriage Trails-Section 17 to the Original Declarations and all Amendments thereto.

All Recitals identified above are incorporated herein by reference.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Fifth Amendment as of the date first above written:

DEC Land Co. I LLC  
By: Carriage Trails at The Heights LLC  
Its: Managing Member

By:   
William W. Keethler II, President



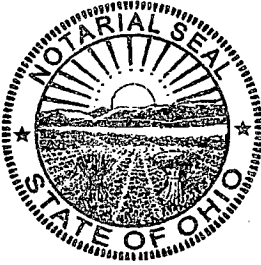
Acknowledgement

State of Ohio)

SS:

County of Franklin)

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of February, 2020, by William W. Keethler II, the President of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company. The Notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.



CASSANDRA L. RIEHLE  
Notary Public, State of Ohio  
My Comm. Expires Aug. 16, 2020

  
Notary Public

This Instrument Prepared By:  
Charles L. Kidder, Esq.  
Kidder Law Firm, LLC  
6375 Riverside Dr., Suite 200  
Dublin, Ohio 43017  
(614) 717-1788

Exhibit A  
Legal Description  
14.646 Acres

Situate in the State of Ohio, County of Miami and in the City of Huber Heights, and being Inlot Numbered Sixteen Hundred five (1605) as shown on Replat of all of Inlot One Hundred Sixty-three (163), City of Huber Heights, as shown in Recorder's Replat Plat 28, Page 16-16A.

Parcel No. P48-000417  
Property Address: S SR 202, Tipp City, Ohio 45371

MIAMI COUNTY RECORDER  
JESSICA A LOPEZ  
**2020OR-18419**  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
12/08/2020 11:28:46 AM  
REFERENCES 1  
RECORDING FEE 86.00  
PAGES: 8

**Amended and restated\***  
**SIXTH AMENDMENT TO THE**  
**MASTER DECLARATION OF COVENANTS,**  
**EASEMENTS, RESTRICTIONS, ASSESSMENTS,**  
**AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

**\*\*This document is being recorded to revise and restate the prior Sixth Amendment.**  
**Cross Reference Instrument #2020OR-15010 filed on 10/14/2020.**

This Sixth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the “**Sixth Amendment**”) is made as of this 14<sup>th</sup> day of December, 2020, by DEC Land Co. I LLC an Ohio limited liability company (the “**Developer**”).

**RECITALS**

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed May 1, 2009, in Volume 0029, Page 135 through Page 210, Recorder’s Office, Miami County, Ohio, (the “**Original Declaration**”), a First Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 18, 2010, in Volume 0130, Page 923, Instrument No. 2010OR-09755, Recorder’s Office, Miami County, Ohio (the “**First Amendment**”), a Second Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 29, 2013, in Volume 0458, Page 334, Instrument No. 2013OR-13495, Recorder’s Office, Miami County, Ohio (the “**Second Amendment**”); a Third Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed September 29, 2014, Instrument No. 2014OR-10744, Recorder’s Office, Miami County, Ohio (the “**Third Amendment**”), a Fourth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 30, 2019, Instrument No. 2019OR-10036, Recorder’s Office, Miami County, Ohio (the “**Fourth Amendment**”), and a Fifth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed February 18, 2020, Instrument No. 2020OR-02128, Recorder’s Office, Miami County, Ohio (the “**Fifth Amendment**”); collectively the First Amendment, Second Amendment, Third

Amendment, Fourth Amendment and Fifth Amendment being referred to herein as the Amendments (the “Amendments”).

Whereas, the Developer established in said Original Declaration and Amendments specific restrictions and conditions affecting the Owner Property described therein.

Whereas, at the time of filing of the Original Declaration and Amendments, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Original Declaration and Amendments, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners, including the right to designate “Additional Property” (as defined in the Original Declaration) to be part of the Development (as defined in the Original Declaration) and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer intends to designate Windbrooke-Section 3-Phase I (as defined below) as Additional Property to be part of the Development and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens.

NOW, THEREFORE:


1. Carriage Trails at The Heights LLC (hereinafter “Carriage Trails”) filed an Affidavit of Facts (hereinafter “First Affidavit”) in the Miami County Recorder’s Office on August 8, 2019, and containing 6 pages, as instrument #2019OR-08903. The First Affidavit involved approximately 10.102 acres commonly known as the **Windbrooke-Section 2** located at 5060 East US Route 40, Tipp City, OH 45371, within the City of Huber Heights, Miami County, Ohio, more particularly described on **Exhibit B** attached hereto, whereby Carriage Trails, as owner of Windbrooke-Section 2, averred that Windbrooke-Section 2 was never made subject to the Windbrooke Declarations (as defined in the First Affidavit) and further declared its intent to adopt the Original Declaration and Amendments to govern Windbrooke-Section 2. Developer hereby accepts and adopts the facts recited in the First Affidavit and the Original Declaration and all Amendments thereto to Windbrooke-Section 2.
2. Corridor Development Company LLC, an Ohio limited liability company (“Corridor”), filed an Affidavit of Facts in the Miami County Recorder’s Office on September 29,

2020, and containing 6 pages, as instrument #2020OR-14025, and Corridor filed an Amended and Restated Affidavit of Facts on 12/8/2020, 2020, and containing 7 pages, as instrument #2020OR-18409 (hereinafter "Second Affidavit"). Developer consented to the Second Affidavit. The Second Affidavit involves approximately 7.346 acres commonly known as **Windbrooke-Section 3-Phase I**, located at U.S. Route 40, Tipp City, OH 45371, within the City of Huber Heights, Miami County, Ohio, and more fully described in the attached **Exhibit A ("Windbrooke-Section 3-Phase I")**, whereby Corridor, as owner of Windbrooke-Section 3-Phase I, averred that Windbrooke-Section 3-Phase I was never made subject to the Windbrooke Declarations (as defined in the Second Affidavit) and further declared its intent to adopt the Original Declaration and Amendments to govern Windbrooke-Section 3-Phase I. Developer hereby accepts and adopts the facts recited in the First Affidavit and Second Affidavit and the Original Declaration and all Amendments thereto to Windbrooke-Section 3-Phase I.

3. Developer hereby designates Windbrooke-Section 2 and Windbrooke-Section 3-Phase I to be part of the Development and subjects the same to the provisions of the Original Declarations and all Amendments thereto.
4. Developer acquired additional property having Parcel No. P48-000417 and referred to as Carriage Trails – Section 17, as shown in Recorder's Replat 28, Pages 16-16A wherein Developer adopted the Original Declarations and all Amendments thereto by the Fifth Amendment filed February 18, 2020, Instrument No. 2020OR-02128, Recorder's Office, Miami County, Ohio. Said plat, filed on July 24, 2020, Instrument No. 2020P-00039, Recorder's Office, Miami County, Ohio, page 3, includes reference to the 'CONSERVATION AREA'. Specifically, with regards to the CONSERVATION AREA: (i) No clearing of trees, shrubs or brush is permitted within the area; (ii) No improvements may be constructed or placed within the area; and (iii) The waterway must remain free of obstruction at all times.
5. All Recitals identified above are incorporated herein by reference. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Original Declaration and Amendments.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Sixth Amendment as of the date first above written:

DEC Land Co. I LLC  
By: Carriage Trails at The Heights LLC  
Its: Managing Member

By:   
William W. Keethler II, President

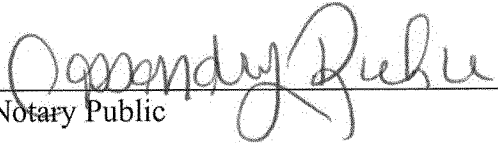
Acknowledgement

State of Ohio            )  
                                  SS:  
County of Franklin    )

The foregoing instrument was acknowledged before me this 14th day of December, 2020, by William W. Keethler II, the President of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company. The Notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.



**CASSANDRA L. RIEHLE**  
Notary Public, State of Ohio  
My Commission Expires 08-16-2025

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

This Instrument Prepared By:  
When recorded, return to:  
Kidder Law Firm  
6375 Riverside Dr., Suite 200  
Dublin, Ohio 43017  
(614) 717-1788

**SEVENTH AMENDMENT TO THE  
MASTER DECLARATION OF COVENANTS,  
EASEMENTS, RESTRICTIONS, ASSESSMENTS,  
AND ASSESSMENT LIENS FOR CARRIAGE TRAILS DEVELOPMENT**

..... This Seventh Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens (the “**Seventh Amendment**”) is made as of this 16<sup>th</sup> day of December, 2021, by DEC Land Co. I LLC an Ohio limited liability company (the “**Developer**”).

**RECITALS**

Whereas, the Developer has previously filed of record a Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed May 1, 2009, in Volume 0029, Page 135 through Page 210, Recorder’s Office, Miami County, Ohio, (the “**Original Declaration**”), a First Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 18, 2010, in Volume 0130, Page 923, Instrument No. 2010OR-09755, Recorder’s Office, Miami County, Ohio (the “**First Amendment**”), a Second Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 29, 2013, in Volume 0458, Page 334, Instrument No. 2013OR-13495, Recorder’s Office, Miami County, Ohio (the “**Second Amendment**”); a Third Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed September 29, 2014, Instrument No. 2014OR-10744, Recorder’s Office, Miami County, Ohio (the “**Third Amendment**”), a Fourth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed August 30, 2019, Instrument No. 2019OR-10036, Recorder’s Office, Miami County, Ohio (the “**Fourth Amendment**”), a Fifth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed February 18, 2020, Instrument No. 2020OR-02128, Recorder’s Office, Miami County, Ohio (the “**Fifth Amendment**”); and an Amended and restated Sixth Amendment to the Master Declaration of Covenants, Easements, Restrictions, assessments, and Assessment Liens for Carriage Trails Development, filed December 8, 2020, Instrument No. 2020OR-18419, Recorder’s Office, Miami County, Ohio (the “**Sixth Amendment**”) collectively the First

Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth and Sixth Amendment being referred to herein as the Amendments (the "Amendments").

Whereas, the Developer established in said Original Declaration and Amendments specific restrictions and conditions affecting the Owner Property described therein.

Whereas, at the time of filing of the Original Declaration and Amendments, Developer was the Owner of 624.708 acres on which the Developer is developing single family, multi-family and commercial developments.

Whereas, pursuant to the general provisions of the Master Owners Association, the Developer has the right to amend the provisions of the Original Declaration at any time without consent of any other Owners until the Developer turns over control of the Master Owners Association to the Owners, including the right to designate "Additional Property" (as defined in the Original Declaration) to be part of the Development (as defined in the Original Declaration) and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer intends to designate Windbrooke-Section 3-Phase II (as defined below) as Additional Property to be part of the Development and subject to the provisions of the Original Declaration and Amendments.

Whereas, the Developer has previously amended the Original Declaration and filed a record of the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth and Sixth Amendment to the Declaration of Covenants, Easements, Restrictions, Assessments, and Assessment Liens.

NOW, THEREFORE:

1. Corridor Development Company LLC (hereinafter "Corridor", "Declarant" or "Owner") filed an Affidavit of Facts (hereinafter "Third Affidavit") in the Miami County Recorder's Office on May 13, 2021, as instrument #2021OR-08405, and revised and re-recorded and filed on December 16, 2021 as instrument #2021OR- 21780. The Affidavit involves approximately 7.594 acres commonly known as the Windbrooke-Section 3-Phase II Subdivision, having permanent Parcel No. P48-250160 and located at U.S. Route 40, Tipp City, OH 45371, within the City of Huber Heights, Miami County, Ohio, and more fully described in the attached recorded plat (as modified by the certain Affidavit of Facts Relating to Title recorded on December 15, 2021 as instrument #2021OR- 21727) as Exhibit A ("Windbrooke-Section 3, Phase II"), whereby Declarant, as fee owner of Windbrooke-Section 3-Phase II, averred its intent to adopt the Original Declaration and Amendments to govern Windbrooke-Section 3-Phase II. Developer consents to the Third Affidavit and hereby accepts and adopts the facts recited in the Third Affidavit and the Original Declaration and all Amendments thereto to Windbrooke-Section 3-Phase II.



2. Developer hereby designates Windbrooke-Section 3-Phase II to be part of the Development and subjects the same to the provisions of the Original Declarations and all Amendments thereto.
3. All Recitals identified above are incorporated herein by reference. Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Original Declaration and Amendments.

IN WITNESS WHEREOF, the Developer has caused its duly authorized representative to execute this Seventh Amendment as of the date first above written:

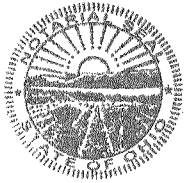
DEC Land Co. I LLC  
 By: Carriage Trails at The Heights LLC  
 Its: Managing Member

By:   
 William W. Keethler II, President

Acknowledgement

State of Ohio            )  
                                   SS:  
 County of Franklin    )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of December, 2021, by William W. Keethler II, the President of Carriage Trails at The Heights LLC, the managing member of DEC Land Co. I LLC, an Ohio limited liability company, on behalf of the limited liability company.



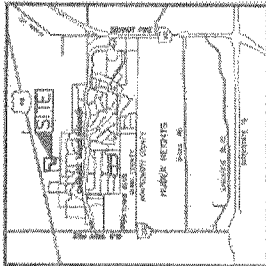
**CASSANDRA L. RIEHLE**  
 Notary Public, State of Ohio  
 My Commission Expires 08-16-2025

  
 Notary Public

This Instrument Prepared By:  
 When recorded, return to:  
 Kidder Law Firm  
 5131 Post Road, Suite 101  
 Dublin, Ohio 43017  
 (614) 717-1788

**WINDBROOKE  
SECTION 3 PHASE II  
REPLAT INLOT 1610**

STATE OF OHIO, COUNTY OF MIAMI, CITY OF HUBER HEIGHTS,  
SEPTEMBER 2021



LOCATION MAP  
1/8 SCALE

N.G.A. RESTRICTIONS: The replat is subject to the restrictions of the Ohio Revised Code, Sections 183.02, 183.03, 183.04, 183.05, 183.06, 183.07, 183.08, 183.09, 183.10, 183.11, 183.12, 183.13, 183.14, 183.15, 183.16, 183.17, 183.18, 183.19, 183.20, 183.21, 183.22, 183.23, 183.24, 183.25, 183.26, 183.27, 183.28, 183.29, 183.30, 183.31, 183.32, 183.33, 183.34, 183.35, 183.36, 183.37, 183.38, 183.39, 183.40, 183.41, 183.42, 183.43, 183.44, 183.45, 183.46, 183.47, 183.48, 183.49, 183.50, 183.51, 183.52, 183.53, 183.54, 183.55, 183.56, 183.57, 183.58, 183.59, 183.60, 183.61, 183.62, 183.63, 183.64, 183.65, 183.66, 183.67, 183.68, 183.69, 183.70, 183.71, 183.72, 183.73, 183.74, 183.75, 183.76, 183.77, 183.78, 183.79, 183.80, 183.81, 183.82, 183.83, 183.84, 183.85, 183.86, 183.87, 183.88, 183.89, 183.90, 183.91, 183.92, 183.93, 183.94, 183.95, 183.96, 183.97, 183.98, 183.99, 184.00.

REPLAT RECORDS DEED RECORDS  
DEED RECORDS NO. 202108-1432  
REPLAT NO. 202108-1432  
MIAMI COUNTY RECORDS DEED RECORDS  
DEED RECORDS NO. 202108-1432  
P.B. 28, P.2, P.3, P.4, P.5, P.6, P.7, P.8, P.9, P.10

MIAMI COUNTY ENGINEER'S RECORDS OF LAND SURVEYS  
VOLUME 20, PAGE 15  
VOLUME 20, PAGE 15

COMMISSIONER OF LAND SURVEYS  
**David J. Brown**  
STATE OF OHIO

REGISTERED PROFESSIONAL ENGINEER  
No. 202108-1432

VOLUME 29 PAGE 21  
MIAMI COUNTY RECORDER'S RECORD OF PLATS

DEED DEPT. RECORDS  
MARIAN ALBERT  
RECORDED ON 09/17/21  
MARIAN ALBERT  
STATE COUNTY RECORDER  
RECORDED ON 09/17/21

FILE # 8640  
MIAMI COUNTY RECORDER  
**James J. Stewart**  
MIAMI COUNTY AUDITOR  
APPROVED AND TRANSFERRED Sept. 13, 2021  
**Mickie L. Gombert**  
MIAMI COUNTY AUDITOR  
**James J. Stewart**  
MIAMI COUNTY RECORDER

APPROVED:  
THE WITHIN PLAT REPLICATION WAS APPROVED BY THE CITY PLANNING COMMISSION OF THE CITY OF HUBER HEIGHTS, OHIO, IN ACCORDANCE WITH SECTION 1073.12 OF THE CITY'S SUBDIVISION REGULATIONS  
ON 09/17/21 2021  
**John J. Stewart**  
CITY OF HUBER HEIGHTS PLANNING COMMISSION

CERTIFICATION  
THE WITHIN PLAT IS A REPLAT OF LAND CONTAINING 7.664 ACRES AS DESCRIBED IN A DEED TO CORPORATE DEVELOPMENT COMPANY, LLC, RECORDED IN BOOKS OF MIAMI COUNTY, OHIO, AS REFLECTED IN THE DEED RECORDS OF MIAMI COUNTY, OHIO. THE MEASUREMENTS ARE CERTIFIED CORRECT AND TRUE IN ACCORDANCE WITH SECTION 1073.12 OF THE CITY'S SUBDIVISION REGULATIONS.



181 GROUP  
CORPORATE DEVELOPMENT COMPANY, LLC  
5131 POST ROAD SUITE 101  
DUBLIN, OHIO 43017



202108-1432

VOLUME 29 PAGE 21A  
MIAMI COUNTY RECORDER'S RECORD



**WINDBROOKE  
SECTION 3 PHASE II**

**LEGEND**  
 (Symbol) 20' WIDE FRONT YARD  
 (Symbol) 5' WIDE SIDE YARD  
 (Symbol) 10' WIDE REAR YARD  
 (Symbol) 10' WIDE SIDE YARD  
 (Symbol) 10' WIDE REAR YARD

LOT AREA: SQUARE FEET  
 TOTAL LOT AREA: 1,185 ACRES  
 TOTAL SIDE YARD: 1,185 ACRES  
 TOTAL REAR YARD: 1,185 ACRES

6.405 ACRES LOTS  
 1.185 ACRES RIGHT-OF-WAY  
 7.284 ACRES TOTAL

Lot #	Area (sq. ft.)	Area (Acres)
1	10,000	0.23
2	10,000	0.23
3	10,000	0.23
4	10,000	0.23
5	10,000	0.23
6	10,000	0.23
7	10,000	0.23
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100	10,000	0.23

