



Town Council Public Meeting  
August 18, 2020

**ORDINANCES & RESOLUTIONS:**

**1. Ordinance No. 1352 – Reimbursement Fee**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**2. Ordinance No. 1360: Beacon Pointe East PUD & PUD Contract**

**P3-83**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**3. Ordinance No. 1361: Rose Garden Estates Special Revenue Non-Reverting Fund**

**P84-86**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**BZA:**

**1. Owner: Brian Kubal, Petitioner: Erik Moore, 13135 Morse St, Special Use Variance P87**

The Board of Zoning Appeals certifies an **Favorable** Recommendation to the Town Council for the requested **Special Use Variance** to allow the Petitioner, **Erik Moore**, to operate a wood working/assembly shop contingent parking lot improvements to include ten (10) paved parking spaces, B-2 Zoning District, by a vote of **4 in favor and 0 against**.

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**PLAN:**

**1. Performance Letter of Credit: Summer Winds Residential - Unit 1**

**P88-92**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**NEW BUSINESS:**

**1. Request for Proposal Award – Financial Advisor**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

Town Council Public Meeting  
August 18, 2020

**2. Consultant Engagements**

a. Baird

**P93-101**

b. Crowe LLP

**P102-113**

c. Barnes & Thornburg

**P114-125**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**3. Fencing**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**4. Police Department - New Hire Ratification: Wyrick, Jacob**

Motion: \_\_\_\_\_ 1<sup>st</sup> \_\_\_\_\_ 2<sup>nd</sup>

Robert H. Carnahan	John Foreman	Ralph Miller	Colleen Schieben	Richard Sharpe	Julie Rivera	Randell Niemeyer	Vote Tally
Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	Yes  No	-

**REPORTS:**

1. Town Council
  - a. Council Affairs Committee
  - b. Parks & Recreation Committee
  - c. Ecosystem Restoration Committee
  - d. Stormwater
2. Town Attorney
3. Clerk-Treasurer
4. Town Administrator
5. Director of Operations
6. Police Department
7. Fire Department

**P126-128**

**WRITTEN COMMUNICATION:**

1. Building Department

**P129**

**PUBLIC COMMENT:**

**ADJOURNMENT:**

**PRESS SESSION:**

**NEXT MEETING: Tuesday, September 1, 2020 at 7:00 pm**



*The Town of Cedar Lake is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Cedar Lake Town Hall at (219) 374-7400.*

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**August 18, 2020**

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ALL TOWN FUNDS	\$170,859.21
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WASTEWATER OPERATING	\$118,744.97
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WATER UTILITY	\$96,335.02
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STORM WATER	\$13,620.52
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2017 RDA A BOND	\$101.00
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PAYROLL 8/6/2020	\$246,640.42
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**Town of Cedar Lake**

Office of the Town Administrator

7408 Constitution Ave – PO Box 707 – Cedar Lake, IN 46303

Tel (219) 374-7400 – Fax (219) 374-8588



**TAG DAY REQUEST – APPLICATION FORM**

20 AUG 13 4:24P

Name of Organization: Riptide 10U Gray

Address: 10709 W. 134th PL Cedar Lake, IN 46303

Phone: 708439 1159 Fax: \_\_\_\_\_

Contact Person:

Name: Jamie Dragisic Email: Jamiedanther2att.net Phone: 708 552 6942

Date of Tag Day Request (do not request a rain date):

1<sup>st</sup> Choice: Sept. 5th 2<sup>nd</sup> Choice: Oct. 3rd

Explain Nature of Tag Day: Raise money for Riptide 10U gray  
girls travel ball.

List Locations of Tag Day: 133rd & parnsh

On a separate sheet of paper, list the individuals participating in the activity on behalf of the organization. All solicitation activities permitted are to start no earlier than 8:00 am and finish in four (4) consecutive hours. All solicitation activities will be completed by 1:00 pm on the approved day, regardless of the time of commencement.

**PROOF OF INSURANCE MUST BE SUBMITTED WITH THIS REQUEST.  
INCOMPLETE REQUESTS WILL BE RETURNED.**

Jamie Dragisic  
Signature of Contact Person

8-13-20  
Date

**FOR OFFICE USE ONLY**

Date Received: 8/13/20 Approximate Time: 4:24 pm

Received by (Name/Title): Sharon Duce

Date Approved by Town Council: \_\_\_\_\_

Date Contact Person Notified of Approval: \_\_\_\_\_ Notified via (circle one): Email – Phone – Letter

TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA

ORDINANCE NO. 1360

AN ORDINANCE RECLASSIFYING CERTAIN LANDS IN THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, FOR ZONING PURPOSES, AND AMENDING ORDINANCE NO. 496, BEING:

"AN ORDINANCE REPLACING ZONING ORDINANCE NO. 278, ENTITLED CEDAR LAKE, INDIANA, ZONING ORDINANCE, PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF CEDAR LAKE, INDIANA, AND ALL AMENDMENTS PASSED SUBSEQUENT THERETO, REPEALING ZONING ORDINANCE NO. 278, ALL AMENDMENTS THERETO, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith, ESTABLISHING NEW COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF CEDAR LAKE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE INDIANA STATE STATUTES."

PASSED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, THE 13TH DAY OF DECEMBER, 1989, AND ALL AMENDMENTS PASSED SUBSEQUENT THERETO.

**WHEREAS**, the Town Council of the Town of Cedar Lake, Lake County, Indiana, did, on the 13th day of December, 1989, pass a Zoning Ordinance designated as Town Ordinance No. 496; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, has been petitioned by the Owners of certain real property located in the Town of Cedar Lake, Lake County, Indiana, to reclassify said real property for zoning purposes from Title IX, RT, and Title X, RM, Zoning Districts to Title XI-Planned United Development (P.U.D.) Zoning District Classification; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, did, on the 15<sup>th</sup> day of July, 2020, pursuant to published notice as required by applicable law, hold a Public Hearing on the advisability and necessity of rezoning said property; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, on July 15, 2020, has favorably recommended that Town Zoning Ordinance No. 496 be amended and modified in order that the use of the real property hereinafter described be reclassified for zoning purposes from Title IX, RT, and Title X, RM, Zoning Districts, to Title XI-Planned United Development (P.U.D.) Zoning District Classification.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA:

**SECTION ONE:** That Town Zoning Ordinance No. 496, all amendments to Zoning Ordinance No. 496 passed subsequent thereto, and the Town of Cedar Lake Zoning Map, are all amended by changing, or amending the zoning district classification of the following-described parcel of real property:

**TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE RECLASSIFYING CERTAIN LANDS IN THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, FOR ZONING PURPOSES, AND AMENDING ORDINANCE NO. 496, BEING:**

**"AN ORDINANCE REPLACING ZONING ORDINANCE NO. 278, ENTITLED CEDAR LAKE, INDIANA, ZONING ORDINANCE, PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF CEDAR LAKE, INDIANA, AND ALL AMENDMENTS PASSED SUBSEQUENT THERETO, REPEALING ZONING ORDINANCE NO. 278, ALL AMENDMENTS THERETO, AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, ESTABLISHING NEW COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF CEDAR LAKE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE INDIANA STATE STATUTES."**

**PASSED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, THE 13TH DAY OF DECEMBER, 1989, AND ALL AMENDMENTS PASSED SUBSEQUENT THERETO.**

**WHEREAS**, the Town Council of the Town of Cedar Lake, Lake County, Indiana, did, on the 13th day of December, 1989, pass a Zoning Ordinance designated as Town Ordinance No. 496; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, has been petitioned by the Owners of certain real property located in the Town of Cedar Lake, Lake County, Indiana, to reclassify said real property for zoning purposes from Title IX, RT, and Title X, RM, Zoning Districts to Title XI-Planned United Development (P.U.D.) Zoning District Classification; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, did, on the 15<sup>th</sup> day of July, 2020, pursuant to published notice as required by applicable law, hold a Public Hearing on the advisability and necessity of rezoning said property; and

**WHEREAS**, the Plan Commission of the Town of Cedar Lake, Lake County, Indiana, on July 15, 2020, has favorably recommended that Town Zoning Ordinance No. 496 be amended and modified in order that the use of the real property hereinafter described be reclassified for zoning purposes from Title IX, RT, and Title X, RM, Zoning Districts, to Title XI-Planned United Development (P.U.D.) Zoning District Classification.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA:**

**SECTION ONE:** That Town Zoning Ordinance No. 496, all amendments to Zoning Ordinance No. 496 passed subsequent thereto, and the Town of Cedar Lake Zoning Map, are all amended by changing, or amending the zoning district classification of the following-described parcel of real property:



PART OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 34 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, LYING EAST OF THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 44 MINUTES 04 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 27 A DISTANCE OF 1127.76 FEET TO THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 02 DEGREES 10 MINUTES 38 SECONDS EAST ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 2224.36 FEET TO THE CENTERLINE OF THE SLEEPY HOLLOW DITCH; THENCE ALONG SAID CENTERLINE OF THE SLEEPY HOLLOW DITCH FOR THE FOLLOWING 6 COURSES; SOUTH 88 DEGREES 12 MINUTES 16 SECONDS EAST A DISTANCE OF 15.78 FEET; SOUTH 69 DEGREES 57 MINUTES 12 SECONDS EAST A DISTANCE OF 152.51 FEET; SOUTH 57 DEGREES 29 MINUTES 04 SECONDS EAST A DISTANCE OF 408.65 FEET; SOUTH 46 DEGREES 37 MINUTES 15 SECONDS EAST A DISTANCE OF 72.66 FEET; SOUTH 74 DEGREES 23 MINUTES 39 SECONDS EAST A DISTANCE OF 154.14 FEET; SOUTH 63 DEGREES 13 MINUTES 33 SECONDS EAST A DISTANCE OF 116.16 FEET TO THE WESTERLY LINE OF CEDAR BROOK FIRST ADDITION, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 27 PAGE 44, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE NORTH 03 DEGREES 48 MINUTES 27 SECONDS WEST A DISTANCE OF 21.46 FEET TO THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH; THENCE SOUTHERLY AND EASTERLY ALONG THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH TO THE SOUTHWEST CORNER OF LOT 1 IN SAID CEDAR BROOK FIRST ADDITION, SAID POINT BEING SOUTH 03 DEGREES 48 MINUTES 27 SECONDS EAST A DISTANCE OF 58.13 FEET AND SOUTH 42 DEGREES 42 MINUTES 06 SECONDS EAST, A DISTANCE OF 621.77 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SLEEPY HOLLOW DITCH AND THE WESTERLY LINE OF SAID CEDAR BROOK FIRST ADDITION; THENCE SOUTH 89 DEGREES 46 MINUTES 09 SECONDS WEST A DISTANCE OF 117.34 FEET; THENCE SOUTH 11 DEGREES 18 MINUTES 16 SECONDS EAST A DISTANCE OF 537.86 FEET; THENCE SOUTH 07 DEGREES 46 MINUTES 23 SECONDS EAST A DISTANCE OF 39.63 FEET; THENCE SOUTH 06 DEGREES 09 MINUTES 31 SECONDS EAST A DISTANCE OF 242.40 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 27 SECONDS EAST A DISTANCE OF 68.51 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 281.10 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST, A DISTANCE OF 421.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 60.00 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 12 SECONDS EAST A DISTANCE OF 421.30 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 100.00 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 111.15 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 321.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG



SAID SOUTH LINE A DISTANCE OF 736.70 FEET TO THE POINT OF BEGINNING.

all lying within the Municipal Corporate limits of the Town of Cedar Lake, Lake County, Indiana, from Title \_\_\_\_, RT, and Title \_\_\_\_, RM, Zoning Districts, to Title XI-Planned Unit Development (P.U.D.) Zoning District Classification, which approval incorporates the Planned Unit Development Contract for Beacon Pointe East of Cedar Lake executed by the Developer and the Town of Cedar Lake, a copy of which is attached hereto, made a part hereof and marked Exhibit "A".

That hereafter, upon approval and adoption by the Town Council of the Town of Cedar Lake, Lake County, Indiana, the Zoning District Classification of the subject parcel shall be identified as Title XI - Planned Unit Development (P.U.D.), Zoning District. This designation shall be inserted onto the Town Zoning Map, as well as any parcel identification for the subject parcel of real estate described herein which is subject of the Zone Map Amendatory Ordinance adoption herein.

**SECTION TWO:** That all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

**SECTION THREE:** If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision, or portion of this Ordinance.

**SECTION FOUR:** That this Ordinance shall take effect, and be in full force and effect, from and after its passage and adoption by the Town Council of the Town of Cedar Lake, and compliance with all conditions of approval and adoption by the Owners and Petitioner. The execution and attestation hereof is to be withheld pending all conditions of approval being fulfilled and completed in final form and content.

**ALL OF WHICH IS PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

**TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, TOWN COUNCIL:**

\_\_\_\_\_  
Randell C. Niemeyer, Town Council President

\_\_\_\_\_  
John C. Foreman, Town Council Member

\_\_\_\_\_  
Julie A. Rivera, Town Council Vice-President

\_\_\_\_\_  
Ralph Miller, Town Council Member

\_\_\_\_\_  
Robert H. Carnahan, Town Council Member

\_\_\_\_\_  
Colleen Schieben, Town Council Member

\_\_\_\_\_  
Richard Sharpe, Town Council Member

ATTEST:

\_\_\_\_\_  
Jennifer N. Sandberg, IAMC

**PLANNED UNIT DEVELOPMENT CONTRACT FOR  
BEACON POINTE EAST OF CEDAR LAKE**

THIS PLANNED UNIT DEVELOPMENT CONTRACT FOR BEACON POINTE EAST OF CEDAR LAKE (this "Contract"), is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 ("Effective Date"), by the **Town of Cedar Lake, Lake County, Indiana**, a Municipal Corporation ("Town"), and **Beacon Pointe of Cedar Lake LLC**, a Limited Liability Company ("Developer"), duly organized and existing under the laws of the State of Indiana.

WITNESSETH:

**WHEREAS**, Developer is under contract to purchase the following described real estate located in Cedar Lake, Indiana (the "Real Estate"):

See legal description attached hereto and made a part hereof as Exhibit "1"

Commonly known as approximately 141<sup>st</sup> Avenue, Cedar Lake, Indiana 46303  
Parcel No. 45-15-27-376-002.000-014; and

**WHEREAS**, Developer has submitted a formal proposal for the Beacon Pointe East Planned Unit Development Zoning District to be located on the Real Estate, which includes: (a) the Preliminary Plat of Beacon Pointe East of Cedar Lake approved by the Plan Commission on \_\_\_\_\_, 2020 (the "Preliminary Plat"), a copy of which is attached hereto, and made a part hereof as Exhibit "2"; (b) Beacon Pointe East of Cedar Lake Planned Unit Development (PUD) Guidelines (the "PUD Guidelines"), a copy of which is attached hereto and made a part hereof as Exhibit "3"; and (c) Declaration of Covenants, Conditions, Restrictions & Easements for Beacon Pointe East of Cedar Lake (the "Declaration of Covenants"), the final version of which shall not be inconsistent with the Ordinance, which proposed Declaration of Covenants is attached hereto and made a part hereof as Exhibit "4" (the Preliminary Plat, PUD Guidelines, Ordinance and Declaration of Covenants are collectively known as the "Beacon Pointe East PUD"); and

**WHEREAS**, a public hearing was held as required by applicable law on \_\_\_\_\_, 2020, and whereby the Town of Cedar Lake Plan Commission, on \_\_\_\_\_, 2020, recommended the rezoning of the real property from Title \_\_\_\_, RT and Title \_\_\_\_, RM Zoning Districts to Title XI- Planned Unit Development (P.U.D.) Zoning District Classification.

**WHEREAS**, the Town Council of the Town of Cedar Lake, Lake County, Indiana (hereinafter, the "Town Council"), concurred in the favorable recommendation certified by the Plan Commission of the Zone Map Amendatory Ordinance and Beacon Pointe East PUD at the Town Council meeting on \_\_\_\_\_, 2020, subject to the Town and Developer entering into this

Contract as required in Section 11 of Title XI (Planned Unit Development (P.U.D.) Zoning District; and

**WHEREAS**, Developer is willing and able to enter into this Contract as required in Section 11 of Title XI of Town Zoning Ordinance No. 496, as amended from time to time.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Recitals Part of Contract. The representations, covenants, recitations and Exhibits set forth in the Recitals are material to this Contract and are incorporated into and made a part of this Contract as though they were fully set forth in this Contract.

2. Agreement to Complete in Accordance with PUD. In accordance with Section 11 of Article XI, Developer agrees with the Town that any development which Developer completes on the Real Estate shall be in accordance with the terms and conditions of the Beacon Pointe East PUD provided, however, that Developer shall be allowed to make modifications to the Declaration of Covenants before finally recording, so long as such modifications are not inconsistent with the terms and conditions of the Preliminary Plat and the PUD Guidelines.

3. Breach. Before any failure of any party of this Contract to perform its obligations under this Contract shall be deemed to be a breach of this Contract, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Contract may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity, including the remedy of specific performance.

4. Amendment. This Contract may be amended only by the mutual consent of the parties and execution of said amendment by the Parties, in conformance with the Town Zoning Ordinance and all applicable laws.

5. No Other Agreement. Except as otherwise expressly provided herein, this Contract supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

6. Severability. If any provision, covenant, agreement or portion of this Contract or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Contract and, to that end, any provisions, covenants, agreements or portions of this Contract are declared to be severable.

7. Indiana Law. This Contract shall be construed in accordance with the applicable laws of the State of Indiana, without consideration of its choice of law provisions.

8. Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

Town:

Town of Cedar Lake  
7408 Constitution Avenue  
Cedar Lake, IN 46303  
Attention: Building Administrator  
And Town Administrator

With a copy to:

Austgen Kuiper Jasaitis P.C.  
130 N. Main Street  
Crown Point, IN 46307  
Attention: David M. Austgen

Developer:

Beacon Pointe of Cedar Lake LLC  
8900 Wicker Ave.  
St. John, IN 46373  
Attention: Jack Slager

With a copy to:

Anderson & Anderson, P.C.  
9211 Broadway  
Merrillville, IN 46410  
Attn: Richard E. Anderson

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

9. Counterparts. This Contract may be signed in one (1) or more counterparts, and all such counterparts shall form but one (1) integrated agreement. The Parties agree that electronically or digitally transmitted signatures constitute original signatures and are binding on the Parties.

10. Consent or Approval. Except as otherwise provided herein, whenever consent or approval of any Party is required, such consent or approval shall not be unreasonably withheld.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Parties have duly executed this Contract pursuant to all requisite authorizations as of the date first above written.

**(“TOWN”) TOWN OF CEDAR LAKE, LAKE  
COUNTY, INDIANA, TOWN COUNCIL:**

\_\_\_\_\_  
Randell C. Niemeyer, Town Council President

\_\_\_\_\_  
Julie A. Rivera, Town Council Vice-President

\_\_\_\_\_  
Robert H. Carnahan, Town Council Member

\_\_\_\_\_  
John C. Foreman, Town Council Member

\_\_\_\_\_  
Ralph Miller, Town Council Member

\_\_\_\_\_  
Colleen Schieben, Town Council Member

\_\_\_\_\_  
Richard Sharpe, Town Council Member

ATTEST:

\_\_\_\_\_  
Jennifer N. Sandberg, IAMC

**(“DEVELOPER”) BEACON POINTE OF CEDAR  
LAKE LLC**

\_\_\_\_\_  
\_\_\_\_\_, Member

Attest:

\_\_\_\_\_  
\_\_\_\_\_, Title

**Exhibit 1**  
**Legal Description of the Real Estate**

PART OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 34 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, LYING EAST OF THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 44 MINUTES 04 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 27 A DISTANCE OF 1127.76 FEET TO THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 02 DEGREES 10 MINUTES 38 SECONDS EAST ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 2224.36 FEET TO THE CENTERLINE OF THE SLEEPY HOLLOW DITCH; THENCE ALONG SAID CENTERLINE OF THE SLEEPY HOLLOW DITCH FOR THE FOLLOWING 6 COURSES; SOUTH 88 DEGREES 12 MINUTES 16 SECONDS EAST A DISTANCE OF 15.78 FEET; SOUTH 69 DEGREES 57 MINUTES 12 SECONDS EAST A DISTANCE OF 152.51 FEET; SOUTH 57 DEGREES 29 MINUTES 04 SECONDS EAST A DISTANCE OF 408.65 FEET; SOUTH 46 DEGREES 37 MINUTES 15 SECONDS EAST A DISTANCE OF 72.66 FEET; SOUTH 74 DEGREES 23 MINUTES 39 SECONDS EAST A DISTANCE OF 154.14 FEET; SOUTH 63 DEGREES 13 MINUTES 33 SECONDS EAST A DISTANCE OF 116.16 FEET TO THE WESTERLY LINE OF CEDAR BROOK FIRST ADDITION, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 27 PAGE 44, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE NORTH 03 DEGREES 48 MINUTES 27 SECONDS WEST A DISTANCE OF 21.46 FEET TO THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH; THENCE SOUTHERLY AND EASTERLY ALONG THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH TO THE SOUTHWEST CORNER OF LOT 1 IN SAID CEDAR BROOK FIRST ADDITION, SAID POINT BEING SOUTH 03 DEGREES 48 MINUTES 27 SECONDS EAST A DISTANCE OF 58.13 FEET AND SOUTH 42 DEGREES 42 MINUTES 06 SECONDS EAST, A DISTANCE OF 621.77 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SLEEPY HOLLOW DITCH AND THE WESTERLY LINE OF SAID CEDAR BROOK FIRST ADDITION; THENCE SOUTH 89 DEGREES 46 MINUTES 09 SECONDS WEST A DISTANCE OF 117.34 FEET; THENCE SOUTH 11 DEGREES 18 MINUTES 16 SECONDS EAST A DISTANCE OF 537.86 FEET; THENCE SOUTH 07 DEGREES 46 MINUTES 23 SECONDS EAST A DISTANCE OF 39.63 FEET; THENCE SOUTH 06 DEGREES 09 MINUTES 31 SECONDS EAST A DISTANCE OF 242.40 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 27 SECONDS EAST A DISTANCE OF 68.51 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 281.10 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST, A DISTANCE OF 421.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 60.00 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 12 SECONDS EAST A DISTANCE OF 421.30 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 100.00 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 111.15 FEET;

THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 321.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 736.70 FEET TO THE POINT OF BEGINNING.



**Exhibit 2**  
**Preliminary Plat**

**Exhibit 3**  
**Beacon Pointe East of Cedar Lake**  
**Planned Unit Development (PUD) Guidelines**

## **BEACON POINTE EAST OF CEDAR LAKE PLANNED UNIT DEVELOPMENT (PUD) GUIDELINES**

### **I. STATEMENT OF PURPOSE & INTENT**

Beacon Pointe East, located in Cedar Lake, Indiana, is a 50.32 acre residential community consisting of Cottage Homes and Paired Villas. Beacon Pointe East's goal is to provide attractive housing serving the resident's needs.

### **II. AUTHORITY/DEFINITIONS**

Authority. These standards will apply to all property contained within the Beacon Pointe East Planned Unit Development. The guidelines will become the governing standards for review, approval and modification of development activities occurring on the property. The Subdivision Ordinance and Zoning Ordinance, and all applicable regulations for the Town of Cedar Lake will apply where the provisions of this guide do not address a specific subject.

#### Definitions.

1. "HOA" - Homeowner's Association
2. "Lot Width" - Lot Width is the horizontal distance between side lot lines measured at the established front yard setback line.
3. "Planned Unit Development (PUD)" - This Planned Unit Development provides a maximum degree of flexibility to accommodate Cottage Homes and Paired Villas as shown on the drawing attached this PUD Ordinance.
4. "Cottage Home" - Cottage Home is a single family detached dwelling.
5. "Paired Villas" - Two-Unit single-family attached dwellings.

### **III. GENERAL LOCATION, LAND USE, AND LEGAL DESCRIPTION**

Location and Surrounding Land Uses - The proposed community is approximately 50.32 acres and is located south of 136th Avenue, east of Parrish Street, north of 141<sup>st</sup> Avenue and east of the railroad tracks. The property is presently undeveloped. The property is bounded on the west by the railroad tracks, on the south by 141<sup>st</sup> Avenue, on the north by residential and on the east by residential.

Access - Access to the development will be through two (2) entrances on 141<sup>st</sup> Avenue.

Legal Description - See legal description attached hereto as Exhibit "A".

#### **IV. PLANNED UNIT DEVELOPMENT (PUD) GUIDELINES**

Beacon Pointe East provides flexibility to accommodate two (2) types of housing: Cottage Homes and Paired Villas. The land uses identified on the Planned Unit Development (PUD) Plan allow for flexibility to respond to market conditions while maintaining the character and integrity of the development plan. Land use boundaries are conceptual and subject to alteration through approval of Final Plat for the Project Parcel. An approved Final Plat will determine the actual boundary of each parcel.

Transfer of density is permitted between parcels, but in no instance will the total density of this entire residential community exceed 3.25 units per acre.

#### **V. PLANNED UNIT DEVELOPMENT (PUD) PERMITTED USES**

Cottage Homes (Identified as Lots 11-38, 50-69, 75-98 and 110-122 on Preliminary Plat of Beacon Pointe East of Cedar Lake, a Planned Unit Development dated 6/2/20, prepared by DVG, Inc. and approved by the Cedar Lake Plan Commission on \_\_\_\_\_, 2020.)

##### **Permitted Uses:**

1. Single Family Detached Dwelling
2. Open Space

##### **Special Conditions:**

1. Lot Area: 7,000 square feet minimum (56' x 125' deep)
2. Lot Width: 56' minimum
3. Lot Coverage: 40% maximum
4. Building Setbacks:
  - a. Front Yard: 25'
  - b. Side Yard: 7'
  - c. Rear Yard: 20'
5. Drainage and Utility Easements are as indicated on the Plat

##### **Drawing:**

Typical Cottage Home Lot attached as Exhibit "B"

Preliminary architectural drawing of building frontage attached as Exhibit "B-1"

Paired Villas (Identified as Lots 1-10, 39-49, 70-74 and 99-109 on Preliminary Plat of Beacon Pointe East of Cedar Lake, a Planned Unit Development dated 6/2/20, prepared by DVG, Inc. and approved by the Cedar Lake Plan Commission on \_\_\_\_\_, 2020.)

Permitted Uses:

1. Two-Unit Single Family Attached Dwellings
2. Open Space

Special Conditions:

1. Lot Area: 11,250 sq. ft. minimum (90' x 125')
2. Unit Lot Area: 5,625 sq. ft. minimum
3. Unit Lot Width: 45' minimum
4. Unit Lot Coverage: 40% maximum
5. Building Setbacks:
  - a. Front Yard: 25'
  - b. Side Yard: 7'
  - c. Rear Yard: 20'
6. Drainage and Utility Easements are as indicated on the Plat

Drawing:

Typical Paired Villa Lot attached as Exhibit "C"

Preliminary architectural drawing of building frontage attached as Exhibit "C-1"

Open Space (Identified as Outlots "A", "B", "C" and "D" on Preliminary Plat of Beacon Pointe East of Cedar Lake, a Planned Unit Development dated 6/2/20, prepared by DVG, Inc. and approved by the Cedar Lake Plan Commission on \_\_\_\_\_, 2020.)

The following standards will apply for all uses in the Open Space.

Permitted Uses:

Bicycle and walking trails, detention/retention areas, compensatory storage areas, wetlands, wetland buffers, environmental areas, landscape buffers, screening buffers, and open space on lots the primary function of which is to serve the residents and guests of the Planned Unit Development.

## **VI. COMMUNITY DEVELOPMENT REGULATIONS**

### General Development Regulations

1. The Community will be subject to a declaration of covenants and restrictions establishing procedures for architectural and landscape review and maintenance obligations of each of the Homeowner's Associations established.
2. All of the Homeowner's Associations (HOA) will have the obligation to maintain common area facilities, landscaping, entries, signage, trails, and detention areas. These items will not be maintained by the Town of Cedar Lake.
3. Sales offices in unsold units are permitted in each type of housing for the duration of the sale of this Community.
4. Roads and other physical attributes shown on this PUD site plan are conceptual only, and their exact placement may be modified during the construction-plan review process. Notwithstanding the preceding sentence to the contrary, any modifications to the approved site plan and engineering plan shall require Cedar Lake Plan Commission approval.
5. Separate construction entrances may be established and maintained throughout the buildout of the community with Town approval in accordance with the approved Stormwater Pollution Prevention Plan for the PUD.

### PUD Roadway Standards

1. Cottage Homes and Paired Villas
  - 60' Right-of-Way - Cedar Lake Standard
  - 33' Roadway Width - Back to Back of Curb - Cedar Lake Standard
  - 5' Sidewalk at Right-of-Way Line
2. Southwest Entrance
  - 80' Right-of-Way
  - 24' Wide Lanes In & Out
  - 20' Island

3. Southeast Entrance
  - 60' Right-of-Way
  - 33' Roadway Width – Back to Back of Curb – Cedar Lake Standard
4. 141st Avenue Right-of-Way and Widening
  - 30' Right-of-Way Grant - 60' Total
  - Widen North Existing Lane to 18' from Row Center Line (approximate Centerline of Road) (36' for minor arterial) with Cedar Lake Barrier Curb & Gutter
  - 36' Roadway Width - Back to Back of Curb - Cedar Lake Standard
  - Curb North Side of 141st Avenue
  - 5' Sidewalk at Right-of-Way Line, North Side of 141st Avenue
  - Existing pavement to be milled 1.5 inches to centerline and replaced with 1.5 inch HMA seal with centerline joint
  - New roadway sections to be striped in accordance with approved plans
5. Right-of-Ways in PUD Project
  - 80' Right-of-Way at entrance to Project starting at 141<sup>st</sup> Avenue
  - 60' Right-of-Way adjacent to Paired Villas and Cottage Lots
6. Construction of Required Roadway Improvements
  - All other required roadway improvements not explicitly noted above must comply with all Town Ordinances as amended from time to time

## **VII. LIGHTING**

The lighting for Beacon Pointe East shall conform to the Lighting Ordinance of the Town of Cedar Lake, currently Ordinance No. 1264, attached hereto, made a part hereof and marked Exhibit "D", and consisting of thirteen (13) pages.

## **VIII. DOWNSPOUT DISCHARGE**

Based on the size of the side yards in Beacon Pointe East, the downspouts will release at grade at least five (5') feet from adjacent property boundaries.



## **IX. DRIVEWAYS**

All driveways constructed in Beacon Pointe East shall be made of concrete or similar material. In addition, all residential driveway approaches should be a minimum of 6 inches of concrete and 4 inches of #53 aggregate base in accordance with Town Standard Detail No. ST-15.

## **X. LANDSCAPING REQUIREMENTS**

The following shall be the minimum landscape requirements for Beacon Pointe East:

- Paired Villas Lots  
2 Trees  
10 Shrubs
- Cottage Home Lots  
2 Trees  
5 Shrubs

No trees or shrubs shall be on the Town of Cedar Lake prohibited species list.

Detailed landscape plans shall be presented at final plat.

Areas of Outlots A, B, C and D that are disturbed by construction activity and are not below a normal water level shall be permanently seeded.

Permanent seeding shall be a turf grass mix unless otherwise noted.

Compensatory storage area seeding mix shall be Earthsource, Inc., Midwestern Short Stature Wetland Basin Mix (WP6) or approved equal.

## **XI. ENFORCEABILITY**

The Town of Cedar Lake shall have the right to enforce the terms and conditions of the Guidelines against the Developer or any subsequent owner of any parcel in the Beacon Pointe East PUD.

## **XII. LAND USE SUMMARY**

The primary land use categories within Beacon Pointe East:

<u>Land Use</u>	<u>Acres</u>	<u>%</u>
Cottage Homes	16.92	33.6%
Paired Villas	12.10	24.1%
ROW	9.88	19.6%
Total Residential:	38.90	77.3%
Open Space:	11.42	22.7%
Totals:	50.32	100%

## EXHIBIT "A"

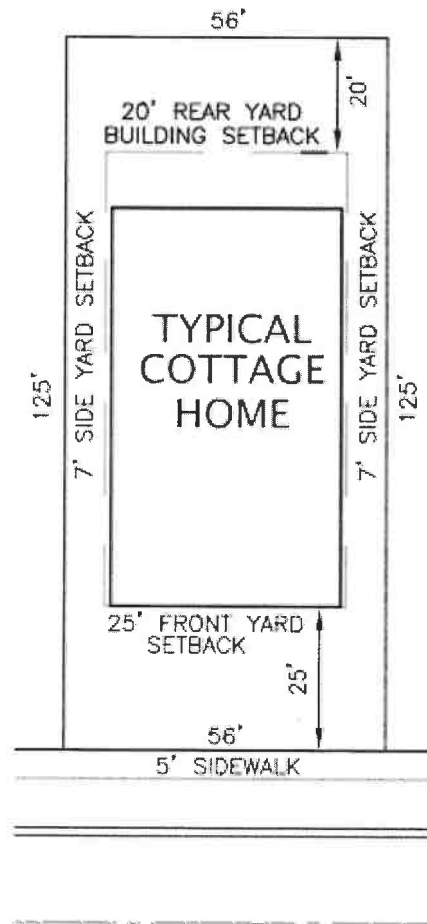
### LEGAL DESCRIPTION

PART OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 34 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, LYING EAST OF THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 44 MINUTES 04 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 27 A DISTANCE OF 1127.76 FEET TO THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 02 DEGREES 10 MINUTES 38 SECONDS EAST ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 2224.36 FEET TO THE CENTERLINE OF THE SLEEPY HOLLOW DITCH; THENCE ALONG SAID CENTERLINE OF THE SLEEPY HOLLOW DITCH FOR THE FOLLOWING 6 COURSES; SOUTH 88 DEGREES 12 MINUTES 16 SECONDS EAST A DISTANCE OF 15.78 FEET; SOUTH 69 DEGREES 57 MINUTES 12 SECONDS EAST A DISTANCE OF 152.51 FEET; SOUTH 57 DEGREES 29 MINUTES 04 SECONDS EAST A DISTANCE OF 408.65 FEET; SOUTH 46 DEGREES 37 MINUTES 15 SECONDS EAST A DISTANCE OF 72.66 FEET; SOUTH 74 DEGREES 23 MINUTES 39 SECONDS EAST A DISTANCE OF 154.14 FEET; SOUTH 63 DEGREES 13 MINUTES 33 SECONDS EAST A DISTANCE OF 116.16 FEET TO THE WESTERLY LINE OF CEDAR BROOK FIRST ADDITION, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 27 PAGE 44, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE NORTH 03 DEGREES 48 MINUTES 27 SECONDS WEST A DISTANCE OF 21.46 FEET TO THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH; THENCE SOUTHERLY AND EASTERLY ALONG THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH TO THE SOUTHWEST CORNER OF LOT 1 IN SAID CEDAR BROOK FIRST ADDITION, SAID POINT BEING SOUTH 03 DEGREES 48 MINUTES 27 SECONDS EAST A DISTANCE OF 58.13 FEET AND SOUTH 42 DEGREES 42 MINUTES 06 SECONDS EAST, A DISTANCE OF 621.77 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SLEEPY HOLLOW DITCH AND THE WESTERLY LINE OF SAID CEDAR BROOK FIRST ADDITION; THENCE SOUTH 89 DEGREES 46 MINUTES 09 SECONDS WEST A DISTANCE OF 117.34 FEET; THENCE SOUTH 11 DEGREES 18 MINUTES 16 SECONDS EAST A DISTANCE OF 537.86 FEET; THENCE SOUTH 07 DEGREES 46 MINUTES 23 SECONDS EAST A DISTANCE OF 39.63 FEET; THENCE SOUTH 06 DEGREES 09 MINUTES 31 SECONDS EAST A DISTANCE OF 242.40 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 27 SECONDS EAST A DISTANCE OF 68.51 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 281.10 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST, A DISTANCE OF 421.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 60.00 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 12 SECONDS EAST A DISTANCE OF 421.30 FEET; THENCE NORTH 89 DEGREES 44

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## EXHIBIT "B"

### TYPICAL COTTAGE HOME LOT



**EXHIBIT "B-1"**

**COTTAGE HOME**

**PRELIMINARY ARCHITECTURAL DRAWING OF BUILDING FRONTAGE**



EXHIBIT "C"

TYPICAL PAIRED VILLA LOT

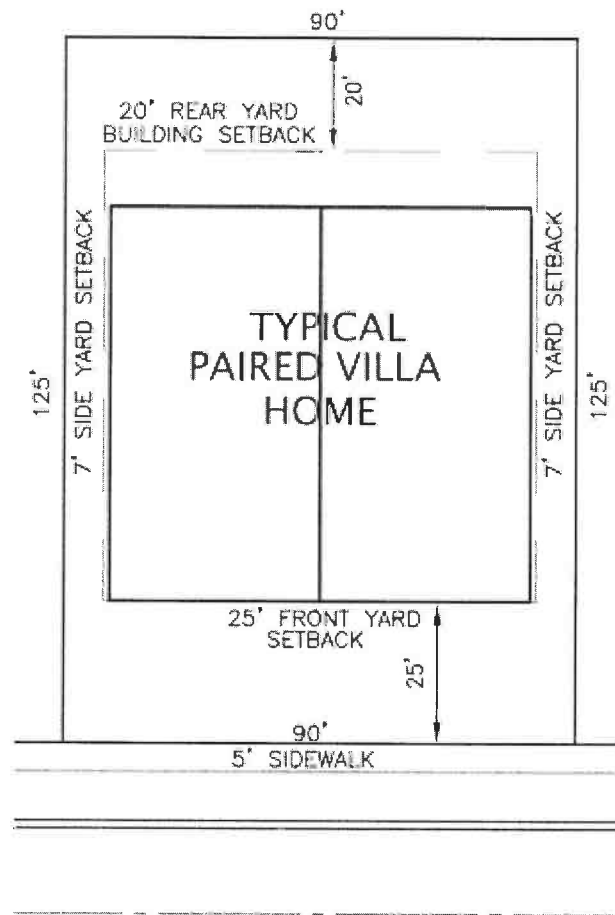




EXHIBIT "C-1"

PAIRED VILLA

PRELIMINARY ARCHITECTURAL DRAWING OF BUILDING FRONTAGE



**Exhibit 4**  
**Declaration of Covenants, Conditions, Restrictions**  
**& Easements for Beacon Pointe East of Cedar Lake**

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS & EASEMENTS  
FOR BEACON POINTE EAST OF CEDAR LAKE**

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BEACON POINTE EAST OF CEDAR LAKE** (this "Declaration") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by Beacon Pointe of Cedar Lake LLC, an Indiana Limited Liability Company (hereinafter referred to as "Declarant"), and MHI Beacon Pointe LLC, an Indiana Limited Liability Company (hereinafter referred to as "Builder").

**RECITALS**

1. All capitalized terms used herein shall have the meaning ascribed to them at the first time they are used herein or in the definition set forth in Article I below.

2. Declarant intends to, and by recording this Declaration does, subject and submit to the provisions of this Declaration the Submitted Parcel as legally described on Exhibit "A" attached hereto. The Development Area is the site of a residential development and from time to time Declarant may, but is not required to, subject additional portions of the Development Area to the provisions of this Declaration as Added Property, as more fully described in Article XVII hereof. Those portions of the Development Area which are not made subject to the provision of this Declaration may be used for any purposes not prohibited by applicable law. Nothing herein shall preclude Declarant from subjecting other property adjacent to or in the vicinity of the Development Area to the provisions of this Declaration.

3. In order to provide for the necessary administration, preservation, maintenance and enhancement of those portions of the Development Area and any other land subject to the provisions of this Declaration, Declarant or Builder will form the Association which shall be responsible for the maintenance of the areas described in Article IV hereof and each Owner of a Residential Unit which is subject to this Declaration (excluding the Declarant and Builder) shall be assessed for such Owner's share of the cost thereof by the Association.

4. Declarant intends by this Declaration to impose upon the portions of the Development Area subject to the provisions of this Declaration mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Submitted Parcel made subject to this Declaration and amendments thereto by the recording of this Declaration. Declarant desires to provide a flexible and reasonable procedure for the development of the Submitted Parcel, and to establish a method for the administration, maintenance, enhancement, preservation, use and enjoyment of the Submitted Parcel and Development Area.

5. Declarant and Builder shall retain certain rights set forth in this Declaration. Prior to the Turnover Date, Builder shall retain the right to appoint all members of the Board and the right to use the Submitted Parcel for the purposes set forth in Section 16.06 hereof.

**NOW, THEREFORE,** Declarant hereby declares that the real property legally described in Exhibit "A" and referred to herein as the Submitted Parcel and such additions thereto, referred to herein as Added Property, as may hereafter be made pursuant to Article XVII hereof, is and shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, burdens, uses, privileges, charges and liens which shall exist at all times hereafter among all parties having or acquiring any right, title or interest in or to any portion of the Submitted Parcel; which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the described Submitted Parcel or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each Owner thereof.

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01.** "**Added Residential Units**" shall mean the Residential Units (or Parcels upon which attached or unattached, as the case may be, single-family dwellings are being completed) comprising the Added Property submitted to the provisions of this Declaration by a Supplemental Amendment in accordance with Article XVII hereof.

**Section 1.02.** "**Added Property**" shall mean any portion of the Development Area submitted to the provisions of this Declaration in accordance with Article XVII hereof.

**Section 1.03.** "**Assessments**" shall mean Assessments for Common Expenses provided for herein or by any Supplemental Amendment or by any other amendment hereof pursuant to Article XIII hereof which shall be used for the purposes of promoting the health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Residential Units against which the Assessment is levied and of maintaining the Residential Units, all as may be specifically authorized from time to time by the Board of Directors, and as more particularly authorized below.

**Section 1.04.** "**Association**" shall mean and refer to Beacon Pointe East of Cedar Lake Homeowners Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Indiana law. The Association shall be organized and governed in accordance with the Articles of Incorporation, and By-Laws, attached hereto as Exhibits "B" and "C", respectively.

**Section 1.05.** "**Builder**" shall mean and refer to MHI Beacon Pointe LLC, an Indiana Limited Liability Company, and its successors and assigns, in specifically acting as Builder hereunder.

**Section 1.06.** "**Common Area**" shall mean (i) all real property (including but not limited to detention ponds) and personal property owned or controlled by the Association and available for the common benefit and/or use of Owners, (ii) the ingress and egress easements shown on

the Plat and the improvements therein, (iii) landmark signage with associated landscaping features, identifying the Subdivision, if installed by Declarant, Builder or the Association, and (iv) all other improvements located on or within the Submitted Parcel owned or controlled by the Association and available for the common benefit and/or use of the Owners or for the maintenance or management of any part of the Development Area.

**Section 1.07. “Common Expenses”** shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, alias may be found to be appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

**Section 1.08. “Community-Wide Standard”** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Development Area. Such standard may be more specifically determined and set forth by the Architectural Review Committee, or by the Board of Directors.

**Section 1.09. “Declarant”** shall mean Beacon Pointe of Cedar Lake, LLC, an Indiana Limited Liability Company, and its successors and assigns in specifically acting as Declarant hereunder. Such successor or assignee shall be deemed a Declarant and entitled to exercise, among other things, all or any rights of Declarant as provided in Article XVI hereof.

**Section 1.10. “Development Area”** shall mean the real estate described on Exhibit “A” hereto with all improvements thereon and any additional real estate, provided only that (a) any portion of the real estate from time to time added to the scheme of this Declaration shall be contiguous to, or across the street from, property then subject to the scheme of this Declaration, (b) any portion of such real estate shall, at the time of addition to the scheme of this Declaration, be platted as residential lots, (c) said plat of added real estate shall dedicate, or commit to dedicate, the Common Area of said plat of real estate, and (d) upon addition of the real estate to the scheme of this Declaration, the owners of the property therein shall be and become subject to this Declaration, and shall have all privileges and obligations set forth in this Declaration, including assessment by the Association.

**Section 1.11. “Insurance Trustee”** shall mean the Association and its successors, unless the Association shall have appointed another entity as Insurance Trustee pursuant to Section 5.06 hereof.

**Section 1.12. “Lot”** shall mean and refer to any lot in the Subdivision herein described, together with any and all improvements thereon, as shown on the plat or plats thereof and designated thereon with a number for identification on which attached or unattached residential structures could be constructed, whether or not such structures have been constructed. Notwithstanding the foregoing, when an attached Residential Unit shall come into existence, a “Lot” shall mean the designated portion of a platted lot upon which such attached Residential Unit is located. In this regard, a platted lot with two (2) attached Residential Units shall be deemed to be two (2) “Lots” for purposes of this Declaration, with each such “Lot” to be designated by a distinct tax key number.

**Section 1.13. “Member”** shall mean and refer to a person or entity entitled to Membership in the Association, as provided herein.

**Section 1.14. “Mortgage”** shall include a deed of trust, as well as a mortgage.

**Section 1.15. “Mortgagee”** shall include a beneficiary or holder of a deed or trust, as well as a mortgagee.

**Section 1.16. “Mortgagor”** shall include the trustor of a deed of trust, as well as a mortgagor.

**Section 1.17. “Occupant”** shall mean and refer to one or more Persons or entities which may at any time be entitled to the use and possession of a Residential Unit, or any part thereof, by leave, license, contract or any other means, whether or not lawful, and shall include, without limitation, Owners, tenants, subtenants, and their guests and invitees.

**Section 1.18. “Owner”** shall mean and refer to one (1) or more persons or entities who hold the record title to any Residential Unit which is part of the Development Area, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Residential Unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner.

**Section 1.19. “Parcel”** shall mean a part of a Lot, fee simple title to which shall be conveyed by deed of the Declarant or Builder to each Owner, upon which an attached or unattached, as the case may be, single-family dwelling is located or to be located, and which may be identified by a separate parcel identification number.

**Section 1.20. “Person”** means a natural person, a corporation, a partnership, limited liability company, trustee or other legal entity.

**Section 1.21. “Plat”** shall collectively mean the real estate legally described in Exhibit “A” under the “Development Area” subheading.

**Section 1.22. “Project”** shall mean the Development Area owned by the Declarant and held for development under a common plan for attached or unattached, as the case may be, single-family dwellings from time to time.

**Section 1.23. “Residential Unit”** shall mean a Parcel and the attached or unattached, as the case may be, single-family dwelling constructed thereon, which is part of the subdivision intended for independent ownership for use and occupancy as a single-family residence. The boundaries of Residential Units shall be the boundary lines of the Parcel conveyed by Declarant or Builder to the Owners. For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a Certificate of Occupancy by the appropriate agency of the Town of Cedar Lake, Indiana.

**Section 1.24. “Subdivision”** shall mean and refer to all such existing properties, and additions thereto and less and excepting any retractions therefrom, as are subject to this Declaration and any supplemental Declaration or Declarations, and shall initially include the real property described in Exhibit “A”.

**Section 1.25. “Submitted Parcel”** shall mean that portion of the Development Area which is described on Exhibit “A” attached hereto, as Exhibit “A” may be amended from time to time, together with all rights appurtenant thereto.

**Section 1.26. “Supplemental Amendment”** shall mean a supplement to this Declaration to submit Added Property to this Declaration in accordance with Article XVII hereof. Such Supplemental Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the Added Property submitted by that Supplemental Amendment to the provisions of this Declaration.

**Section 1.27. “Turnover Date”** shall mean the date on which the right of Builder to select and designate all of the Members of the Board of Directors is terminated pursuant to Section 16.01 hereof.

## ARTICLE II

### PROPERTY RIGHTS

**Section 2.01. Party Wall Rights, Restrictions and Easements.** Subject to any other or additional provisions contained in any written agreement between parties affected, each wall which is built as part of the original construction of an attached single family Residential Unit and placed on the lot line of a Residential Unit shall constitute a party wall and to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and of liabilities for property damage due to negligence or willful acts or omissions shall apply thereto. In the event and to the extent that the center of any wall between attached single family Residential Units shall encroach into or onto the adjacent Residential Unit, the Owner utilizing said party wall shall have a perpetual exclusive easement appurtenant to his attached Residential Unit on and over such adjoining Residential Unit for the maintenance, repair and restoration of such wall and his attached Residential Unit to the extent that the same shall occupy such adjoining Residential Unit, and such wall shall be deemed a party wall for all purposes of this Declaration. The cost of reasonable repairs and maintenance of a party wall shall be shared equally by the Owners who make use of the wall. If a party wall is destroyed or damaged by fire or other casualty, the Owner who has shared the wall may restore it, and if the other owner thereafter makes use of the wall, they shall contribute equally to the cost of restoration thereof, without prejudice however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. Notwithstanding any other provisions of this Declaration to the contrary, any Owner who by his negligence or willful act, or the negligence or willful act of his occupancy causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other owner under this Declaration shall be appurtenant to the land and shall pass to such Owner's successors in title. Easements are hereby declared and granted to Owners having a party wall to install, lay, operate, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components through the party walls of two or more attached single family Residential Units, whether or not such walls lie in all or in part within the boundaries of a Residential Unit. Every portion of an attached single family Residential Unit which contributes to the structural support of another Residential Unit shall be burdened with an easement of structural support for the benefit of the other Residential Units.

**Section 2.02. Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment as between each adjacent Residential Unit due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance necessary to encompass any constructed encroachment, either now existing or arising in the future; provided,



however, in no event shall an easement for encroachment exist if such encroachment occurred due to the intentional, willful, or knowing conduct on the part of any Owner or Occupant.

**Section 2.03. Easements for Utilities, Etc.** Declarant hereby reserves for Builder, Declarant, and its designees (including, without limitation, the Town of Cedar Lake, and any utility) easements upon, across, over and under the Residential Units for ingress, egress, installation, replacing, repairing and maintaining cable television systems, master television antenna systems, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity. This reserved easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept the assignment upon such terms and conditions as are acceptable to Declarant. If this reserved easement is assigned to the Association, the Board shall, upon written request, grant such easements as may be reasonably necessary for the development of the Development Area.

Without limiting the generality of the foregoing, there are hereby reserved for the Town of Cedar Lake, Indiana, easements across all Residential Units for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on Residential Units, except as may be approved by the Association's Board of Directors or as provided in the development and sale by Declarant or Builder. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article II shall in no way adversely affect any other recorded easement on the Submitted Parcel. In addition, no public utility should be relocated from as-built or proposed locations without the written permission of the Town of Cedar Lake Building Department.

**Section 2.04. Right of Entry.** The Association shall have the right and license, but shall not be obligated, to enter into any Residential Unit which is an attached single family dwelling for emergency, security and safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during the reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter such Residential Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board. There is hereby granted to the Association, and its agents, employees, and independent contractors, a license to enter upon all Lots and Parcels to the extent necessary or appropriate for the conduct of the Association's responsibilities under Article IV.

**Section 2.05. Ingress and Egress Easements.** The ingress and egress easements are depicted on the Plat.

**Section 2.06. Non-Exclusive Easements.** Declarant hereby declares the following non-exclusive easements are hereby created with respect to the Common Area, if any:

- a. Each Owner and their respective guests, invitees and employees shall have a non-exclusive easement for use and enjoyment in and to the Common Area subject to

the following: (i) right of the Association to pass reasonable rules and regulations relating to such use and enjoyment, (ii) the right of the Association to suspend an Owner's right to use or enjoy such easement for any period during which such Owner may be in violation of this Declaration, (iii) the right of the Association to levy assessments as herein provided, and (iv) any and all rights reserved to Declarant, Builder and the Association as herein provided.

b. A non-exclusive easement for the installation and maintenance of drainage facilities and utility easements is hereby granted to the Association and reserved by the Declarant over, under, across and through the Common Area. If any such drainage or utility facilities are not installed or in any easements for such purposes are not created with respect to a Lot or Residential Unit or any portion thereof prior to delivery of a Deed to an Owner, said Owner hereby grants to the Declarant and the Association a power of attorney to execute and record any such easements with respect to any Lots or Residential Units owned by said Owner for the benefit of the Subdivision. The foregoing power of attorney is hereby coupled with an interest and is therefore irrevocable.

The Declarant, Builder, Association and any of their respective agents, employees and independent contractors shall have the right to enter upon the Common Area and any Lot or Residential Unit to the extent necessary for the purpose of maintaining, repairing and replacing the Common Area as herein provided or for performing any of their respective obligations herein provided. In any such case, the Declarant, Builder, Association, or any of their agents, employees or independent contractors shall not be guilty of trespass.

### ARTICLE III

#### **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**Section 3.01. Membership and Meeting.** Every Owner shall be deemed to have a membership in the Association. No Owner, whether one (1) or more persons, shall have more than one (1) membership per Residential Unit owned. In the event the Owner of a Residential Unit is more than one (1) person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast for each Residential Unit.

The first annual meeting of the Association shall not be held until such time as the rights of the Builder to appoint directors and to thereby control the Association shall have expired as provided in Section 3.03 of this Declaration or at such earlier time or times as may be determined by the Builder. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board of Directors. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting, elect the Board of Directors of the Association in accordance with the provisions of the By-Laws and transact such other business as may properly come before the meeting.

**Section 3.02. Voting.** The Association shall have one (1) class of membership. Members shall be entitled on all issues to one (1) vote for each Residential Unit in which they

hold an interest required for membership by Section 3.01 hereof; there shall be only one (1) vote per Residential Unit. When more than one (1) person or entity holds such interest in any Residential Unit, the vote for such Residential Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Residential Unit's vote shall be suspended in the event more than one (1) person or entity seeks to exercise it.

Any Owner of Residential Units which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Residential Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary prior to any meeting.

The voting rights of Members shall be subject to the Declarant and/or Builder's rights pursuant to the provisions of Article XVI and Article XVII hereof.

**Section 3.03. Number Terms and Selection of Board of Directors.** The initial Board of Directors shall consist of three (3) directors appointed by the Builder who may but need not be Owners or Members of the Association, and who shall serve those terms of Office as established by the By-Laws. The Builder shall have the right to select and designate all of the directors, and accordingly therefore the right to operate and control the Association, until the Turnover Date. Thereafter, directors shall be elected as otherwise required by the Articles of Incorporation and By-Laws of the Association, and must be Members of the Association.

Notwithstanding any other provision of this Declaration, the Articles of Incorporation, or the By-Laws, from and after the date of the recording of the Declaration until the Turnover Date, the Association shall be governed by the Board of Directors appointed from time to time by Builder. Such Board of Directors so appointed shall exclusively hold all rights and powers which a Board of Directors or the Association would have under this Declaration, the Articles of Incorporation, or the By-Laws, except as specifically limited herein. Such Board of Directors may appoint from time to time from among the Owners of Residential Units, one or more committees to advise and assist it in the performance of its functions. The rights and powers of such Board of Directors shall be limited as follows:

- a. All assessments shall be made in accordance with this Declaration.
- b. Such Board shall have no power to reallocate the voting power among the Members in any manner contrary to this Declaration.
- c. Such Board shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Builder shall have the right to waive, on behalf of the Association, the annual meeting and annual accounting provided for in this Declaration, so long as Builder retains control of the Association. At the time of turnover of control by Builder, a meeting of the Association will be called, at which time the rights and powers of the Builder appointed Board of Directors shall terminate and the Association shall thereafter be governed in accordance with the other provisions of this Declaration, the Articles of Incorporation and the By-Laws. Each Member shall be deemed to have given to Builder an irrevocable proxy to vote on any and all matters on which such Member is entitled to vote under this Declaration, or under the Articles of Incorporation or the By-Laws of the Association. The proxy hereby granted to Builder shall be

deemed to be coupled with an interest and irrevocable. Such proxy shall terminate as of the Turnover Date as set forth above.

## ARTICLE IV

### MAINTENANCE

**Section 4.01. Association's Responsibility.** Unless otherwise provided by an amendment to the By-Laws of the Association by a vote of two-thirds (2/3) of the Members (not two-thirds (2/3) of a quorum), the Association's responsibility for maintenance of the Submitted Parcel (except for services provided by the Town of Cedar Lake) shall be limited to:

- a. the providing for the care of lawns, grass mowing, fertilizing and landscaping (the type and replacement of such landscaping to be determined by the ARC (as hereinafter defined) in its discretion) on each Residential Unit, including the obligation to maintain the irrigation system and provide water for the irrigation system;
- b. grass mowing, maintenance, repair and replacement of the Common Areas, provided that the care of any detention ponds and fountains shall be as described in Section 4.03;
- c. maintenance, repair and replacement of any sign installed by the Association, Declarant or Builder at the entry to the Subdivision on the Submitted Parcel identifying the Subdivision;
- d. the maintenance, repair and replacement of any decorative or landscaping lighting installed by the Association, Declarant or Builder, and the payment of the ongoing utility bills for such lighting;
- e. the removal of the snow from private walks and driveways within twenty four (24) hours, when accumulation is two inches or more, to provide access to the entry door and overhead garage door for each Residential Unit;
- f. the maintaining, repairing and replacing of United States Postal Service approved cluster mailboxes serving several Residential Units ("Cluster Mailboxes").

Notwithstanding anything contained in this Section 4.01 to the contrary, the Association shall not be responsible for repair, replacement and/or maintenance of anything which occurred as a result of an insured loss. In addition, the Association shall not be responsible for repair, replacement and/or maintenance of any item listed in this Section 4.01 which is not due to normal wear and tear. Any repair, replacement and/or maintenance listed in this Section 4.01 which is not due to normal wear and tear shall be at the sole cost and expense of the responsible Owner. The Declarant or Builder, as the case may be, shall be entitled to reimbursement from the Association for any Association related expenses the Declarant or Builder pays for or on behalf of the Association, including but not limited to the Association's responsibilities set forth in this Section 4.01.

**Section 4.02. Owner's Responsibility.** Except as provided in Section 4.01 hereof, all maintenance, repair and replacement of the attached or unattached, as the case may be, single-family residential unit, its sidewalk and driveway located on the Residential Unit thereon

shall be the sole responsibility of the Owner thereof who shall perform such maintenance, repair and replacement in a manner consistent with the Community-Wide Standard of the Project and the applicable covenants; provided, further, the Owner shall be responsible for the following with respect to such Owner's Residential Unit:

- a. removing snow from the rear of the Residential Unit;
- b. the maintenance, repair and replacement of the post light, the light bulbs within the post light and the dusk-to-dawn sensor on the post light on the Residential Unit;
- c. to maintain, repair and replace the Owner's mailbox to Subdivision standards, other than Cluster Mailboxes, as described in Section 4.01(h), above; and
- d. to provide the Association with the Owner's name, address, phone number and insurance company information and to keep the Association informed of any changes thereto.

**Section 4.03. Detention Ponds/Common Areas.** The Declarant has or will convey to the Association certain detention ponds and common areas located in the Submitted Parcel, including but not limited to the following real estate:

Outlots "A", "B", "C", and "D" in Beacon Point East Planned Unit Development, an addition to the Town of Cedar Lake, Lake County, Indiana, Recorded on \_\_\_\_\_, in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, as Document No. \_\_\_\_\_, in the Office of the Recorder of Lake County, Indiana.

The Association, upon delivery of the deed to such real estate, shall be responsible only for the mowing of grass above the water line and the maintenance of fountains, if any, of said ponds and also any and all real estate taxes due on said real estate. Subject to the terms of the foregoing sentence, the Association shall attempt in good faith to follow the Subdivision's Storm Water Best Management Practices Operations and Maintenance Manual.

## ARTICLE V

### **INSURANCE AND CASUALTY LOSSES**

**Section 5.01. Insurance.** The Association may, but shall not, under any circumstances, be obligated to, obtain and continue in effect adequate blanket all-risk casualty insurance in such form as the Board of Directors deems appropriate for the full replacement cost of all structures on the Residential Units, as well as public liability insurance. If the Association elects not to obtain such casualty insurance, then each Owner shall obtain such insurance in accordance with Section 5.02 hereof. All provisions of this Article shall apply to all policy provisions, loss adjustment and all other subjects of all policies of insurance whether such policies are obtained by the Association or the Owners, or both.

The Association, acting through its Board, shall obtain a master casualty policy affording fire and extended coverage insurance insuring the capital assets of the Association in an amount equal to the full replacement value thereof or any improvements located upon the Common Area or reserved easement herein as determined by a qualified property and casualty insurer. The amount shall be determined and the insurance renewed annually.

Each Owner shall also obtain a public liability policy covering the Residential Unit owned by such Owner, and shall name the Association as an additional insured as to such policy. The public liability policy shall have at least a Five Hundred Thousand Dollars (\$500,000.00) limit per occurrence and a One Hundred Thousand Dollar (\$100,000.00) minimum property damage limit. In addition, each Owner upon request of the Association shall provide a copy of the insurance policy or a Certificate to the Association.

Premiums for insurance obtained by the Association shall be a Common Expense of the Association and shall be included in the Assessments, as described in Article IX. Premiums for insurance obtained by Owners shall be paid by such Owners.

All casualty insurance coverage obtained by the Association or by any Owner shall be for the respective benefitted parties, as further identified in b. below. Such insurance shall be governed by the provisions hereinafter set forth.

a. All policies shall be written with a company licensed to do business in Indiana and holding a "secure rating" of A or better as reflected in the current A.M. Best Company, Inc. guide, if reasonably available, or, if not available, the most nearly equivalent rating. Additionally, property damage insurance shall be for the full replacement cost.

b. All policies on Residential Units shall be for the benefit of the Residential Unit Owners and their Mortgagees as their interests may appear. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

c. In no event shall any insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants or their Mortgagees.

d. All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Cedar Lake, Indiana area.

e. The Association's Board of Directors and each Owner shall be required to make reasonable efforts to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Association, its Board of Directors, and manager, the Owners, and each of their respective tenants, servants, agents and guests;

(2) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(3) that no policy obtained by the Association may be canceled, invalidated or suspended on account of any one or more individual Owners;

(4) that no policy may be canceled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or Mortgagee;

(5) that any "other insurance" clause in any policy exclude the Association and individual Owners' policies from consideration; and

(6) that no policy may be canceled or substantially modified without at least ten (10) days' prior written notice to the Association or the Owner.

**Section 5.01A. Other Association Insurance.** In addition to the other insurance required by Section 5.01 hereof, the Board shall also have the authority to and shall obtain, as a Common Expense, the following:

a. Comprehensive public liability and property damage insurance against claims for person injury or death or property damage suffered by the public or by any Owner occurring in or about the streets, sidewalks and passageways and other areas within the Submitted Parcel and/or with respect to the Association's maintenance obligations set forth in Section 4.01 hereof, in such amounts as the Board shall deem desirable.

b. Such workmen's compensation insurance as may be necessary to comply with applicable laws.

c. Employer's liability insurance in such amount as the Board shall deem desirable.

d. Directors' and Officers' liability insurance, as set forth in Section 14.02 hereof.

e. Such other insurance in such reasonable amounts as the Board shall deem desirable.

Such insurance coverage shall include cross liability claims of one or more insured parties against other insurance parties. The premiums for such insurance shall be Common Expenses.

**Section 5.02. Individual Insurance.** By virtue of taking title to a Residential Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance on the Residential Unit and structures constructed thereon as provided for in Section 5.01 hereof, unless the Association carries such insurance, which the Association is not obligated to do. Each individual Owner further covenants and agrees that in the event of any loss or damage and destruction the proceeds of such insurance shall be used only in accordance with this Declaration. In the event that the structure is totally destroyed and by a vote of three-fourths (3/4) of all Members entitled to vote (not three-fourths (3/4) of a quorum), it is determined, subject to the further requirements of Section 5.04 hereof, not to rebuild or to reconstruct, the individual Owner shall clear the Residential Unit of all debris and return it to

substantially the natural state in which it existed prior to the beginning of construction. A decision not to rebuild or reconstruct shall under no circumstances relieve or discharge an Owner from the obligation to pay Assessments to the Association.

**Section 5.03. Disbursement of Proceeds.** Proceeds of insurance policies obtained by the Association shall be paid to the Insurance Trustee to be disbursed as follows:

a. If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction or, in the event no repair or reconstruction is made, shall be disbursed to the affected Owner or Owners and their Mortgagee(s) as their interests may appear. This is a covenant for the benefit of any Mortgagee of a Residential Unit and may be enforced by such Mortgagee.

b. If it is determined, as provided for in Section 5.02 hereof, that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for in Section 5.03a, hereof.

**Section 5.04. Damage and Destruction.**

a. Immediately after the damage or destruction by fire or other casualty to all or any part of a Residential Unit, the Owner of the Residential Unit shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Residential Units. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Residential Units to substantially the same condition in which they existed prior to the fire or other casualty.

b. Any damage or destruction shall be repaired or reconstructed by the Owner unless by a vote of at least three-fourths (3/4) of all Members entitled to vote (not three-fourths (3/4) of a quorum), the Association shall decide within sixty (60) days after the casualty not to require such repair or reconstruction. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction shall be repaired or reconstructed.

c. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the Residential Unit shall be restored to its natural state by the Owner or Owners thereof and maintained as an undeveloped portion of the Project by the Association in a neat and attractive condition.

**Section 5.05. Repair and Reconstruction.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not



sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against the Owner or Owners of Residential Units affected by such damage or destruction. Additional Assessments may be made in like manner at any time during or following the completion of any repair or construction.

**Section 5.06. Appointment of Insurance Trustee.** The Association, as Insurance Trustee, shall have the right to appoint any federal or state bank which is qualified to offer trust services to the public as Insurance Trustee hereunder, and upon such appointment shall be relieved of all liability and responsibility as Insurance Trustee hereunder.

## **ARTICLE VI**

### **NO PARTITION**

Except as is permitted in this Declaration, or amendments thereto, there shall be no physical partition of a Residential Unit, or any part thereof, nor shall any person acquiring any interest in any Residential Unit or any part thereof seek any such judicial partition unless the Submitted Parcel has been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring title to real property which may or may not be subject to this Declaration.

## **ARTICLE VII**

### **CONDEMNATION**

Whenever all or any part of a Residential Unit shall be taken (or conveyed in lieu of and under threat of condemnation by the Owner) by any authority having the power of condemnation or eminent domain, each Owner damaged by such condemnation shall be entitled to pursue all available remedies against the condemning authority. Should any property owned or maintained by the Association as Common Area be affected by the condemnation, the Association shall be entitled to pursue all available remedies against the condemning authority for the damages sustained to such property.

## **ARTICLE VIII**

### **RIGHTS, OBLIGATIONS AND POWERS OF THE ASSOCIATION**

**Section 8.01. Real and Personal Property for Common Use.** The Association, through the actions of its Board of Directors, may acquire, own, lease, hold and dispose of real property and tangible and intangible personal property.

**Section 8.02. Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the operations of the Association, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may be imposed in accordance with Article XII. The Board shall also have the power to seek relief in any court for violations or to abate nuisances.

In addition, the Association shall permit the Town of Cedar Lake, Indiana, to enforce Ordinances on the Submitted Parcel for the benefit of the Association and its Members.

**Section 8.03. Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE IX

### **ASSESSMENTS**

**Section 9.01. Creation of Assessments.** There are hereby created Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 9.06 hereof. Except as provided below, Assessments shall be allocated equally among all Residential Units within the Association and shall be for expenses determined by the Board to be for the benefit of the Association as a whole. Each Owner, by acceptance of his or her deed or recorded contract of sale, is deemed to covenant and agree to pay these Assessments. All such Assessments, together with interest at the rate of twelve percent (12%) per annum, costs, and reasonable attorneys' fees, shall be a charge on the Residential Unit, and shall be a continuing lien upon the Residential Unit against which each Assessment is made.

Each such Assessment together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Residential Unit at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance to the extent expressly assumed, except no first Mortgagee who obtains title to a Residential Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Assessment for delinquent Owners. Unless the Board otherwise provides, the Assessments shall be paid in bi-annual installments.

The Association is specifically authorized to enter into subsidy contracts with Builder or other entities for the payment of some portion of the Common Expenses.

**Section 9.02. Computation of Assessment.** It shall be the duty of the Board, at least thirty (30) days before the beginning of the budget year (the budget year shall be from January 1 through December 31) and ten (10) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming budget year. Subject to the provisions of Section 9.05 hereof, the budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the Assessments to be levied against each Residential Unit for the following budget year to be delivered to each Owner at least seven (7) days prior to the meeting. The budget and the Assessments shall become effective when adopted by the Board of Directors.

Notwithstanding the foregoing, however, in the event that the Board fails for any reason so to determine the budget for the succeeding budget year, then, and until such time as a budget shall have been determined as provided herein, the budget in effect for the then-current year shall continue for the succeeding budget year.

The Board may not, without the vote or written consent of a majority of the votes of the Association, impose an Assessment per Residential Unit which is greater than one hundred fifty percent (150%) of the amount for the previous fiscal year, except for the Assessment levied for the first time.

Upon the Declarant or Builder's sale of a Residential Unit to a third party Owner, the following assessments shall be collected by and for the benefit of the Association at the time of the initial closing on each Residential Unit: (1) an initial closing assessment of Three Hundred Dollars (\$300.00) per Residential Unit, (2) for each unattached Residential Unit (e.g., a cottage home) on a Lot, a yearly Assessment for each such unattached Residential Unit of One Thousand Six Hundred Eighty Dollars (\$1,680.00) per calendar year (prorated for the first year of ownership) or as otherwise determined herein by the Board, and (3) for each Residential Unit attached to only one (1) other Residential Unit (e.g., a paired villa) on a platted lot, a yearly Assessment for each such attached Residential Unit of One Thousand Five Hundred Sixty Dollars (\$1,560.00) per calendar year (prorated for the first year of ownership), or as otherwise determined herein by the Board.

Thereafter, for each unattached Residential Unit (e.g., a cottage home) on a Lot, a yearly Assessment for each such unattached Residential Unit of One Thousand Six Hundred Eighty Dollars (\$1,680.00) per calendar year or as otherwise determined by the Board shall be due and payable to the Association on a pro rata bi-annual basis on or before the first day of January and July each year, or as otherwise determined by the Board. For each Residential Unit attached to only one (1) other Residential Unit (e.g., a paired villa) on a plated lot, a yearly Assessment for each such attached Residential Unit of One Thousand Five Hundred Sixty Dollars (\$1,560.00) per calendar year or as otherwise determined by the Board shall be due and payable to the Association on a pro rata bi-annual basis on or before the first day of January and July each year, or as otherwise determined by the Board.

**Section 9.03. Special Assessments.** In addition to the Assessments authorized in Section 9.01, the Association may levy a Special Assessment or Special Assessments in any year applicable to that year, provided, however, that such Special Assessment for any purpose other than as a sanction against an Owner shall have the vote or written assent of more than fifty percent (50%) of a quorum of Members entitled to vote at a meeting called for the purpose. The Association may also levy a Special Assessment as a sanction against any Owner to reimburse the Association for costs incurred in bringing an Owner and such Owner's Residential Unit into compliance with the provisions of the Declaration, the Amendments thereto, the Articles of Incorporation, the By-Laws, and the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board.

**Section 9.04. Lien for Assessments.** When a notice of the lien has been recorded, such Assessment or Special Assessment shall constitute a perfected lien on each Residential Unit prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgage

or deeds of trust) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Residential Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period owned by the Association, following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Residential Unit shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Residential Unit had it not been acquired by the Association as a result of foreclosure. A suit to recover a money judgment for unpaid Assessments and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

**Section 9.05. Capital Budget and Contributions.** In the event that the Association becomes the owner of any capital asset, or is charged with the duty for the upkeep, maintenance and repair of a capital asset, the Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in any amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual Assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and Assessment, as provided in Section 9.02 hereof. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

**Section 9.06. Subordination of the Lien to First Deeds of Trust and First Mortgages.** The lien of the Assessments, including interest, late charges subject to the limitations of Indiana law, and costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any bona fide first Mortgage upon any Residential Unit. The sale or transfer of any Residential Unit shall not affect the Assessment or Special Assessment lien. However, the sale or transfer of any Residential Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential Unit from lien rights for any Assessments or Special Assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Residential Unit obtains title, his successors and assigns shall not be liable for the share of the Assessments by the Association chargeable to such Residential Unit which became due prior to the acquisition of title to such Residential Unit by such acquirer. Such unpaid share of the Assessments shall be deemed to be Common Expense collectible from all of the Residential Units, including such acquirer, his successors and assigns.

## ARTICLE X

### **ARCHITECTURAL STANDARDS**

This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any real estate subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include within its definition, staking, clearing, excavation, grading and other site work, and no plantings or removal of plants, trees or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the Architectural Review Committee (the "ARC") has been obtained. The ARC shall consist of three (3) members. The initial ARC shall consist of the Declarant and any persons designated by the Declarant. After the Turnover Date, the members of the ARC shall be appointed by the Board of Directors. The ARC shall have exclusive jurisdiction over all modifications, additions or alterations made on or to existing Residential Units and the open space, if any, appurtenant thereto. The original construction of the single-family unit shall be in accordance with the plans and specifications approved by the Declarant. Notwithstanding anything to the contrary in this Declaration, until the Turnover Date the Builder shall solely act as the ARC for purposes of reviewing and potentially approving landscaping and vegetation, privacy dividers, pavers, and the placement of satellite dishes.

**Section 10.01. Architectural Standards.** Notwithstanding that it is the Owner's responsibility to maintain and repair the Residential Unit owned by him and/or her, each Owner agrees that they are prohibited from taking any action with regard to the following:

- a. The reconfiguration of any existing structure of a Residential Unit in any manner whatsoever.
- b. The use of any materials on the exterior of any Residential Unit which is not substantially the same to that which was provided as a part of the original construction, both in quality, color and other appearance.
- c. The erection of clotheslines, awnings, or other similar items or devices.
- d. The use of window coverings which are not white or beige or show a white or beige appearance when viewed from the exterior of the Residential Unit.
- e. The use of mailboxes not in conformity with the quality and style and location of the original mailboxes installed for the Residential Units in accordance with Section 11.11.
- f. The use of exterior lamp posts not in conformity with the quality and style and location of the original exterior lamp posts installed for the Residential Units by the Declarant in accordance with Section 11.12.
- g. No fencing will be permitted for any purpose on a Lot. This provision does not prohibit the ARC from allowing vegetation or PVC privacy dividers, so long as an Owner submits a proposal to the ARC and approval has been obtained. In this regard, no PVC privacy dividers or dividers of similar material will be allowed, except in limited instances when two patios or decks, or two screened patios/decks, or two covered patios/decks are adjacent to one another at the common wall property line between Residential Units within the same building.

In addition to the foregoing prohibitions, each Owner shall have an affirmative obligation to maintain and repair his and/or her Residential Unit in such manner as to maintain at all times the uniformity of appearance of such Residential Unit with all others in the community. Notwithstanding anything contained herein to the contrary, no permission or approval shall be

required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right to an Owner to remodel the interior of his residence, or to paint the interior of his residence any color desired.

**Section 10.02. Architectural Construction and Landscaping Standards and Use Restrictions for Residential Units.** No structure shall be erected, including exterior remodeling or additions to existing Residential Units, or permitted on any Lot in the Subdivision until plans and specifications for that structure have been submitted to and approved in writing by the Declarant until control of the Association is turned over to the Owners and at that time, then approved in writing by the ARC. A "structure" is defined as any building, pool, driveway, breeze way, pond, kennel, playhouse, barn, or any other building or fixture that is permanent.

Each contractor or Owner must submit to the Declarant and/or the ARC and receive the Declarant's or ARC's written approval of the following items before any construction on any structure may begin:

- a. Drawings showing all four elevation and masonry areas;
- b. Floor plan showing square footage;
- c. Site plan showing grade plan, placement of the structure on the Lot and the location of driveway and walkways;
- d. Landscape and sidewalk plans; and
- e. Provide a detail of materials and manufacturer specifications to be used.

The Builder may submit a single set of plans for multiple structures and Lots and the ARC may approve or disapprove such plans either individually or collectively. The ARC's approval or disapproval as required in these Covenants shall be in writing. In the event the ARC, or its designated representative, fails to approve or disapprove within thirty (30) days after the plans and specifications have been submitted to it, approval by the ARC will be presumed, provided that no structure, as previously defined, shall be erected which violates any of the Covenants or restrictions as set forth in this Declaration.

Refusal or approval of plans and specifications by the ARC may be based upon any ground, including purely aesthetic ones.

The ARC reserves the power to make exceptions to these restrictions and covenants as it deems proper.

Whether or not a provision specifically states in any conveyance of any Parcel by the Declarant, its successors or assigns, the owner or occupancy of any Parcel, by acceptance of title thereto or by taking possession, covenants and agrees to adhere to all of the covenants, restrictions, duties, obligations and procedures as set forth in this documents.

None of the Declarant, the Builder, the Association, the ARC, or their respective representatives, or any member thereof, shall be liable for any damage, loss, or prejudice

suffered or claimed by any contractor or Owner or Occupant which submits such a plan or specification on account of:

- (i) Any effects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Article X;
- (ii) Any structural defects in any work done according to the plans and specifications;
- (iii) The approval or disapproval of any plans, drawings and specifications, whether or not defective;
- (iv) The construction or performance of any work, whether or not done pursuant to approved plans, drawings and specifications; or
- (v) The development of any real estate in the Subdivision.

Any person or entity submitting plans or specifications to the Declarant or the ARC, or their representatives, or any member thereof, shall hold them harmless from all damage, loss, or prejudice suffered or claimed by any third party, including attorney's fees incurred.

During construction on any Lot in the Subdivision, the contractor on that Lot shall remove all trash and debris resulting from construction on the Lot. Each building of a Residential Unit in the Subdivision shall maintain a dumpster for all construction debris and mud, although a single dumpster may be used for multiple Lots. Each contractor other than Builder will specifically be held responsible for clearing the roadway of all mud and debris placed on the road by any contractor, subcontractor or material man. No debris shall be burned or disposed of on any real estate in the Subdivision.

All exterior work in the construction of any Residential Unit, including driveways, shall be completed within nine months from the date of the issuance of the building permit. Extensions of time, for good cause, may be granted by the ARC.

No improvement which has been partially or totally destroyed by fire or other reason, shall be allowed to remain in that state for more than ninety (90) days from the date of such destruction or damage. Extensions of time, for good cause, may be granted by the ARC.

**Section 10.03.**      **Minimum Building Requirements**. Any Residential Unit shall meet the following minimum requirements:

- a. All Residential Units shall be erected by a general contractor licensed by the Town of Cedar Lake.
- b. There shall be no quad level, tri-level and/or bi-level Residential Units.
- c. Any Residential Unit erected on any Parcel shall erect an attached garage and in addition thereto shall provide a minimum of two (2) off-street parking spaces which shall consist of a driveway. All driveways and parking areas shall be comprised of concrete or as otherwise approved by the ARC. No driveways or off-street parking areas shall be located in any required rear yard.

**Section 10.04. Landscaping.**

a. Within three (3) months from the date of occupancy of any Residential Unit, the contractor on any Parcel shall sod all front and sides facing or fronting a street and shall seed or sod all side and rear yards not covered by porches, patios, driveways, or sidewalks, provided however that seeding shall be not required between October 15<sup>th</sup> and April 30<sup>th</sup> if occupancy occurs after September 15<sup>th</sup> of each year. Each required front, side and rear yard, as defined and required by Area Width and Yard Regulations of the Cedar Lake Zoning Ordinance.

b. Any Residential Unit erected on any Parcel shall connect all footing and sump drainage to the public storm sewer, provided however that downspouts or other roof or surface drainage shall be discharged to the Parcel surface and not the storm sewer, provided further, that driveways may drain to the street curb. No downspout, sump pump or other storm or drainage discharges shall be connected or emptied into the sanitary sewers serving the Subdivision.

c. Each Lot with an unattached Residential Unit (e.g., a cottage home) shall have at least two (2) trees and five (5) shrubs such Lot. Lots with only two (2) attached Residential Units (e.g., a paired villa) shall have at least two (2) trees and ten (10) shrubs collectively for such two (2) attached Residential Units. No trees or shrubs shall be planted or maintained which are listed on the Town of Cedar Lake prohibited species list.

**Section 10.05. Driveway Requirements.** No Residential Unit or structure erected or placed on any Parcel in the Subdivision shall be occupied in any manner at any time prior to the installation and construction thereon by the contractor thereof (at the contractor's sole expense), of a concrete driveway from the street to the garage provided, however, that this requirement may be extended for a period not to exceed one hundred twenty (120) days in the event such Residential Unit shall be ready for occupancy during a time when inclement weather or labor strike shall prevent the construction and installation of such driveway.

**Section 10.06. Exterior Color Plan.** The Declarant shall have final approval of all exterior color plans and each contractor must submit to the Declarant, and then upon the Declarant's resignation to the ARC, a color plan showing the color of the roof, exterior walls, shutters, trim, etc. It shall then be considered the extent to which the color plan is consistent with the homes in the surrounding areas and the extent to which the color plan conforms with the natural color scheme of and for the Subdivision.

**ARTICLE XI**

**USE RESTRICTION**

**Section 11.01. Residential Restrictions.** The Lots subject to this Declaration may be used for attached and unattached single-family residential units, and for no other purpose. Any and all business, trade, or similar activity is prohibited, except that an Owner or occupant residing in a dwelling on a Lot may conduct business activities within the dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling; (b) the business activity conforms to all Town of Cedar Lake



zoning requirements; (c) the business activity does not involve door to door solicitation of residents of the Subdivision; (d) the business activity does not generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Subdivision which is noticeably greater than that which is typical of dwellings in which no business activity is being conducted; and (e) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in a full or part time manner; (ii) such activity is intended to or does generate a profit; or (iii) a license is required. The only exception hereto is any model provided by the Declarant or Builder to promote the sales of the Parcels and/or Residential Units. The Association, acting through the Board of Directors, shall have standing and the power to enforce the use restrictions contained herein as well as those stated in the Ordinances of the Town of Cedar Lake as if all of such provisions were regulations of the Association.

**Section 11.02. Nuisances.** No nuisances shall be allowed upon any Residential Unit nor shall any use or practice be allowed which would annoy residents or interfere with the peaceful possession and proper use of the Residential Units by its residents, or which will obstruct or interfere with the rights of other Owners or the Association. This provision shall not be construed to prohibit or limit the enforcement of any provision of the Declaration which does not constitute a nuisance, or to prohibit the Association from adopting Rules and Regulations prohibiting conduct which does not constitute a nuisance.

In addition, the following shall apply to all Parcels and Owners of any portion of a Parcel described herein:

- a. No burning of refuse shall be permitted.
- b. The use of any driveway or parking area which may be in front of or adjacent to or part of any Parcel as a habitual parking place for commercial vehicles is prohibited. The term "commercial vehicles" shall include all trucks (larger than 3/4 ton), construction equipment and vehicular equipment which bear signs or have printed on the side of said vehicle reference to any commercial undertaking or enterprise. Commercial vehicles shall also include all limousines for hire. The habitual violation of the parking regulations set forth in this paragraph shall be deemed a nuisance. Pick-up trucks (3/4 ton or smaller) and vans (3/4 ton or smaller), with or without a commercial name, shall be an exception to this exclusion.
- c. No buildings shall be located or maintained within the utility and drainage easements within the real estate. The removal of such as required by the Town of Cedar Lake, Lake County, Indiana, or any public utility or governmental agency, shall be at the sole cost and expense of the Parcel Owner.
- d. No plants or seeds, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Parcel.

e. No Owner shall allow the temperature within its attached single family dwelling on a Residential Unit to fall below the minimum temperature of 60° Fahrenheit.

f. No fences shall be allowed on individual lots with the exception of HOA maintained fences noted on the approved plans submitted to the Town of Cedar Lake.

g. All exterior HVAC systems shall not be permitted in any sideyard.

**Section 11.03. Immoral, Improper, Offensive and Unlawful Uses.** No immoral, improper, offensive or unlawful use shall be made of any Residential Unit nor any part thereof and all laws, zoning ordinances and regulations of all governmental bodies regarding the maintenance, modification or repair of Residential Units shall be the same as provided in Article IV hereof.

**Section 11.04. Uses Affecting Insurance Rates.** An Owner shall not permit or suffer anything to be done or kept in a Residential Unit which will increase the insurance rates on any other Residential Unit.

**Section 11.05. Signs and Other External Items.** No Owner shall display any sign (except for temporary but tasteful "for sale" or "for rent" signs, but only after the Turnover Date), advertisement or notice of any type on the exterior of a Residential Unit, and no Owner shall erect any exterior antennae, aerials or awnings upon any Residential Unit. No clothesline or other similar device shall be allowed on any portion of any Residential Unit.

**Section 11.06. Antennae and Satellite Dishes.** No above-ground communication, electric or television lines or cable shall be placed by any Owner anywhere in the Development Area other than within homes or dwellings. No television or radio antenna, earth station dish, pole, wire, rods, satellite dish over twenty inches (20") in diameter, or other device used in connection with the reception or transmission of any television, radio or any other electrical signal shall be erected or maintained on the exterior of any home or dwelling or on any part of a Parcel. An Owner who desires to install a permitted satellite dish must attempt in good faith to properly screen such dish from the view of surrounding Parcels or place such dish in the rear of the Owner's Parcel, with the final location and screening of the satellite dish to be approved by the ARC.

**Section 11.07. Animals.** An Owner may not keep, raise or breed any animals, livestock or poultry in or on a Residential Unit, provided, however, that no more than two (2) pets shall be allowed to be kept in or on a Residential Unit, subject to the Rules and Regulations of the Association. Notwithstanding anything contained herein to the contrary, the Association may impose a Special Assessment against any Owner for (a) repairs or replacements required to be made to the exterior of the unit or the landscaped areas as a result of damage created by the Owner's animal, and/or (b) the Owner's failure to clean up after said pets. No animals shall be allowed to run loose at any time and no dog be allowed to continuously bark, yelp, whine or howl by the Owner of any Residential Unit.

**Section 11.08. Vehicles.** No recreational vehicles, motor homes, campers, boats, boat trailers, recreational equipment and trailers or other motor vehicles, except four-wheel passenger automobiles, shall be placed, parked or stored upon any Lot for more than forty-eight (48) hours, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a fully enclosed building and totally isolated from public view.

**Section 11.09. Plants, Plant Material.** The planting materials are to be located and shall be reasonably maintained at the Owner's expense so as to present a healthy, neat and orderly appearance, free from refuse and debris. All unhealthy and dead material shall be replaced within six (6) months or the next appropriate planting season. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of the Lot unless approved by the Builder or ARC.

**Section 11.10. Rubbish Trash, Garbage and Nuisance.** No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot or any portion thereof and all trash receptacles shall be kept in sanitary containers and shall be stored inside the garage. No firewood, scrap wood, limbs, branches, compost, composters, paper, bottles, tires or similar substances, filth, rubbish trash or noxious substance shall be collected or remain on any Lot or any part thereof which causes damage, prejudice or discomfort to others or the public or creates a breeding ground for insects or vermin.

**Section 11.11. Mailboxes.** The Declarant shall select and designate a standard mailbox and post as well as the styles of Cluster Mailboxes. Subject to the provisions of Section 4.01(h) for Cluster Mailboxes, the Owner of the Residential Unit shall cause such standard mailbox and post to be installed prior to the occupancy of the Residential Unit. No exterior newspaper receptacles shall be permitted in the Development unless part of the standard mailbox. Subject to the provisions of Section 4.01(h) for Cluster Mailboxes, the Owner shall cause such standard mailbox to be maintained and/or replaced, if necessary, at the Owner's expense.

**Section 11.12. Exterior Post Lights.** The Declarant shall adopt and designate a standard exterior post light for all Lots and may designate a standard location for such exterior post light. The Owner of the Residential Unit shall cause such standard exterior post light to be installed prior to the occupancy of the Residential Unit. The Owner shall be required to maintain and replace said standard exterior post light. Exterior post lights shall be on and illuminated from dusk to dawn unless the Association shall provide otherwise by rule or regulation. No exterior lighting fixture, other than the post light approved by the Builder or landscape lighting shall be installed in the front yard of any Residential Unit.

**Section 11.13. Flag Poles.** Flag poles are permitted, provided the flag pole is not more than twenty-five (25) feet in height.

**Section 11.14. Air Conditioning Units.** No window or wall unit air conditioners or heating systems (HVAC) shall be installed on any Residential Unit.

**Section 11.15. Storage Sheds.** No free standing structures, detached garages, metal, prefab or steel storage sheds of any kind shall be erected on any Parcel.

**Section 11.16. Temporary Structures.**

a. No trailer, basement or incomplete building, tent, shack, garage, barn, motorized home and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent, on any Parcel.

b. Temporary buildings or structures used during the construction of a Residential Unit shall be on the same Parcel as the Residential Unit, and such buildings or structures shall be promptly removed upon the completion of construction. Such temporary buildings or structures must first be approved by the Declarant.

c. No building shall be moved from another location to a Parcel. No modular home, log cabin, prefabricated residential unit, steel frame or foam/concrete composite residential unit shall be erected on any Parcel.

**Section 11.17. Parcel Maintenance.** Each Parcel shall at all times be kept in a clean and sightly condition. No trash, litter, junk, boxes, containers, bottles or cans shall be permitted to collect or remain exposed on any Parcel, except as necessary during the period of construction and in approved containers. The Owner of each Parcel shall be responsible for the cutting or removal of weeds periodically on such Parcel so as to conform with the requirements, Ordinances and regulations of the Town of Cedar Lake, Indiana.

**Section 11.18. Outdoor Furniture, Play Facilities.** Outdoor furniture, equipment, and facilities shall be maintained in good "like new" condition and shall not be stored or maintained so as to create an eyesore or nuisance to neighboring houses or residents. No swing sets, slides or other children's play equipment, bikes or toys may be kept or maintained outside on a Parcel.

**Section 11.19. Discharge of Contaminants.** The discharge or dumping of any harmful chemicals, paper, boxes, metal, wire, junk or other refuse on or in any area shall be prohibited and the cost of removing same shall be borne by the party depositing or causing the same to be deposited thereon. In the event the responsible person or party cannot be determined, then the Parcel Owner shall be responsible for the removal and cleaning of the Parcel. Garbage containers may not be stored outside.

**Section 11.20. Swimming Pools.** No swimming pools, either above or below ground, or hot tubs shall be permitted on any Parcel.

**Section 11.21. Underground Wiring.** No lines or wires for communication or the transmission of electrical current or power shall be constructed, placed or permitted to be placed anywhere in Subdivision other than within buildings or Residential Units or attached to their walls, unless the same shall be contained in conduits or approved cable, constructed, placed and maintained underground.

**Section 11.22. Rules and Regulations.** Rules and Regulations concerning the use of the Residential Units may be promulgated and amended by the Association acting by and through its Board of Directors each of which shall be deemed to be incorporated herein by reference and made a part hereof, as amended from time to time; provided, however, copies of all such Rules and Regulations shall be furnished to each Owner prior to the time that the same shall become effective. All Rules and Regulations promulgated from time to time shall be deemed to be reasonable and enforceable, so long as they bear any relationship to the safety, health, happiness and enjoyment of life of all of the Owners, are in furtherance of a plan to provide for the congenial occupation of the Residential Units, to promote and protect the cooperative aspects of ownership, the value of the Residential Units, and/or facilitate the administration of the community as a first class, safe, healthy, happy, quiet and restful residential community, and are not arbitrary and capricious. The Board of Directors of the

Association is hereby granted the specific power and authority to enforce said rules and regulations in accordance with the provisions of Article XII.

## ARTICLE XII

### ENFORCEMENT

Each Owner and Occupant of a Residential Unit shall be governed by and shall comply with the terms of this Declaration and the Articles of Incorporation, By-Laws, and the Rules and Regulations of the Association adopted pursuant thereto as the same may be amended from time to time. The Declarant and Builder shall have no personal or other liability, obligation or responsibility to enforce this Declaration or any part thereof. A default or violation by an Owner or Occupant of a Residential Unit shall entitle the Association or, in lieu thereof, any other Owner or Owners to the following remedies (i.e., any other Owner or Owners may act apart from and in place of the Association and/or the Board of Directors in administering and enforcing the provisions of this Article XII):

#### **Section 12.01. Authority and Administrative Enforcement and Procedures.**

a. Authority. Lots and Residential Units shall be used only for those uses and purposes set out in this Declaration, and subject to the covenants and restrictions set forth herein, and in the By-Laws and Rules and Regulations of the Association. The Board of Directors shall have the power and authority to impose reasonable Special Assessments in accordance with Section 9.03 hereof, which shall constitute a lien upon the Owner's Residential Unit and to suspend an Owner's right to vote, and to approve other appropriate sanctions in the event that it is determined in accordance with this Article XII that an Owner or Occupant has violated any provision of this Declaration, the By-Laws, or the Rules and Regulations as duly promulgated.

b. Procedure. The Board of Directors shall not impose a Special Assessment as a sanction, suspend the right to vote, or infringe upon any other rights of an Owner or Occupant for any such violations unless and until the following procedure is followed:

(1) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (a) the alleged violation; (b) the action required to abate the violation; and (c) a time period, not less than ten (10) days, during which the violation may be abated without further sanction.

(2) Notice. If the violation continues past the period allowed in the demand for abatement without sanction, the Association shall serve the violator with written notice of a hearing. The notice shall contain: (a) the nature of the alleged violation; (b) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (c) an invitation to attend the hearing and produce any statements, evidence and/or witnesses in his/her behalf; and (d) the proposed sanction to be imposed.

(3) Hearing. The hearing shall be held in executive session by the Board of Directors pursuant to the notice affording the violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, the invitation to be heard, the written result and statements of the sanction shall be placed in the

minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting.

c. Sanctions. The Board of Directors' power and authority to impose sanctions shall be governed by the following provisions:

(1) All Special Assessments imposed upon a violator under this Article shall bear a reasonable relationship to the violation, considering all the circumstances, which may include, but shall not be limited to, the following:

(a) The actual costs and expenses incurred by the Board of Directors and the individual directors in the exercise of the power and authority under this Article XII (including but not limited to reasonable attorneys fees and costs), and in otherwise attempting to remedy the violation.

(b) The amount of actual damage done to other Owners and Occupants and/or their Residential Units and/or to the Association arising out of the violation or the efforts to remedy the effects of same.

(c) The amount which would be reasonably required to compensate the Association for the disruption of and inconvenience to, the community, the Association or any Member thereof, or Occupant of a Residential Unit.

(d) The extent to which the violation is or was flagrant, and the extent to which the violator cooperated or hindered in any effort to remedy the violation.

(2) All Special Assessments amounts imposed hereunder as a sanction shall be deemed to be a part of the Assessment attributable to the Residential Unit occupied by the violator, and shall be assessed against said Residential Unit and its Owner as a Special Assessment to be due and payable on the date that the next Assessment payment would be due, and any such special Assessments which are not paid as of that date shall become a lien on such Residential Unit, and shall be collected and enforced in the same manner as Assessments.

(3) Nothing herein contained shall be construed as granting to the Board of Directors the power or authority to impose such a Special Assessment which is punitive in nature, or to suspend an Owner's right to vote, unless the Board of Directors finds, by specific special findings of fact in accordance with the foregoing procedure, that the violator's conduct was willful, malicious, oppressive and outrageous in nature. Said special findings of fact shall specifically set forth all facts and circumstances.

(4) All other sanctions imposed shall be reasonably related to the violation found.

(5) The decision of the Board of Directors shall be made in accordance with the foregoing procedures, and shall be final.

**Section 12.02. Legal Remedies.** In addition to the administrative remedies set forth in Section 12.01 hereof, the legal remedies may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, an action to enforce the sanctions imposed by administrative procedure, or any combination thereof. The prevailing party shall be entitled to recover the costs of any legal proceeding including reasonable attorneys' fees.

**Section 12.03. No Waiver of Rights.** The failure of the Association or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations or by law shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or condition in the future.

**Section 12.04. No Election of Remedies.** All rights, remedies and privileges granted to the Association or any Owner pursuant to any terms, provisions, covenants or conditions of the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations or by law shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges.

## **ARTICLE XIII**

### **AMENDMENT**

The Declaration and the Articles of Incorporation, By-Laws, and Rules and Regulations may be amended in the following manner:

**Section 13.01. Declaration.** Subject to Article XIV, Article XV and Article XVII, amendments to the Declaration shall be proposed and adopted as follows, provided, however, that no amendment may revoke, remove, or modify any right or privilege of the Declarant or Builder, without such party's written consent.

a. **Notice.** Notice of the subject matter of any proposed amendment shall be included in the Notice of any meeting of the Board of Directors or Owners at which any proposed amendment is to be considered.

b. **Resolution.** Except as provided in subparagraph (d) hereof, a resolution to amend the Declaration may be adopted by the affirmative vote of not less than three-fourths (3/4) of the Members (not three-fourths (3/4) of a quorum), at any regular or special meeting of the Members called and held in accordance with the By-Laws; provided, however, that any such amendment must also be approved and ratified by not less than three-fourths (3/4) of the Board of Directors (not three-fourths (3/4) of a quorum).

c. **Recording.** The amendment shall not be effective until a certified copy thereof is recorded in the Office of the Recorder of Lake County, Indiana. A copy of any such amendment shall also be sent to each Owner and his Mortgagee by registered or certified mail; provided, however, the mailing of such amendment shall not constitute a condition precedent to the effectiveness of such amendment.

d. Amendments by Declarant. Notwithstanding any other provision of the Declaration, and in addition to any other right to amend elsewhere set forth herein, the Declarant alone may amend this Declaration, or the Articles of Incorporation, By-Laws, and Rules and Regulations, without the consent of the Owners, the Association, the Board of Directors or any Mortgagee, or any other Person, to: (1) correct scrivener's errors, minor defects or omissions, (2) comply with the requirements of Indiana law, (3) comply with the requirements of any governmental agency, public authority, or title insurance company, (4) comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by each sell, insure or guarantee first mortgages covering Residential Units, (5) induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering residential units, (6) designate additional Lots, Parcels, Residential Units, Residential Units, and/or Outlots within the Submitted Parcel and Development Area, which will then be specifically subject to the terms and conditions of this Declaration under such designations, or (7) add additional covenants, conditions and restrictions to this Declaration covering such areas of the Submitted Parcel and Development Area in which Declarant and/or its designated assigns then own and control.. This subparagraph (d) shall constitute an irrevocable special power of attorney to Declarant coupled with an interest on behalf of all Owners, Mortgagees, and any and all other Persons having an interest of any kind in the Submitted Parcel, for so long as Declarant owns any portion of the Development Area and it shall become effective upon the recording of a copy thereof in the Office of the Recorder of Lake County, Indiana. A copy of such amendment shall also be sent to all Owners and their Mortgagees in the manner provided in subparagraph (c) hereof.

**Section 13.02. Articles of Incorporation, By-Laws and Rules and Regulations.** The Articles of Incorporation, By-Laws and Rules and Regulations of the Association shall be amended in the manner provided by such documents or by law.

## **ARTICLE XIV**

### **GENERAL PROVISIONS**

**Section 14.01. Term.** The covenants and restrictions of this Declaration shall run with and bind the Submitted Parcel, and shall inure to the benefit of an shall be enforceable by the Association or the Owner of any Parcel or Residential Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then-Owners, has been recorded within the year preceding and the beginning of each successive period often (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

**Section 14.02. Indemnification.** The Association shall indemnify every Officer and Director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding



(including settlement of any suit or proceeding, if approved by the then-Board of Directors), to which he or she may be a party by reason of being or having been an Officer or Director. The Officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, or any other acts or omissions of any nature whatsoever as such Directors and Officers except for any acts or omissions found by a Court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the Directors and each of the Officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association, or arising out of their status as Directors or Officers, unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include an indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director or Officer may be involved by virtue of such person being or having been such Director or Officer; provided, however, that such indemnity shall not be operative with respect to: (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board of Directors, there is not reasonable grounds for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer. Any right to indemnification provided for herein shall be not exclusive of any other rights to which any Officer or Director, or former Officer or Director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and Officers' and Directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 14.03. Perpetuities.** If any of the covenants, conditions, restrictions, easements or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Section 14.04. Re-recording of Declaration.** If at any time or times the Board shall deem it necessary or advisable to re-record this Declaration, or any part thereof, in the Office of the Recorder of Deeds of Lake County, Indiana, in order to avoid the expiration hereof or of any of the covenants or other provisions herein contained, it shall subject the matter to a meeting of the Members of the Association called upon not less than ten (10) days notice, and unless at such meeting at least two-thirds (2/3) of said Members shall vote against such re-recording; the Board shall have and is hereby granted, power to so re-record this Declaration or such part thereof, and such re-recording shall be binding upon all Owners or any part of the Property in every way and with all the full force and effect as though such action were taken by each of said Owners and the re-recorded document executed and acknowledged by each of them.

**Section 14.05. Restrictions, Conditions, Covenants, Liens and Charges.** Each grantee of Declarant or Builder, by taking title to a Parcel and each purchaser under any contract for a deed of conveyance pursuant to which said grantee will take title, accepts said title subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all

impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, and the rights described in this Section or described in any other part of this Declaration shall be sufficient to create and reserve such rights to the respective grantees, mortgagees and trustees of such Parcel as fully and completely as though such rights were recited fully and set forth in their entirety in any such documents.

**Section 14.06. Enforcement of Covenants.** Declarant, Builder and each Owner from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants and obligations herein set forth, or any of them, in addition to the right to bring a legal action for damages. Whenever there shall have been built (or whenever there is being built) on any Parcel any improvement which is and remains in violation of the covenants set forth, or any of them, for a period of thirty (30) days after delivery of written notice thereof (in the manner provided in Article XII hereof) from Declarant, Builder or the Association to the Owner of any such Parcel, then Declarant, Builder or the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily to abate or remove it at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant, Builder and the Owners to enforce any of the covenants or obligations herein provided due to a particular violation be deemed to be a waiver of the right to do so respecting any such violation or any subsequent violation.

**Section 14.07. Special Amendment.** Declarant hereby reserves the right and power to record a special amendment (hereafter referred to as "Special Amendment") to this Declaration at any time and from time to time which amends this Declaration: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or grant first mortgages encumbering any Lot, Parcel or Unit, or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereof. In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elects to record at any time and from time to time for any other purpose, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be, said power shall be irrevocable. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot, Parcel or Residential Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. Subject to the provisions of Article XIV hereof, the right of the Declarant to act pursuant to rights reserved or granted under this

Section shall terminate at such time as the Declarant no longer holds title to any Lot, Parcel or Residential Unit.

**Section 14.08. Ownership Under a Trust.** In the event that title to any Parcel is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Parcel remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants, obligations and undertakings chargeable or created under this Declaration against any such Lot, Parcel or Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply, in whole or in part, against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon said Parcel and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to any such Parcel.

**Section 14.09. Owner's Obligation to Maintain and Repair.** Each Owner shall, at Owner's sole cost and expense, maintain and repair Owner's residence and structures keeping the same in a condition comparable to the condition of such residence and structures at the time of its initial construction.

**Section 14.10. Self Help.** In addition to any other remedies provided for herein, the Declarant, the Builder, the Association, or their respective duly authorized agents shall have the power to take such remedial action, activity or otherwise perform or take such action or obligation of a defaulting Owner to bring a Lot into compliance with this Declaration. The Declarant, the Builder, the Association, or their respective duly authorized agents may enter upon a Lot or any portion of the Subdivision (including Common Area) to abate or remove, using such force as may be reasonably necessary, any construction, erection, thing or condition which violates this Declaration, the Architectural Guidelines, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Declarant, the Builder or the Association, as the case may be, shall give the violating Lot Owner thirty (30) days' written notice of its intent to exercise remedial activity (self help). All costs of the Declarant, the Builder or the Association's remedial activity (self help), together with interest at the rate of twelve percent (12%) per annum, including attorneys' fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein. No liability shall be assumed or imposed by the Declarant, the Builder and/or the Association's exercise or failure to exercise such remedial activity. Notwithstanding the foregoing, in the event of an emergency or the blockage or material impairment of the easement rights granted hereunder, the Declarant, the Builder or Association may immediately cure the same and be reimbursed by the defaulting Owner upon demand for the reasonable cost thereof together with interest as above described.

**Section 14.11. Notices.** Any notices required to be sent to any Owner under any provision of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the Person who appears as owner on the records of the Lake County Auditor's official property tax records at the time of such mailing.

**Section 14.12. Usage.** Whenever used, the singular shall include the plural and singular, and the use of any gender shall include all genders.

**Section 14.13. Effective Date.** This Declaration, or any amendment hereto, shall become effective upon its recordation in the Office of the Recorder of Lake County, Indiana.

**Section 14.14. Severability of Invalid or Unenforceable Provisions.** If any term, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By Laws or the Rules and Regulations is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other terms, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By Laws or the Rules and Regulations. If any part of this Declaration, or any term, covenant, provision, phrase or other element, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Indiana, then the said laws shall be deemed controlling and the validity of the remainder of the Declaration and the application of any other term, covenant, provision, phrase or other element in other circumstances shall not be affected thereby.

**Section 14.15. Captions.** Captions used in this Declaration, the Articles of Incorporation, the By Laws and the Rules and Regulations are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration, the Articles of Incorporation, the By Laws and the Rules and Regulations.

**Section 14.16. Binding Effect.** This Declaration shall be binding upon and inure to the benefit of each Owner, its successor, grantees, assigns and the legal representatives thereof.

**Section 14.17. Recitals.** The recitals set forth at the beginning of this Declaration are hereby made a part of and incorporated into this Declaration by reference.

## ARTICLE XV

### **MORTGAGEES' RIGHTS**

The following provisions are for the benefit of holders, insurers, or guarantors of first Mortgages on Residential Units. To the extent applicable, necessary, or proper, the provisions of this Article XV apply to both this Declaration and to the By-Laws of the Association. Where indicated, these provisions apply only to "Eligible Holders," as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

**Section 15.01. Notices of Action.** An institutional holder, insurer, or guarantor of a first mortgage, who provides written request (such request to state the name and address of such holder, insurer or guarantor and the Residential Unit address), to the Association (thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- a. any proposed termination of the Association;
- b. any condemnation loss or any casualty loss which affects a material portion of the Submitted Parcel or which affects any Residential Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

- c. any delinquency in the payment of Assessments or charges owed by an Owner of a Residential Unit subject to the Mortgage of such Eligible Holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days;
- d. any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- e. any proposed action which would require the consent of Eligible Holders, as required in Section 16.02 hereof.

**Section 15.02. Mortgagee's Rights Respecting Amendments to the Declaration.** To the extent possible under applicable Indiana law, and notwithstanding the provisions of Article XIII, any amendment of a material nature must be approved by Eligible Holders representing at least fifty-one percent (51%) of the votes of Residential Units that are subject to Mortgages held by Eligible Holders. An amendment to any of the following shall be considered material:

- a. voting rights;
- b. Assessments, Assessment liens, or subordination of Assessment liens;
- c. responsibility for maintenance and repairs;
- d. boundaries of any Residential Unit;
- e. expansion of the Development Area (to include real estate not described in Exhibit "A" or not adjacent thereto nor in the vicinity thereof);
- f. insurance or fidelity bonds;
- g. imposition of any restrictions on an Owner's right to sell or transfer his or her Residential Unit;
- h. restoration or repair of the Submitted Parcel (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration;
- i. any action to terminate the legal status of the Submitted Parcel after substantial destruction or condemnation occurs, provided, however, that any action to terminate the legal status of the Project for reasons other than substantial destruction or condemnation shall require the consent of Eligible Holders or Owners representing sixty-seven (67%) of the votes of Residential Units; or
- j. any provisions that expressly benefit mortgage holders, insurers or guarantors.

**Section 15.03. Special FHLMC Provision.** So long as required by FHLMC, the following provisions apply in addition to and not in lieu of the foregoing two (2) Sections of this Article. Unless at least two-thirds (2/3) of the first Mortgagees or Owners provide their written consent, the Association shall not:

- a. by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Common Area which the Association owns, directly or indirectly (the

granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a transfer);

- b. change the method of determining the obligations, Assessments, dues or other charges which may be levied against the Owner;
- c. by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residential Units and of any Common Area;
- d. fail to maintain fire and extended coverage insurance, as required by this Declaration; or
- e. use hazard insurance proceeds for any Common Area losses for other than the repair, replacement of reconstruction of such.

The provisions of this Section 15.03 shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Owners where a larger percentage vote is otherwise required for any of the actions contained in this Section.

**Section 15.04. Mortgagee's Right to Cure.** First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for any Common Area, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

## ARTICLE XVI

### **DECLARANT AND BUILDER'S RIGHTS**

**Section 16.01. Control.** Notwithstanding any of the other provisions of this Declaration or the By-Laws to the contrary, and in addition to any other right or privilege given or granted or reserved to Builder under this Declaration, the first and all subsequent Board of Directors shall consist solely of three (3) individuals designated by Builder, which individuals may but need not be Owners or Members until the first to occur of any of the following (the "Turnover Date"):

- a. Thirty (30) days after Declarant has conveyed to purchasers for value all of the Residential Units proposed for the Development Area;
- b. The expiration of twenty (20) years from the date of the recording of this Declaration; or
- c. The date on which the Builder elects to terminate its sole control by the delivery of written notice of such election to the Owners.

**Section 16.02. Absence of Warranty.** THE DECLARANT AND BUILDER EACH SPECIFICALLY DISCLAIM ANY WARRANTY OR REPRESENTATION IN CONNECTION WITH THE SUBMITTED PARCEL OR DEVELOPMENT AREA OR THIS DECLARATION EXCEPT AS SPECIFICALLY SET FORTH HEREIN; AND NO PERSON SHALL RELY UPON

ANY WARRANTY OR REPRESENTATION NOT SPECIFICALLY SET FORTH THEREIN. ANY ESTIMATES OF ASSESSMENTS ARE BELIEVED TO BE ACCURATE, BUT NO WARRANTY OR GUARANTY IS MADE OR INTENDED, NOR MAY ONE BE RELIED UPON.

**Section 16.03. Assessment Exemption.** Declarant and Builder shall each be exempt from any Assessment levied by the Association on any or all Residential Units owned by the Declarant, Builder and/or such party's designees which are unoccupied and offered by the Declarant or Builder for sale.

**Section 16.04. Right to Amend Declaration.** The Declarant or Builder shall have the right to amend the Declaration, and the Articles of Incorporation, By-Laws, and Rules and Regulations, in accordance with Section 13.01(d) hereof.

**Section 16.05. Transfer of Rights.** Any or all of the special rights and obligations of the Declarant or Builder may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument signed by the Declarant or Builder, as the case may be, and duly recorded in the Office of the Recorder of Lake County, Indiana.

**Section 16.06. Reserved Rights and Easements.** Notwithstanding any provisions herein to the contrary, Declarant and Builder each hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel, for the benefit of Declarant, Builder, or either of its successors, and assigns over, under, in, and/or on the real estate and any portion of the Development Area which becomes part of the Submitted Parcel, without obligation and without charge to Declarant or Builder, for the purposes of construction, installation, relocation, development, maintenance, repair, replacement, use and enjoyment and/or otherwise dealing with the Submitted Parcel and Development Area. The reserved easement shall constitute a burden on the title to all or any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel and specifically includes, but is not limited to:

- a. the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in all or any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel; and the right to tie into any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel with driveways, parking areas, streets, and drainage systems; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, Internet, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over all or any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel, and in connection therewith the right to store construction equipment and materials in appropriate areas in areas owned by Declarant or Builder without payment of any fee or charge whatsoever; and
- b. the right to construct, install, replace, relocate, maintain, repair, use and enjoy model units, parking spaces, signs, lighting, construction offices, business offices and

sales offices as, in the sole opinion of Declarant or Builder, may be required, convenient, or incidental to the construction of improvements and sale of units in all or any portion of the Submitted Parcel and Development Area;

c. no rights, privileges, and easements granted or reserved herein shall be merged into the title of any Residential Unit within the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit claim deed from Declarant or Builder releasing its respective right, privilege, or easement by express reference thereto with respect to all or any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel.

This Section 16.06 may not be amended without the prior written consent of Declarant or Builder as to their respective rights under this Section.

## **ARTICLE XVII**

### **ANNEXATION OF ADDITIONAL PROPERTY**

**Section 17.01. Annexation Without Approval of Membership.** As the Owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant and Builder shall jointly have the right, privilege and option, from time to time at any time until the end of the twentieth (20th) year after the recording of this Declaration, to annex, submit and subject to the provisions of this Declaration, all or any part of the Development Area, or other property adjacent to or in the vicinity of the Development Area, by recording an amendment to this Declaration ("Supplemental Amendment") as hereinafter provided. For the purposes of this Article, any portion of the Development Area which is made subject to this Declaration by a Supplemental Amendment shall be referred to as "Added Property", any Lot in the Added Property shall be referred to as an "Added Lot" and any Parcel in the Added Property shall be referred to as an "Added Parcel." Added Property may be made subject to the Declaration at different times and there is no limitation on the order in which Added Property may be made subject to this Declaration. There is no limitation on the location of improvements which may be made on Added Property and no particular portion of the Development Area must be made subject to this Declaration.

**Section 17.02. Power to Amend.** In furtherance of the foregoing, Declarant and Builder jointly reserve the right to record a Supplemental Amendment, at any time and from time to time prior to twenty (20) years from the date of recording hereof, which amends those portions of this Declaration necessary to reflect the Added Property and the effect of the Added Lots.

**Section 17.03. Effect of Amendment.** Upon the recording of a Supplemental Amendment by Declarant and Builder which annexes and subjects Added Property to this Declaration, as provided in this Article, then:

a. The restrictions, conditions, covenants, reservations, lien, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Property (including Added Lots and Added Parcels) and inure to the benefit of and be the personal obligation of the Owners of Added Parcels in the same manner, to the same extent, and with the same force and effect that this Declaration applies to the



Submitted Parcel and Owners of Parcels which were initially subjected to this Declaration.

b. Every Person who is an Owner of an Added Parcel shall be a Member of the Association on the same terms and subject to the same qualifications and limitations as those Members who are Owners of Parcels.

c. Each Owner of an Added Parcel shall pay the same monthly Assessment as the Owner of an existing Parcel; provided, however, the Owner of an Added Parcel shall not be required to pay any installment of a Special Assessment levied to cover a deficit under a prior year's budget.

d. The amount of the lien for Assessments, charges or payments levied against an existing Parcel prior to the recording of the Supplemental Amendment shall not be affected.

Such Supplemental Amendment shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of such Supplemental Amendment unless otherwise provided herein. Declarant and Builder shall jointly have the right to transfer to any other person the said right, privilege and option to annex such Added Property which is herein reserved to Declarant and Builder jointly, provided that such transferee or assignee shall be the developer or builder of at least a portion of such Added Property and that such transfer is memorialized in a written, recorded instrument.

**Section 17.04. Amendment.** This Article XVII shall not be amended without the written consent of Declarant and Builder, so long as the Declarant or Builder owns any portion of the Development Area.

**Section 17.05. Annexation of Common Areas.** If, at any time pursuant to this Article XVII, property is annexed adjacent to or in the vicinity of the Development Area, including but not limited to the property described in Exhibit "A," and said property includes property deemed Common Area, then it shall be the responsibility of the Association to maintain, repair and replace any part of the common area including but not limited to any retention or detention ponds.

## ARTICLE XVIII

### **LIMITATION OF LIABILITY**

**Section 18.01. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IT IS EXPRESSLY AGREED, AND EACH OWNER, BY ACCEPTING TITLE TO A LOT AND BECOMING AN OWNER ACKNOWLEDGES AND AGREES, THAT NONE OF DECLARANT OR BUILDER (INCLUDING WITHOUT LIMITATION ANY ASSIGNEE OF THE INTEREST OF DECLARANT OR BUILDER HEREUNDER), NOR ANY MEMBERS OR MANAGERS OF DECLARANT OR BUILDER (OR ANY MEMBER, PARTNER, OFFICER, DIRECTOR OR SHAREHOLDER IN ANY SUCH ASSIGNEE) SHALL HAVE ANY LIABILITY, PERSONAL OR OTHERWISE, TO ANY OWNER OR OTHER PERSON, ARISING UNDER, IN CONNECTION WITH, OR RESULTING FROM (INCLUDING WITHOUT LIMITATION RESULTING FROM ACTION OR FAILURE TO ACT WITH RESPECT TO) THIS DECLARATION EXCEPT, IN THE CASE OF DECLARANT OR BUILDER (OR ITS

RESPECTIVE ASSIGNEE), TO THE EXTENT OF ITS INTEREST IN THE SUBDIVISION; AND, IN THE EVENT OF A JUDGMENT NO EXECUTION OR OTHER ACTION SHALL BE SOUGHT OR BROUGHT THEREON AGAINST ANY OTHER ASSETS, NOR BE A LIEN UPON SUCH OTHER ASSETS OF THE JUDGMENT DEBTOR.



Printed Name: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

**BEFORE ME**, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by \_\_\_\_\_ in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

My Commission Expires: \_\_\_\_\_  
County of Residence: \_\_\_\_\_

STATE OF INDIANA )  
 )  
COUNTY OF LAKE ) SS:

**BEFORE ME**, a Notary Public in and for said County and State, personally appeared MHI Beacon Pointe LLC, an Indiana limited liability company, by \_\_\_\_\_, and acknowledged the execution of the foregoing instrument to be its free and voluntary act.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

My Commission Expires: \_\_\_\_\_  
County of Residence: \_\_\_\_\_

EXECUTED AND DELIVERED in my presence:

Printed Name: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

**BEFORE ME**, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by \_\_\_\_\_ in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

My Commission Expires: \_\_\_\_\_  
County of Residence: \_\_\_\_\_

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

/s/ Mark R. Anderson

Printed Name: Mark R. Anderson

This instrument prepared by:

Mark R. Anderson, #21524-53  
Anderson & Anderson, P.C.  
9211 Broadway  
Merrillville, IN 46410  
(219) 769-1892

## EXHIBIT "A"

### Submitted Parcel and Subdivision

(TO BE INSERTED)

### Development Area

PART OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 34 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN LAKE COUNTY, INDIANA, LYING EAST OF THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 27; THENCE SOUTH 89 DEGREES 44 MINUTES 04 SECONDS EAST ALONG THE SOUTH LINE OF SAID SECTION 27 A DISTANCE OF 1127.76 FEET TO THE EASTERLY RIGHT OF WAY OF THE MONON RAILROAD AND THE POINT OF BEGINNING; THENCE NORTH 02 DEGREES 10 MINUTES 38 SECONDS EAST ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 2224.36 FEET TO THE CENTERLINE OF THE SLEEPY HOLLOW DITCH; THENCE ALONG SAID CENTERLINE OF THE SLEEPY HOLLOW DITCH FOR THE FOLLOWING 6 COURSES; SOUTH 88 DEGREES 12 MINUTES 16 SECONDS EAST A DISTANCE OF 15.78 FEET; SOUTH 69 DEGREES 57 MINUTES 12 SECONDS EAST A DISTANCE OF 152.51 FEET; SOUTH 57 DEGREES 29 MINUTES 04 SECONDS EAST A DISTANCE OF 408.65 FEET; SOUTH 46 DEGREES 37 MINUTES 15 SECONDS EAST A DISTANCE OF 72.66 FEET; SOUTH 74 DEGREES 23 MINUTES 39 SECONDS EAST A DISTANCE OF 154.14 FEET; SOUTH 63 DEGREES 13 MINUTES 33 SECONDS EAST A DISTANCE OF 116.16 FEET TO THE WESTERLY LINE OF CEDAR BROOK FIRST ADDITION, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 27 PAGE 44, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE NORTH 03 DEGREES 48 MINUTES 27 SECONDS WEST A DISTANCE OF 21.46 FEET TO THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH; THENCE SOUTHERLY AND EASTERLY ALONG THE NORTHERLY BANK OF SLEEPY HOLLOW DITCH TO THE SOUTHWEST CORNER OF LOT 1 IN SAID CEDAR BROOK FIRST ADDITION, SAID POINT BEING SOUTH 03 DEGREES 48 MINUTES 27 SECONDS EAST A DISTANCE OF 58.13 FEET AND SOUTH 42 DEGREES 42 MINUTES 06 SECONDS EAST, A DISTANCE OF 621.77 FEET FROM THE INTERSECTION OF THE CENTERLINE OF SLEEPY HOLLOW DITCH AND THE WESTERLY LINE OF SAID CEDAR BROOK FIRST ADDITION; THENCE SOUTH 89 DEGREES 46 MINUTES 09 SECONDS WEST A DISTANCE OF 117.34 FEET; THENCE SOUTH 11 DEGREES 18 MINUTES 16 SECONDS EAST A DISTANCE OF 537.86 FEET; THENCE SOUTH 07 DEGREES 46 MINUTES 23 SECONDS EAST A DISTANCE OF 39.63 FEET; THENCE SOUTH 06 DEGREES 09 MINUTES 31 SECONDS EAST A DISTANCE OF 242.40 FEET; THENCE SOUTH 02 DEGREES 57 MINUTES 27 SECONDS EAST A DISTANCE OF 68.51 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 281.10 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST, A DISTANCE OF 421.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 60.00 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 12 SECONDS EAST A DISTANCE OF 421.30 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 100.00 FEET; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST, A DISTANCE OF 111.15 FEET; THENCE SOUTH 00 DEGREES 22 MINUTES 12 SECONDS WEST A DISTANCE OF 321.30 FEET TO THE SOUTH LINE OF SAID SECTION 27; THENCE NORTH 89 DEGREES 44 MINUTES 04 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 736.70 FEET TO THE POINT OF BEGINNING.

**EXHIBIT "B"**  
**ARTICLES OF INCORPORATION**  
**FOR**  
**BEACON POINTE EAST OF CEDAR LAKE HOMEOWNERS ASSOCIATION, INC.**

**TO BE PROVIDED**



**EXHIBIT "C"**  
**BY-LAWS**  
**FOR**  
**BEACON POINTE EAST OF CEDAR LAKE HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**

**NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS**

**Section 1. Name.** The name of the Association shall be Beacon Pointe East of Cedar Lake Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

**Section 2. Principal Office.** The principal office of the Association in the State of Indiana shall be located at 2300-A Ramblewood Drive, Highland, Indiana 46322. The Association may have such other Officers, either within or without the State of Indiana, as the Board of Directors may determine or as the affairs of the Association may require.

**Section 3. Definitions.** The words used in these By-Laws shall have the same meaning as set forth in that Declaration of Covenants and Restrictions for Beacon Pointe East of Cedar Lake (said Declaration, as amended, renewed or extended from time to time is hereinafter sometimes referred to as the ADeclaration"), unless the context shall prohibit.

**ARTICLE II**

**ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES**

**Section 1. Membership.** The Association shall have one (1) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

**Section 2. Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

**Section 3. Annual Meetings.** The first annual meeting shall not be held until such time as the rights of the Builder to appoint all of the Board of Directors and to thereby control the Association shall have expired as provided in the Declaration, or at such earlier time or times as may be determined by the Builder. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting after the Turnover Date, elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

**Section 4. Special Meetings.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10%) of the total votes of the Association. The notice of any special meeting

shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 5. Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by first class mail, to each Member entitled to vote at such meeting, not less than ten (10) days nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

**Section 6. Waiver of Notice.** Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted there at unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

**Section 7. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five percent (25%) of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Lot or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

**Section 10. Majority.** As used in these By-Laws, the term “majority” shall mean those votes, owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total number.

**Section 11. Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of forty percent (40%) of the votes of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transaction occurring there at.

**Section 13. Action without a Meeting.** Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

### **ARTICLE III**

#### **BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

##### **A. Composition and Selection.**

**Section 1. Governing Body; Composition.** The business of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

**Section 2. Directors during Builder Control.** The Directors shall be selected by the Builder acting in its sole discretion and shall serve at the pleasure of the Builder until such time as is specified in the Declaration, unless the Builder shall earlier surrender this right to select Directors. The Directors selected by the Builder need not be Owners or residents in the Subdivision. After the period of Builder appointment, all Directors must be Members of the Association.

**Section 3. Number of Directors.** The Board of Directors shall consist of three (3) persons.

**Section 4. Nomination of Directors.** Except with respect to Directors selected by the Builder, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates

shall have a reasonable opportunity to communicate their qualifications to the Members or solicit votes.

**Section 5. Election and Term of Office.** Notwithstanding any other provision contained herein:

At the first annual meeting of the membership after the termination of the Builder's right to select all of the Board of Directors and at each annual meeting of the membership thereafter, Directors shall be elected. All Directors shall be elected at-large. All Members of the Association shall vote upon the election of Directors. The term of each Director's service shall be for a period of three (3) years and extending thereafter until his successor is duly elected and qualified or until he is removed, provided, however, that the terms of the members to the initial Board of Directors shall be for periods of three (3) years, two (2) years, and one (1) year, such that there shall be only one (1) vacancy each year on the Board of Directors occasioned by the expiration of the director's term.

**Section 6. Removal of Directors and Vacancies.** Unless the entire Board is removed from Office by the vote of the Association Members, an individual Director shall not be removed prior to the expiration of his or her term of office, except by the votes of a majority of the votes of the Members. In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

**Section 7. Voting Procedure for Directors.** The first election of the Board shall be conducted at the first meeting of the Association after the Turnover Date. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

**B. Meetings.**

**Section 8. Organization Meetings.** The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

**Section 9. Regular Meetings.** Regular meetings of the Board of Directors may be held as such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

**Section 10. Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one (1) of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by electronic mail. All such notices

shall be given or sent to the Director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or electronic mail shall be delivered, telephoned or emailed at least seventy-two (72) hours before the time set for the meeting.

**Section 11. Waiver of Notice.** The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

**Section 12. Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 13. Compensation.** No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

**Section 14. Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

**Section 15. Open Meeting.** All meetings of the Board of Directors shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

**Section 16. Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

**Section 17. Action without a Formal Meeting.** Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

**C. Powers and Duties.**

**Section 18. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of all Association's affairs and, as provided by applicable law, may do all acts and things as are not by the Declaration, Articles of Incorporation or these By-Laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one (1) of its Members the authority to act on behalf of the Board of Directors on all matters related to the duties of the managing Agent or Manager, if any, which might arise between meetings of the Board of Directors. In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;

(b) making Assessments to defray the Common Expenses, establishing the means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment, provided otherwise determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;

(c) providing for the operation, care, upkeep, and maintenance of any Common Area;

(d) designating, hiring, and dismissing the personnel or independent contractors necessary for the maintenance, operation, repair and replacement by the Association of its property and any Common Area, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel or independent contractors in the performance of their duties;

(e) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of any common area in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.

(m) make available to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage or any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, Rules and Regulations, and all other books, records, and financial statements of the Association; and

(n) permit utility supplies to use portions of the Development Area reasonably necessary to the ongoing development or operation of the Lots.

**Section 19. Management Agent.**

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the power set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 18 of this Article. The Declarant, the Builder, or an affiliate of the Declarant or Builder, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.

**Section 20. Accounts and Reports.** The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) cash basis accounting shall be employed;

(b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash disbursements limited to amounts of Twenty-five Dollars (\$25.00) and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; any thing of value received shall benefit the Association;

(e) any financial or other interest which the Managing Agent may have in any firm providing goods and services to the Association shall be disclosed promptly to the Board of Directors; and

(f) commencing at the end of the month in which the first Residential Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:

(i) an Income and Expense Statement reflecting all income and expense activity for the preceding three (3) months on a cash basis;

(ii) a Balance Sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year;

(iii) a Delinquency Report listing all Owners who have been delinquent during the preceding three (3) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which remain delinquent on the fifteenth (15th) day of each month; and

(iv) an annual report consisting of at least the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) a statement of changes in financial position for the fiscal year. If said report is not prepared by an independent accountant, it shall be accompanied by the Certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

**Section 21. Borrowing.** The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of any Common Area and facilities without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in Section 10.03 of the Declaration of Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**Section 22. Rights of the Association.** With respect to any Common Areas or other Association responsibilities owned, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Directors of the Association.

#### **ARTICLE IV**



## **OFFICERS**

**Section 1. Officers.** The Officers of the Association shall be a President, Vice President, Secretary and Treasurer. The Board of Directors may elect such other Officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem appropriate, such Officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more Offices may be held by the same person, excepting the Offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

**Section 2. Election, Term of Office and Vacancy.** The Officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any Office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 3. Removal.** Any Officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

**Section 4. Powers and Duties.** The Officers of the Association shall each have such powers and duties as generally pertain to their respective Offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the Chief Executive Officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 5. Resignation.** Any Officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice, or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) Officers or by the President and Treasurer or by such other person or persons, as may be designated by resolution of the Board of Directors.

## **ARTICLE V**

### **COMMITTEES**

Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed as required by applicable law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee, or with rules adopted by the Board of Directors.

## **ARTICLE VI**

### **MISCELLANEOUS**

**Section 1. Fiscal Year.** The calendar year shall be the fiscal year. The initial fiscal year of the Association shall be a short year ending on December 31.

**Section 2. Parliamentary Rules.** Except as may be modified by Board resolution establishing modified procedures, *Robert's Rules of Order*, (current edition) shall govern the conduct of Association proceedings when not in conflict with applicable Indiana law, the Articles of Incorporation, the Declaration or these By-Laws.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the provisions of Indiana law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Indiana law, the Declaration, the Articles of Incorporation and the By-Laws (in that order) shall prevail.

**Section 4. Books and Records.**

(a) **Inspection by Members and Mortgagees.** The Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Subdivision as the Board shall prescribe.

(b) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

**Section 5. Notices.** Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) if to Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such owner; or

(b) if to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such address as shall be designated by the notice in writing to the Owners pursuant to this Section.

**Section 6. Amendment.** Builder may amend the By-Laws in accordance with the Declaration. These By-Laws may be amended otherwise only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total votes of the Association (not a majority of a quorum).

**TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA**

**ORDINANCE NO: 1361**

**AN ORDINANCE ESTABLISHING A ROSE GARDEN ESTATES PUD PROJECT INFRASTRUCTURE IMPROVEMENT CONTRIBUTION ("IIC") SPECIAL REVENUE NON-REVERTING FUND, AND ALL MATTERS RELATED THERETO.**

**WHEREAS**, the Town Council of the Town of Cedar Lake, Lake County, Indiana (hereinafter, the "Town Council"), did, on the 19th day of February, 2019, approve and adopt a Planned Unit Development Zone Map Amendatory Ordinance ("Ordinance No. 1319") for the Rose Garden Estates PUD Project located on West 141<sup>st</sup> Avenue between Parrish Avenue and U.S. Route 41, in the Town of Cedar Lake; and

**WHEREAS**, the Town Council approved and adopted the Planned Unit Development Zone Map Amendatory Ordinance No: 1319 for the aforementioned Rose Garden Estates PUD Project (hereinafter, the "Project") upon proposal by Lennar Homes of Indiana, Inc., a Delaware Corporation, formerly known as CalAtlantic Homes of Indiana, Inc., as Developer (hereinafter, "Developer"), and acceptance by the Town Council, on behalf of the Town of Cedar Lake, for an IIC to be made by the Developer at the time of application for and issuance of a Building Permit for construction of a new residential home in said Project; and

**WHEREAS**, the Town Council and the Developer, have concurred and agreed in its PUD Contract concerning said that the IIC to be paid by Developer at the time of Building Permit issuance shall be for use by the Town Council, on behalf of the Town of Cedar Lake, for any designated public infrastructure deemed necessary or appropriate by the Town Council; and

**WHEREAS**, the Town Council, in its review and assessment of said IIC to be paid by the Developer pursuant to the Planned Unit Development, at the time of application for a Building Permit and issuance of same by the Town that said IIC may be utilized for any Municipal Infrastructure purposes deemed appropriate by the Town Council on behalf of the Town of Cedar Lake; and

**WHEREAS**, the Town Council and the Developer, and each of them, concur and agree that the IIC amount to be paid by the Developer at the time of Building Permit application and issuance of same by the Town would be the amount of One Thousand Dollars (\$1,000.00) per Unit; and

**WHEREAS**, the Town Council has been informed and advised that it may establish and maintain a special revenue non-reverting fund for specific delineated purposes, including for the public infrastructure use purposes set forth herein, all pursuant to the provisions of I.C. §36-1-3, et seq., as amended from time to time, and in conformance with all other applicable law.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, AS FOLLOWS:**

**SECTION ONE:** That there is hereby established for the Town of Cedar Lake, Lake County, Indiana, by the duly elected legislative body, the Town Council, pursuant to the provisions of I.C. §36-1-3, et seq., as amended from time to time, and for establishment within the Designated Budget and General Fund of the Town, a Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund for the Town of Cedar Lake.

**SECTION TWO:** That the established Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Non-Reverting Fund shall be funded from the IIC payment in the amount of One Thousand Dollars (\$1,000.00) paid by Developer, at the time of application for a Building Permit for any new residential home structure in the Project, upon issuance of said Permit. All such funds collected shall be processed and deposited into the now-established Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund, as designated.

**SECTION THREE:** That the Funds deposited into the Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund shall be reviewed annually by the Town Council. The funds collected and deposited into the Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund shall be utilized for public infrastructure purposes, including utilities, road and public ways, storm drainage, and any and all other public infrastructure uses, whether above ground or below ground, as directed and needed. The funds collected and deposited herein are to be used for capital infrastructure improvements only, and not for operation and maintenance expenditures.

**SECTION FOUR:** That the established Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund shall continue as a special revenue non-reverting fund until or unless amended or repealed by subsequent Ordinance of the Town. Any fund balance remaining in the Rose Garden Estates PUD Project Infrastructure Improvement Contribution ("IIC") Special Revenue Non-Reverting Fund shall be non-reverting at each calendar year-end. In the event that the Special Revenue Non-Reverting Fund established hereby is terminated by Repealer or Amendatory Ordinance, the funds contained therein at the time of termination of the fund by such Ordinance shall be deposited into the General Fund of the Town.

**SECTION FIVE:** That if any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

**SECTION SIX:** That this Ordinance shall take effect, and be in full force and effect, from and after its passage and adoption by the Town Council of the Town of Cedar Lake, Lake County, Indiana, in conformance with applicable law.

**ALL OF WHICH IS PASSED AND ADOPTED BY THE TOWN COUNCIL OF  
THE TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA, THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2020.**

TOWN OF CEDAR LAKE, LAKE COUNTY,  
INDIANA, TOWN COUNCIL

\_\_\_\_\_  
Randell C. Niemeyer, President

\_\_\_\_\_  
Julie A. Rivera, Vice-President

\_\_\_\_\_  
Robert H. Carnahan, Member

\_\_\_\_\_  
John C. Foreman, Member

\_\_\_\_\_  
Colleen Schieben, Member

\_\_\_\_\_  
Ralph Miller, Member

\_\_\_\_\_  
Richard Sharpe, Member

ATTESTED:

\_\_\_\_\_  
Jennifer N. Sandberg, IAMC  
Clerk-Treasurer

STATE OF INDIANA     )  
                                      ) SS:  
COUNTY OF LAKE     )

CERTIFICATION

TO: CEDAR LAKE TOWN COUNCIL MEMBERS  
TOWN OF CEDAR LAKE  
LAKE COUNTY, INDIANA

Pursuant to the requirements of applicable law, the Board of Zoning Appeals of the Town of Cedar Lake, Lake County, Indiana, by its duly designated representative, CERTIFIES the application of **Brian Kubal, Owner, and Erik Moore, Petitioner**, for a **Special Use Variance** being sought from Zoning Ordinance No. 496, Title XIII-Community Business (B-2) Zoning District for the property located at 13135 Morse St., Cedar Lake, IN 46303, Lake County, Indiana, and which is legally described as:

Shades Add Cedar Lake Plat B-A BL.6 Lots 16 to 22  
**and SHADES ADD. CEDAR LAKE, PLAT B-A ALL L.15 BL.6**

and certifies a **Favorable Recommendation** to the Town Council for the requested **Special Use Variance** to allow the Petitioner: Erik Moore to operate a wood working/assembly shop contingent parking lot improvements to include ten (10) paved parking spaces

By a vote of **4** in favor and **0** against, upon motion duly made and seconded, at the public meeting held on August 13, 2020.

TOWN OF CEDAR LAKE,  
LAKE COUNTY, INDIANA,  
BOARD OF ZONING APPEALS

By: \_\_\_\_\_  
Jeff Bunge – Vice President

ATTEST:

\_\_\_\_\_  
Tammy Bilgri,  
Recording Secretary



**Loan Center**  
9204 Columbia Avenue • Munster, Indiana 46321  
219.853.7500 • fax 219.836.8061  
[ibankpeoples.com](http://ibankpeoples.com)

July 13, 2020

Town of Cedar Lake  
7408 Constitution Avenue  
Cedar Lake, IN 46303

Gentlemen:

Peoples Bank SB, at the request of our applicant, Summer Winds Development LLC, has provided its Irrevocable Replacement Standby Letter of Credit No. CL7532LC extension in your favor, which is attached hereto, in the amount of Two Hundred Forty-Four Thousand One Hundred Eighty- Seven Dollars and 85/100 (\$244,187.85), dated July 13, 2020 in your favor. This will certify that Dustin Gorelick, VP, Business Banker, is authorized to provide and execute the attached Irrevocable Replacement Standby Letter of Credit, that the signature appearing on said Letter of Credit is authentic, and that the Bank has complied with all banking laws and requirements and other laws in connection with the issuance of such Letter of Credit.

Sincerely,

Todd Scheub, EVP  
Chief Banking Officer

TS/ns

21



Member FDIC

personal banking | business banking | digital banking | wealth management



Loan Center  
9204 Columbia Avenue • Munster, Indiana 46321  
219.853.7500 • fax 219.836.8061  
ibankpeoples.com

**IRREVOCABLE REPLACEMENT STANDBY LETTER OF CREDIT**

**ISSUER'S NAME & ADDRESS:**

Peoples Bank SB  
9204 Columbia Avenue  
Munster, IN 46321  
Attention: Commercial Loan Department

Telephone: 219-853-7500  
Fax: 219-836-4425  
Email: dgorelick@ibankpeoples.com

**APPLICANT:**

Summer Winds Development LLC  
40 E. Joliet Street, Suite 1B  
Schererville, IN 46375

**BENEFICIARY:**

Town of Cedar Lake  
7408 Constitution Avenue  
Cedar Lake, IN 46303

Telephone: 219-374-7400

**SUBDIVISION/DEVELOPMENT AT ISSUE:**

Summer Winds Unit 1  
Cedar Lake, Indiana

**PERFORMANCE PERIOD**

**Irrevocable Replacement Letter of Credit  
No: CL7532LC**

**Total Amount: \$244,187.85**  
(maximum aggregate amount)

**Replacing Letter of Credit No.**  
CL7503LC

**Issuance Date:** August 15, 2020

**Expiration Date:** August 15, 2021

Ladies and Gentlemen:

**Issuance.** The Issuer hereby establishes, at the request of Applicant and for the account of the Applicant, in favor of the Beneficiary, this Irrevocable Replacement Standby Letter of Credit No. CL7532LC.

\$244,187.85





**Undertaking.** Issuer undertakes to honor Beneficiary's demand for payment of an amount available under this Irrevocable Replacement Standby Letter of Credit, upon Beneficiary's presentation of a demand for payment in the form of the attached "**Sight Draft for Irrevocable Standby Letter of Credit Regarding Summer Winds Development LLC Unit 1** marked as **EXHIBIT A** (*hereinafter*, "Sight Draft"), together with the original of this Irrevocable Replacement Standby Letter of Credit, at Issuer's address stated above, on or before the close of business on the expiration date.

**Original.** The original copy of this Irrevocable Replacement Standby Letter of Credit shall be presented to and retained by Beneficiary. The original copy of this Irrevocable Replacement Standby Letter of Credit need not be presented to Issuer as a condition for Beneficiary to receive payment. Retention of the original Irrevocable Standby Letter of Credit does not preserve any rights thereunder after the right to demand payment ceases.

**Payment.** Issuer undertakes to make payment to Beneficiary under this Irrevocable Replacement Standby Letter of Credit within five (5) business days of receipt by Issuer of a properly presented Sight Draft. Beneficiary shall receive payment from Issuer as described in the Sight Draft.

**Partial and Multiple Drawings.** Partial and multiple drawings are permitted under this Irrevocable Replacement Standby Letter of Credit. The aggregate amount available under this Irrevocable Replacement Standby Letter of Credit at any time shall be the Total Amount of this Irrevocable Replacement Standby Letter of Credit, less the aggregate amount of all partial drawings previously paid to Beneficiary at such time.

**Presentation.** Beneficiary may present Sight Drafts for honor to Issuer at Issuer's above-stated address by:

1. Personal delivery to Issuer with an acknowledged duly authorized, signed receipt;
2. Deposit in Certified U.S. Mail, postage prepaid, properly addressed; or
3. Deposit with any third-party commercial carrier for delivery, cost prepaid, properly addressed.

Presentation will be deemed to have occurred upon Issuer's receipt.

**Agreed Reduction of Total Amount.** Issuer will permanently reduce the Total Amount of this Irrevocable Replacement Standby Letter of Credit upon Beneficiary's presentation, from time to time, of an agreed "**Letter of Credit Reduction Approval for Summer Winds Development LLC Unit 1**" in the form attached as **EXHIBIT B**. Beneficiary shall present any such agreed "Letter of Credit Reduction Approvals for Summer Winds Development LLC Unit 1", to Issuer at Issuer's address stated above and Issuer shall make reductions as specified in the particular Letter of Credit Reduction Approvals as presented.

**Expiration Date.** The expiration date of this Irrevocable Replacement Standby Letter of Credit Extension is August 15, 2021.

The expiration date of this Irrevocable Replacement Standby Letter of Credit shall be automatically extended for successive one year periods, unless we elect in our sole and absolute discretion not to extend the then-current expiration date of this Irrevocable Replacement Standby Letter of Credit, and notice of such election is sent to the Beneficiary's address set forth above by registered mail or by nationally recognized courier, or is received by the Beneficiary at the Beneficiary's address set forth above or at its current address, not less than 30 days prior to the then-current expiration date. In no event shall the expiration date of this Irrevocable Replacement Standby Letter of Credit be subject to automatic extension beyond August 15, 2022, and any pending automatic one-year extension shall be ineffective beyond such date.

**Choice of Law.** This Irrevocable Replacement Standby Letter of Credit is governed by the laws of the State of Indiana and is issued subject to the International Standby Practices 1998 (ISP98), International Chamber of Commerce Publication No. 590. Any amendments to the terms of this credit must be in writing over authorized signature of an officer of Peoples Bank SB.

Sincerely,

PEOPLES BANK SB



By: Dustin Gorelick  
VP, Business Banker

**CERTIFICATION**

The Undersigned hereby certifies under the penalty of perjury that I am the duly authorized Agent of the Issuer of this Irrevocable Replacement Standby Letter of Credit and have full authority and all required approval to agree to the issuance of this Irrevocable Replacement Standby Letter of Credit.

SIGNED AND DATED THIS \_\_\_\_\_ DAY OF August, 2019.

Sincerely,

ISSUER: PEOPLES BANK SB



By: Dustin Gorelick  
VP, Business Banker

**ACCEPTANCE**

The Undersigned hereby certifies under the penalty of perjury that I am the duly authorized Agent of the Town of Cedar Lake, Indiana and have full authority and all required approval to agree to the terms of this Irrevocable Replacement Standby Letter of Credit.

SIGNED AND DATED THIS \_\_\_\_\_ DAY OF August, 2020.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

ATTEST:

\_\_\_\_\_  
Treasurer

The Clerk-Treasurer shall act as the custodian of Cedar Lake's original signed copy of this Irrevocable Replacement Standby Letter of Credit.

8/13/2020

Town of Cedar Lake, Indiana  
7408 Constitution Ave.  
Cedar Lake, IN 46303

Ladies and Gentlemen:

On behalf of Robert W. Baird & Co. Incorporated (“we” or “Baird”), we wish to thank you for the opportunity to serve as managing underwriter or placement agent for the Town of Cedar Lake, Indiana (“you” or the “Issuer”) on its proposed offering and issuance of \$2,935,000\* Lease Rental Revenue Refunding Bonds, Series 2020 (the “Securities”). This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement or placement agreement to be entered into by the parties (the “Agreement”) if and when the Securities are priced following successful completion of the offering or placement process. The Agreement will set forth the terms and conditions on which Baird will purchase or place the Securities and will contain provisions that are consistent with those stated in this letter.

1. Services to be Provided by Baird. Baird is hereby engaged to serve as managing underwriter of the proposed offering and issuance of the Securities, and in such capacity Baird agrees to provide the following services:

- Review and evaluate the proposed terms of the offering or placement and the Securities
- Develop a marketing plan for the offering, including identification of potential purchasers of the Securities
- Assist in the preparation of the preliminary official statement and final official statement or the private placement memorandum and other offering documents
- Contact potential purchasers of the Securities and provide them with copies of the offering materials and related information
- Respond to inquiries from potential purchasers and, if requested, coordinate their due diligence calls and meetings
- Assist in the preparation of information and materials to be provided to securities rating agency or agencies, as necessary, and in the development of strategies for meetings with the rating agency or agencies to obtain a rating for the Securities
- Assist in the preparation of information and materials to be provided to bond insurance companies and in the development of strategies for meetings/calls with the bond insurance companies
- Inform the Issuer of the marketing and offering process
- Negotiate the pricing, including the interest rate, and other terms of the Securities
- Obtain CUSIP number(s) for the Securities and arrange for their DTC book-entry eligibility
- Submit documents and other information about the offering to the MSRB’s EMMA website
- Plan and arrange for the closing and settlement of the issuance and the delivery of the Securities
- Such other usual and customary underwriting services as may be requested by the Issuer

2. Disclosures Concerning Baird’s Role as Underwriter or Placement Agent as Required by MSRB Rules G-23 and G-17: At the Issuer’s request, Baird may provide incidental financial advisory services, including advice as to the structure, timing, terms and other matters concerning the issuance of the Securities. Please note that Baird would be providing such advisory services in its capacity as underwriter or placement agent and not as a municipal advisor or financial advisor to the Issuer. As underwriter, Baird’s primary role is to purchase, or arrange for the placement of, the Securities in an arm’s length commercial transaction between the Issuer and Baird. As placement agent, Baird’s primary role is to arrange for the placement of the Securities in an arm’s length commercial transaction between the

Robert W. Baird & Co.  
777 East Wisconsin Avenue  
Milwaukee, WI 53202-5391  
Main: 414 765-3500  
Toll Free: 800 RW BAIRD

[www.rwbaird.com](http://www.rwbaird.com)

\*Preliminary, subject to change.

issuer and Baird. Baird has financial and other interests that differ from those of the Issuer. Municipal Securities Rulemaking Board Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors. However, unlike a municipal advisor or financial advisor, Baird as an underwriter or placement agent does not have a fiduciary duty to the Issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the Issuer without regard to its own financial or other interests. As part of its services, Baird will review the official statement or private placement memorandum and/or any other disclosure document (if any) applicable to the proposed offering or placement in accordance with, and as part of, its responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of the proposed offering.

As underwriter, Baird will not be required to purchase the Securities except pursuant to the terms of the Purchase Agreement, which will not be signed until successful completion of the pre-sale offering period and satisfaction of various conditions. This letter does not obligate Baird to purchase any of the Securities. As placement agent, Baird will not be required to purchase the Securities or to find one or more buyers of the Securities, but rather to use its reasonable best efforts to arrange for the sale of the Securities to one or more buyers. If all of the conditions to its obligation to purchase any securities have been satisfied, Baird as underwriter has a duty to purchase securities from the Issuer at a fair and reasonable price but must balance that duty with its duty to sell those securities to investors at prices that are fair and reasonable.

Baird is registered with the Municipal Securities Rulemaking Board ("MSRB") and the SEC. The MSRB website is [www.msrb.org](http://www.msrb.org). Two investor brochures, Information for Municipal Securities Investors and Information for Municipal Advisory Clients, describe the protections that may be provided by the MSRB's rules. The brochures are available on the MSRB website. The MSRB website also contains information about how to file a complaint with an appropriate regulatory authority.

3. Fees and Expenses; Conflicts of Interest. Baird's underwriting fee/spread will be 0.80% of the final par amount of the Securities issued. The underwriting fee/spread will represent the difference between the price that Baird pays for the Securities and the public offering price stated on the cover of the final official statement. If Baird is acting as a placement agent, Baird's placement agent fee will be 0.80% of the final par amount of the Securities issued. The underwriting fee/spread will be contingent upon the closing of the proposed offering and the amount of the fee/spread will be based on the principal or par amount of the Securities. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest because the underwriter may have an incentive to recommend to the Issuer a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary. Other firms that provide services in connection with the proposed offering may also have fees that are contingent on the closing of the offering.

Baird shall be responsible for paying the fees of underwriter's counsel and other expenses it incurs in connection with the offering, including without limitation, CUSIP, DTC, MSRB, IPREO (electronic book-running/sales order system); The Issuer shall be responsible for paying all other costs of issuance, such as fees of bond counsel, issuer counsel and disclosure counsel (if any); municipal advisory and other consultant fees; ratings agency fees and expenses and travel expenses directly related thereto; auditor and other expert fees; trustee, registrar and paying agent fees; and official statement printing and mailing/distribution costs.

Baird is a full service securities firm and as such Baird and its affiliates may from time to time provide advisory, brokerage, consulting and other services and products to municipalities, other institutions, and individuals including the Issuer, certain Issuer officials or employees, and potential purchasers of the Securities for which Baird may receive customary compensation; however, such services are not related to the proposed offering. Baird has previously served as underwriter, placement agent or financial advisor on other bond offerings and financings for the Issuer and may serve in such capacities in the future. Baird may also be engaged from time to time by the Issuer to manage investments for the Issuer (including the proceeds from the proposed offering) through a separate contract that sets forth the fees to be paid to Baird. Baird may compensate its associates for any referrals they have made that resulted in the Issuer's selection of Baird to serve as underwriter on the proposed offering of the Securities. Baird manages various mutual funds, and from time to time those funds may own bonds and other securities issued by the Issuer (including the Securities). Additionally, clients of Baird may from time to time purchase, hold and sell bonds and other securities issued by the Issuer (including the Securities).

In the ordinary course of fixed income trading business, Baird may purchase, sell, or hold a broad array of investments and may actively trade securities and other financial instruments, including the Securities and other municipal bonds, for its own account and for the accounts of customers, with respect to which Baird may receive a mark-up or mark-down, commission or other remuneration. Such investment and trading activities may involve or

relate to the offering or other assets, securities and/or instruments of the Issuer and/or persons and entities with relationships with the Issuer. Spouses and other family members of Baird associates may be employed by the Issuer.

Baird has not identified any additional potential or actual material conflicts that require disclosure. If potential or actual conflicts arise in the future, we will provide you with supplemental disclosures about them.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate Baird's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party. If Baird's engagement is terminated by the Issuer, the Issuer agrees to reimburse Baird for its out-of-pocket expenses incurred until the date of termination, but limited to expenses which were previously authorized by the Issuer.

5. Indemnification; Limitation of Liability. The Issuer agrees that neither Baird nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder except to the extent it is judicially determined that Baird engaged in gross negligence or willful misconduct. In addition, to the extent permitted by applicable law, the Issuer shall indemnify, defend and hold Baird and its employees, officers, agents and affiliates harmless from and against any losses claims, damages and liabilities that arise from or otherwise relate to this Agreement, actions taken or omitted in connection herewith, or the transactions and other matters contemplated hereby, except to the extent such losses, claims, damages or liabilities are judicially determined to be the result of Baird's gross negligence or willful misconduct.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Indiana. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party. The Issuer acknowledges that Baird may, at its option and expense and after announcement of the offering, place announcements and advertisements or otherwise publicize a description of the offering and Baird's role in it on Baird's website and/or other marketing material and in such financial and other newspapers and journals as it may choose, stating that Baird has acted as underwriter for the offering. The Issuer also agrees that Baird may use the Issuer's name and logo or official seal for these purposes.

7. Disclosures of Material Financial Characteristics and Material Financial Risks.

Accompanying this letter is a disclosure document describing the material financial characteristics and material financial risks of the Securities as required by MSRB Rule G-17.

If there is any aspect of this Agreement that requires further clarification, please do not hesitate to contact us. In addition, please consult your own financial and/or municipal, legal, accounting, tax and other advisors as you deem appropriate. We understand that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the proposed offering. If our understanding is not correct, please let us know.


Please evidence your receipt and agreement to the foregoing by signing and returning this letter.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

[Signature block on page 4]

Very truly yours,

**ROBERT W. BAIRD & CO. INCORPORATED**

By:   
Landon Boehm, Managing Director

Accepted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**TOWN OF CEDAR LAKE, INDIANA**

By: \_\_\_\_\_

Title: \_\_\_\_\_

## Disclosures of Material Financial Characteristics and Financial Risks of Proposed Offering of Fixed Rate Bonds

Robert W. Baird & Co. Incorporated (“Baird”) has been engaged as underwriter for the proposed offering by you (or the “Issuer”) of fixed rate bonds, notes, certificates of participation or other debt securities (“Fixed Rate Bonds”), to be sold on a negotiated basis. The following is a general description of the financial characteristics and security structures of Fixed Rate Bonds, as well as a general description of certain financial risks that you should consider before deciding whether to issue Fixed Rate Bonds.

This document is being provided to an official of the Issuer who has the authority to bind the Issuer by contract with Baird, who does not have a conflict of interest with respect to the offering.

If the Fixed Rate Bonds proposed to be issued are “conduit revenue bonds,” you will be a party to the bond purchase agreement and certain other legal documents to be entered into in connection with the issuance, but the material financial risks described below will be borne by the borrower or obligor, as set forth in those legal documents.

### **Financial Characteristics**

***Maturity and Interest.*** Fixed Rate Bonds are interest-bearing debt securities issued by state and local governments, political subdivisions and agencies or authorities, such as the Issuer. Maturity dates for Fixed Rate Bonds will be fixed at the time of issuance and may include serial maturities (specified principal amounts are payable on the same date in each year until final maturity) or one or more term maturities (specified principal amounts are payable on each term maturity date) or a combination of serial and term maturities. Maturity dates, including the final maturity date, are subject to negotiation and will be reflected in the official statement. At each maturity, the scheduled principal or par amount of the Fixed Rate Bonds will have to be repaid.

Fixed Rate Bonds will pay fixed rates of interest typically semi-annually on scheduled payment dates, although some Fixed Rate Bonds may accrue interest to be paid at maturity. Such bonds are often referred to as capital appreciation or zero-coupon bonds. The interest rates to be paid on Fixed Rate Bonds may differ for each series or maturity date. The specific interest rates will be determined based on market conditions and investor demand and reflected in the official statement for the Fixed Rate Bonds. Fixed Rate Bonds with longer maturity dates will generally have interest rates that are greater than securities with shorter maturity dates.

***Redemption.*** Fixed Rate Bonds may be subject to optional redemption, which allows the Issuer, at its option, to redeem some or all of the Fixed Rate Bonds on a date prior to scheduled maturity, such as in connection with the issuance of refunding bonds to take advantage of lower interest rates. Fixed Rate Bonds may be subject to optional redemption only after the passage of a specified period of time from the date of issuance, and upon payment of the redemption price set forth in the official statement for the Fixed Rate Bonds, which typically is equal to the par amount of the Fixed Rate Bonds being redeemed (plus accrued interest) but may include a redemption premium. The Issuer will be required to send out a notice of optional redemption to the holders of Fixed Rate Bonds, usually a certain period of time prior to the redemption date. Fixed Rate Bonds with term maturity dates also may be subject to mandatory sinking fund redemption, which requires the Issuer to redeem specified principal



amounts of the Fixed Rate Bonds annually in advance of the term maturity date. The mandatory sinking fund redemption price is 100% of the principal amount of the Fixed Rate Bonds to be redeemed. Fixed Rate Bonds may also be subject to extraordinary or mandatory redemption upon the occurrence of certain events, authorizing or requiring you to redeem the Fixed Income Bonds at their par amount (plus accrued interest).

*Credit Enhancements.* Fixed Rate Bonds may feature credit enhancements, such as an insurance policy provided by a municipal bond insurance company that guarantees the payment of principal of an interest on the bonds when due in the event of default. Other credit enhancements could include a letter of credit provided by a financial institution, or financial support from a state agency.

*Tax Status.* If Fixed Rate Bonds are intended to be tax-exempt, counsel will provide an opinion that interest on the Fixed Rate Bonds will be excluded from gross income for federal income tax purposes. Certain Fixed Rate Bonds may also be exempt from state personal income tax.

Some Fixed Rate Bonds (or a portion of those being issued) may be taxable, meaning that interest on the Fixed Rate Bonds will be included in gross income for federal income tax purposes.

### **Security**

Payment of principal of and interest on a municipal security, including Fixed Rate Bonds, may be backed by various types of pledges and forms of security, some of which are described below. The security for Fixed Rate Bonds will vary, depending on whether they are general obligation bonds, revenue bonds, conduit bonds or other types.

### **General Obligation Bonds**

“General obligation bonds” are debt securities to which your full faith and credit is pledged to pay principal and interest. If you have taxing power, generally you will pledge to use your ad valorem (property) taxing power to pay principal and interest. Ad valorem taxes necessary to pay debt service on general obligation bonds may not be subject to state constitutional property tax millage limits (an unlimited tax general obligation bond). The term “limited” tax is used when such limits exist. General obligation bonds constitute a debt and, depending on applicable state law, may require that you obtain approval by voters prior to issuance. In the event of default in required payments of interest or principal, the holders of general obligation bonds have certain rights under state law to compel you to impose a tax levy.

### **Revenue Bonds**

“Revenue bonds” are debt securities that are payable only from a specific source or sources of revenues that are generated from a particular enterprise or service you offer, such as water, electricity, sewer, health care, housing, transportation, toll roads and bridges, parking, parks and recreation fees, and stadiums and entertainment facilities. Revenue bonds are not a pledge of your full faith and credit and you are obligated to pay principal and interest on your revenue bonds only from the revenue source(s) specifically pledged to the bonds. Revenue bonds do not permit the bondholders to compel you to impose a tax levy for payment of debt service. Pledged revenues may be derived from operation of the financed project or system, grants, license or user fees, or excise or other specified taxes. Generally, subject to state law or local charter requirements, you are not required to obtain voter approval prior to issuance of revenue bonds. If the specified source(s) of revenue become inadequate, a default in payment of principal or interest may occur. Various types of pledges of revenue may be used to secure interest and principal payments on revenue bonds. The nature of these pledges may

differ widely based on state law, the type of issuer, the type of revenue stream and other factors. Some revenue bonds may be backed by your full faith and credit or moral obligation. A moral obligation is a non-binding covenant by you to make a budget recommendation to your legislative body to appropriate moneys needed to make up any revenue shortfall in order to meet debt service obligations on the revenue bonds, but the legislative body is not legally obligated to make such appropriation.

Certain revenue bonds may be structured as certificates of participation, which are instruments evidencing a pro rata share in a specified pledged revenue stream, usually lease payments that are typically subject to annual appropriation. With certificates of participation, the lessor or party receiving payments assigns those payments to a trustee that distributes them to the certificate holders. Certificates of participation do not constitute general obligation indebtedness of the issuer or municipality and are not backed by a municipality's full faith and credit or taxing power. Certificates of participation are payable solely from specific revenue sources.

#### *Tax Increment or Tax Allocation Bonds*

"Tax increment" or "tax allocation" bonds are a form of revenue bonds that are payable from the incremental increase in taxes realized from any appreciation in property values resulting from capital improvements benefitting the properties located in a particular location such as a tax incremental district. They are commonly used to redevelop, add infrastructure or otherwise improve a blighted, neglected or under-utilized area to encourage development in that area. Tax increment bonds may also be payable from increased sales taxes generated in a designated district. The proceeds of an issuance of tax increment or tax allocation bonds are typically applied to pay the costs of infrastructure and other capital improvements in the designated district. The incremental taxes or other revenues may not be sufficient to meet debt service obligations on the tax increment or tax allocation bonds. Some tax increment or tax allocation bonds may also be backed by an issuer's full faith and credit or moral obligation.

#### *Conduit Bonds*

Conduit revenue bonds may be issued by a governmental issuer acting as conduit for the benefit of a private sector entity or a 501(c)(3) organization (the "borrower" or "obligor"). Industrial revenue bonds are a form of conduit revenue bonds. Conduit revenue bonds commonly are issued for not-for-profit hospitals, health care facilities, educational institutions, single and multi-family housing, airports, industrial or economic development projects, corporations, and student loan programs, among other borrowers or obligors. Principal and interest on conduit revenue bonds normally are paid exclusively from revenues pledged by the borrower or obligor. Unless otherwise specified under the terms of the bonds, you are not required to make payments of principal or interest if the borrower or obligor defaults.

#### *Charter School Bonds*

Fixed Rate Bonds issued for the benefit of charter schools are a form of conduit revenue bonds. They are issued by a government entity acting as a conduit for the benefit of a charter school. The charter school is the borrower or obligor for the bonds. Principal and interest on charter school bonds normally are paid exclusively from revenues pledged by the charter school. Unless otherwise specified under the terms of the bonds, you are not required to make payments of principal or interest if the charter school defaults.

#### *Financial and Other Covenants*

Issuers of Fixed Rate Bonds (and/or obligors) may be required to agree to certain financial and other covenants (such as debt service coverage ratios) that are designed to protect bond holders. Covenants

are a form of additional security. The failure to continue to meet covenants may trigger an event of default or other adverse consequences to you and/or the obligor giving bond holders certain rights and remedies.

The description above regarding “Security” is only a brief summary of certain possible security provisions for the Fixed Rate Bonds and is not intended as legal advice. You should consult with your bond counsel for further information regarding the security for the Bonds.

### **Financial Risk Considerations**

Certain risks may arise in connection with your issuance of Fixed Rate Bonds, including some or all of the following (generally, the borrower or obligor, rather than you, will bear these risks for conduit revenue bonds):

#### **Issuer Default Risk**

You (or the obligor) may be in default if the funds pledged to secure Fixed Rate Bonds are not sufficient to pay debt service on the bonds when due. The consequences of a default may be serious for you (and/or the obligor) and, depending on applicable state law and the terms of the authorizing documents, the holders of the bonds may be able to exercise a range of available remedies against you (or the obligor). For example, if Fixed Rate Bonds are secured by a general obligation pledge, you may be ordered by a court to raise taxes. Other budgetary adjustments also may be necessary to enable you to provide sufficient funds to pay debt service on the bonds. If the Fixed Rate Bonds are revenue bonds, you (or the obligor) may be required to take steps to increase the available revenues that are pledged as security for the bonds. A default may negatively impact your (or the obligor’s) credit ratings and may effectively limit your (or the obligor’s) ability to publicly offer bonds or other securities at market interest rate levels. Further, if you (or the obligor) are unable to provide sufficient funds to remedy the default, subject to applicable state law and the terms of the authorizing documents, you (or the obligor) may find it necessary to consider available alternatives under state law, including (for some issuers) state-mandated receivership or bankruptcy. A default also may occur if you (or the obligor) are unable to comply with covenants or other provisions agreed to in connection with the issuance of the Fixed Rate Bonds.

This description is only a brief summary of issues relating to defaults and is not intended as legal advice. You should consult with your bond counsel for further information regarding defaults and remedies.

#### **Redemption Risk**

Your (or the obligor’s) ability to redeem Fixed Rate Bonds prior to maturity may be limited, depending on the terms of any optional redemption provisions. In the event that interest rates decline, you (or the obligor) may be unable to take advantage of the lower interest rates to reduce debt service. In addition, if Fixed Rate Bonds are subject to extraordinary or mandatory redemption, you (or the obligor) may be required to redeem the bonds at times that are disadvantageous.

#### **Refinancing Risk**

If your (or the obligor’s) financing plan contemplates refinancing some or all of the Fixed Rate Bonds at maturity (for example, if there are term maturities or if a shorter final maturity is chosen than might otherwise be permitted under the applicable federal tax rules), market conditions or changes in law may limit or prevent you (or the obligor) from refinancing those bonds when required. Further, limitations in the federal tax rules on advance refunding of bonds (an advance refunding of bonds

occurs when tax-exempt bonds are refunded more than 90 days prior to the date on which those bonds may be retired) may restrict your (or the obligor's) ability to refund the Fixed Rate Bonds to take advantage of lower interest rates.

Reinvestment Risk

You (or the obligor) may have proceeds of the Fixed Rate Bonds to invest prior to the time that you (or the obligor) are able to spend those proceeds for the authorized purpose. Depending on market conditions, you (or the obligor) may not be able to invest those proceeds at or near the rate of interest that you (or the obligor) are paying on the bonds, which is referred to as "negative arbitrage".

Tax Compliance Risk (applicable if the Fixed Rate Bonds are tax-exempt bonds)

The issuance of tax-exempt bonds is subject to a number of requirements under the United States Internal Revenue Code, as enforced by the Internal Revenue Service (IRS), and, if applicable, state tax laws. You (and the obligor) must take certain steps and make certain representations prior to the issuance of tax-exempt bonds. You (and the obligor) also must covenant to take certain additional actions after issuance of the tax-exempt bonds. A breach of the representations or a failure to comply with certain tax-related covenants may cause the interest on the Fixed Rate Bonds to become taxable retroactively to the date of issuance of the bonds, which may result in an increase in the interest rate that you (or the obligor) pay on the bonds or the mandatory redemption of the bonds. The IRS also may audit you (or the obligor) or the Fixed Rate Bonds or your (or the obligor's) other bonds, in some cases on a random basis and in other cases targeted to specific types of bond issues or tax concerns. If the Fixed Rate Bonds are declared taxable, or if you (or the obligor) are subject to audit, the market price of the Fixed Rate Bonds and/or your (or the obligor's) other bonds may be adversely affected. Further, your (or the obligor's) ability to issue other tax-exempt bonds also may be limited.

This description of tax compliance risks is not intended as legal advice and you should consult with your bond counsel regarding tax implications of issuing Fixed Rate Bonds.

Continuing Disclosure Risk.

In connection with the issuance of Fixed Rate Bonds, you (and/or the obligor) may be subject to continuing disclosures which require dissemination of annual financial and operating information and notices of material events. Compliance with these continuing disclosure requirements is important and facilitates an orderly secondary market. Failure to comply with continuing disclosure requirements may affect the liquidity and marketability of the Fixed Rate Bonds, as well as your (and/or the obligor's) other outstanding securities. Because instances of material non-compliance with previous continuing disclosure requirements must be disclosed in an official statement, failure to comply with continuing disclosure requirements may also make it more difficult or expensive for you (or the obligor) to market and sell future bonds.



**Crowe LLP**  
Independent Member Crowe Global

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Fax 317-635-6127  
www.crowe.com

August 17, 2020

Randy Niemeyer  
Town of Cedar Lake  
7408 Constitution Ave  
Cedar Lake, Indiana 46303-9186

Dear Mr. Niemeyer:

This letter agreement confirms the arrangements for Crowe LLP ("Crowe" or "we" or "us") to provide consulting services, as more fully set forth herein (the "Services"), and the deliverables set forth herein (the "Deliverables") in connection with certain services for Town of Cedar Lake ("Client" or "you" or "your") from information provided by Client or information provided to Crowe on Client's behalf. The attached Crowe Engagement Terms, and any attachments or addendums thereto, are an integral part of this letter agreement and are incorporated herein (collectively, the "Agreement").

#### **SCOPE OF CROWE SERVICES**

Crowe will provide Services to Client which are outlined in Attachment A.

Crowe will be providing services as a Municipal Advisor and not as a Registered Dealer.

Because these Services will not constitute an audit, review, or examination in accordance with standards established by the American Institute of Certified Public Accountants, Crowe will not express an opinion as defined by the AICPA assurance standards. Crowe has no obligation to perform any Services beyond those listed in Attachment A. If Crowe performs additional services beyond those listed, other matters might come to Crowe's attention that would be reported to Client. Crowe makes no representations as to the adequacy of the Services or any Deliverables for Client's purposes. Crowe will prepare the work product ("Deliverables") listed in Attachment A.

Crowe Services, any Deliverables, and any other work product are intended for the benefit and use of Client only. There are no intended third-party beneficiaries to this Agreement. This engagement will not be planned or conducted in contemplation of reliance by any other party or with respect to any specific transaction and is not intended to benefit or influence any other party. Therefore, items of possible interest to a third party may not be specifically addressed or matters may exist that could be assessed differently by a third party. The working papers for this engagement are the property of Crowe and constitute confidential information.

This engagement cannot be relied upon to disclose errors, fraud, or illegal acts that may exist, and Crowe will not address legal or regulatory matters or abuses of management discretion, which are matters that should be discussed by Client with Client's legal counsel. Client is responsible for the accuracy and completeness of the information provided to Crowe for purposes of this engagement and for timely updating such information. Client agrees Crowe may rely on the information provided to Crowe without investigation or other attempts to verify its accuracy or completeness. Client has determined that Crowe's provision of Services shall not violate any statute or regulation.

Client agrees to be responsible to: make all management decisions and perform all management functions. Client will designate a management representative who possesses suitable skill, knowledge, and/or experience, to oversee the Services; evaluate the adequacy and results of the Services performed and any Deliverables; accept responsibility for the results of the Services; and establish and maintain internal controls, including monitoring ongoing activities. The management representative shall be knowledgeable in all laws, regulations, and industry practices applicable to the Services, any Deliverables, and any other work product. Client will be responsible to determine and approve the risk, scope, and frequency of Services to be performed, and the management representative shall coordinate, review, and approve Crowe's performance of Services. Client will be responsible for communicating Crowe's findings within Client's organization, and Client shall be responsible for determining when, whether, and how any recommendations or Deliverables from Crowe are to be implemented.

Client shall also ensure that it has all rights and authority necessary to permit Crowe to access or use any systems or third-party products during performance of Services. For any third-party software applications, or related hardware, used by Client and to which Crowe must have access for purposes of providing the Services, Client represents that it has obtained any necessary licenses for Crowe to perform the Services.

#### **ACCEPTANCE OF FORMAL DELIVERABLES**

Any issues with a Deliverable after a Deliverable is accepted shall be treated as a change in scope of the engagement.

#### **DEFINITION OF ENGAGEMENT COMPLETION**

This engagement shall be concluded upon acceptance of the Deliverables or when terminated in writing by one of the parties.

#### **DISCLOSURE OF CONFLICT OF INTEREST**

Pursuant to MSRB Rule G-42, if any known material conflicts of interest based on the exercise of reasonable diligence by Crowe are determined, Crowe will provide a written statement to the Client to that effect. As of the date of this Agreement, Crowe is not aware of any material conflicts of interest.

#### **QUALIFICATIONS**

Crowe is registered with the Municipal Securities Rulemaking Board (MSRB) and the U.S. Securities and Exchange Commission (SEC) as a Municipal Advisor. As a Municipal Advisor, Crowe is required to file a Form MA pertaining to Crowe and Form MA-I for each employee engaged in Municipal Advisory activities. These forms include information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. Such information can be viewed on the U.S. Securities and Exchange Commission EDGAR Company Filings. Crowe LLP CIK#: 0001620621 filings can be viewed at:

<http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001620621&owner=exclude&count=40>

Crowe's latest MA-A was accepted on June 16, 2020.

The MSRB is the principal regulator in the municipal securities market and develops rules for financial professionals designed to ensure a fair and efficient market by preventing fraud and other unfair practices, establishing professional qualifications, supporting market transparency, and applying uniform practices to the industry. The MSRB offers a brochure that describes the protections available under MSRB rules and how to file a complaint with an appropriate regulatory authority. This brochure is located on the MSRB website at [www.msrb.org](http://www.msrb.org).

#### **FEES**

The fees and expenses for this engagement are outlined in Attachment A.

Our invoices are due and payable upon receipt. Invoices that are not paid within 30 days of receipt are subject to a monthly interest charge of one percent per month or the highest interest rate allowed by law, whichever is less, which we may elect to waive at our sole discretion, plus costs of collection including reasonable attorneys' fees. If any amounts invoiced remain unpaid 30 days after the invoice date, you agree that Crowe may, in its sole discretion, cease work until all such amounts are paid or terminate this engagement.

The fee payment arrangements are designed for clarity and efficiency and will frequently not correspond to the amount of time and cost we incur on your behalf during a particular calendar period for a variety of reasons. While we may bill you for services on an equal monthly payment, our professional fees and expenses incurred will often exceed the monthly billing amount early in the contract period because of engagement planning. You agree that in the event, regardless of the cause, the arrangement under this letter is terminated, you will pay us any professional fees and expenses incurred in excess of billings received, in addition to any termination payment this letter might require. Similarly, in the event of early termination, if your payments have exceeded our fees and expenses, we will return the excess payments to you.

The above fees are based on the services plan that details the scope and frequency of the work to be performed. Fees and expenses for any additional projects or services will be agreed to and billed separately.

The fees outlined above are based on certain assumptions. Those assumptions may be incorrect due to incomplete or inaccurate information provided, or circumstances may arise under which we must perform additional work, which in either case will require additional billings for our services. Due to such potential changes in circumstance, we reserve the right to revise our fees. However, if such a change in circumstances arises or if some other significant change occurs that causes our fees to exceed our estimate, Crowe will so advise Client. Further, these fees do not consider any time that might be necessary to assist Client in the implementation or adoption of any recommendation made by Crowe.

Our fee estimates assume that personnel of the Client will assist us in gathering the information necessary to perform the engagement, including obtaining supporting documents, pulling customer files, following up on exceptions, and in other similar ways. We also assume that no irregularities will be discovered, no unusual procedures will be required, internal control is reasonably adequate, and there will be no substantial changes in the operations of the Client. If unforeseen circumstances indicate that the fees will change, the situation will be discussed with management.

Our fees are exclusive of taxes or similar charges, as well as customs, duties or tariffs, imposed in respect of the Services, any work product or any license, all of which Client agrees to pay if applicable or if they become applicable (other than taxes imposed on Crowe's income generally), without deduction from any fees or expenses invoiced to Client by Crowe.

To facilitate Crowe's presence at Client's premises, Client will provide Crowe with internet access while on Client's premises. Crowe will access the internet using a secure virtual private network. Crowe will be responsible for all internet activity performed by its personnel while on Client's premises. In the event Client does not provide Crowe with internet access while on Client's premises, Client will reimburse Crowe for the cost of internet access through other means while on Client's site.

#### **CONTRACT TERMINATION**

From time-to-time, businesses decide that an Agreement does not continue to meet their needs. Accordingly, we mutually agree that either party can terminate this engagement upon delivery of written notice 90 days prior to the date of the desired termination. We also mutually agree that specific scope

elements may be terminated upon delivery of written notice 90 days prior to the date of the desired termination.

This Agreement will terminate with the completion of the Scope-of-Services.

### MISCELLANEOUS

For purposes of this Miscellaneous section, the Acceptance section below, and all of the Crowe Engagement Terms, "Client" will mean the entity(ies) defined in the first paragraph of this letter and will also include all related parents, subsidiaries, and affiliates of Client who may receive or claim reliance upon any Crowe deliverable.

Crowe will provide the services to Client under this Agreement as an independent contractor and not as Client's partner, agent, employee, or joint venturer under this Agreement. Neither Crowe nor Client will have any right, power or authority to bind the other party.

This engagement letter agreement (the "Agreement") reflects the entire agreement between the parties relating to the services (or any reports, deliverables or other work product) covered by this Agreement. The engagement letter and any attachments (including without limitation the attached Crowe Engagement Terms) are to be construed as a single document, with the provisions of each section applicable throughout. This Agreement may not be amended or varied except by a written document signed by each party. It replaces and supersedes any other proposals, correspondence, agreements and understandings, whether written or oral, relating to the services covered by this letter, and each party agrees that in entering this Agreement, it has not relied on any oral or written representations, statements or other information not contained in or incorporated into this Agreement. Any non-disclosure or other confidentiality agreement is replaced and superseded by this Agreement. Each party shall remain obligated to the other party under all provisions of this Agreement that expressly or by their nature extend beyond and survive the expiration or termination of this Agreement. If any provision (in whole or in part) of this Agreement is found unenforceable or invalid, this will not affect the remainder of the provision or any other provisions in this Agreement, all of which will continue in effect as if the stricken portion had not been included. This Agreement may be executed in two or more actual, scanned, emailed, or electronically copied counterparts, each and all of which together are one and the same instrument. Accurate transmitted copies (transmitted copies are reproduced documents that are sent via mail, delivery, scanning, email, photocopy, facsimile or other process) of the executed Agreement or signature pages only (whether handwritten or electronic signature), will be considered and accepted by each party as documents equivalent to original documents and will be deemed valid, binding and enforceable by and against all parties. This Agreement must be construed, governed, and interpreted under the laws of the State of Indiana without regard for choice of law principles.

\* \* \* \* \*

We are pleased to have this opportunity to serve you, and we look forward to a continuing relationship. If the terms of this letter and the attached Crowe Engagement Terms are acceptable to you, please sign below and return one copy of this letter at your earliest convenience. Please contact us with any questions or concerns.

(Signature Page Follows)



Town of Cedar Lake

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August 17, 2020

## ACCEPTANCE

I have reviewed the arrangements outlined above and in the attached "Crowe Engagement Terms," and I accept on behalf of the Client the terms and conditions as stated. By signing below, I represent and warrant that I am authorized by Client to accept the terms and conditions as stated.

IN WITNESS WHEREOF, Client and Crowe have duly executed this engagement letter effective the date first written above.

Town of Cedar Lake

Crowe LLP

\_\_\_\_\_  
Signature

DocuSigned by:  
  
38B16199FC6E47E

\_\_\_\_\_  
Signature

Alicia Antonetti-Tricker

\_\_\_\_\_  
Printed Name\_\_\_\_\_  
Printed Name

Principal

\_\_\_\_\_  
Title\_\_\_\_\_  
Title

August 13, 2020

\_\_\_\_\_  
Date\_\_\_\_\_  
Date

### **Crowe Engagement Terms**

Crowe wants Client to understand the terms under which Crowe provides its services to Client and the basis under which Crowe determines its fees. These terms are part of the Agreement and apply to all services described in the Agreement as well as all other services provided to Client (collectively, the "Services"), unless and until a separate written agreement is executed by the parties for separate services. Any advice provided by Crowe is not intended to be, and is not, investment advice.

**CLIENT'S ASSISTANCE** – For Crowe to provide Services effectively and efficiently, Client agrees to provide Crowe timely with information requested and to make available to Crowe any personnel, systems, premises, records, or other information as reasonably requested by Crowe to perform the Services. Access to such personnel and information are key elements for Crowe's successful completion of Services and determination of fees. If for any reason this does not occur, a revised fee to reflect additional time or resources required by Crowe will be mutually agreed. Client agrees Crowe will have no responsibility for any delays related to a delay in providing such information to Crowe. Such information will be accurate and complete, and Client will inform Crowe of all significant tax, accounting and financial reporting matters of which Client is aware.

**PROFESSIONAL STANDARDS** – As a regulated professional services firm, Crowe must follow professional standards when applicable, including the Code of Professional Conduct of the American Institute of Certified Public Accountants ("AICPA") and, to the extent applicable, the Public Company Accounting Oversight Board ("PCAOB"). Thus, if circumstances arise that, in Crowe's professional judgment, prevent it from completing the engagement, Crowe retains the right to take any course of action permitted by professional standards, including declining to express an opinion or issue other work product or terminating the engagement.

**REPORTS** – Any information, advice, recommendations or other content of any memoranda, reports, deliverables, work product, presentations, or other communications Crowe provides under this Agreement ("Reports"), other than Client's original information, are for Client's internal use only, consistent with the purpose of the Services. Client will not rely on any draft Report. Unless required by an audit or other attestation professional standard, Crowe will not be required to update any final Report for circumstances of which we become aware or events occurring after delivery.

**CONFIDENTIALITY** – Except as otherwise permitted by this Agreement or as agreed in writing, neither Crowe nor Client may disclose to third parties the contents of this Agreement or any information provided by or on behalf of the other that ought reasonably to be treated as confidential and/or proprietary. Client use of any Crowe work product will be limited to its stated purpose and to Client business use only. However, Client and Crowe each agree that either party may disclose such information to the extent that it: (i) is or becomes public other than through a breach of this Agreement, (ii) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information, (iii) was known to the recipient at the time of disclosure or is thereafter created independently, (iv) is disclosed as necessary to enforce the recipient's rights under this Agreement, or (v) must be disclosed under applicable law, regulations, legal process or professional standards.

**THIRD-PARTY PROVIDER** – Crowe may use a third-party provider in providing Services to Client, which may require Crowe to share Client confidential information with the provider. If Crowe uses a third-party provider, Crowe will enter into a confidentiality agreement with the provider to require the provider to protect the confidentiality of Client's confidential information, and Crowe will be responsible to Client for maintaining its confidentiality. The limitations on Client's remedies, vis-à-vis Crowe, in this Agreement will also apply to any subcontractors.

**CLIENT-REQUIRED CLOUD USAGE** – If Client requests that Crowe access files, documents or other information in a cloud-based or web-accessed hosting service or other third-party system accessed via the internet, including, without limitation iCloud, Dropbox, Google Docs, Google Drive, a data room hosted by a third party, or a similar service or website (collectively, "Cloud Storage"), Client will confirm with any third

parties assisting with or hosting the Cloud Storage that either such third party or Client (and not Crowe) is responsible for complying with all applicable laws relating to the Cloud Storage and any information contained in the Cloud Storage, providing Crowe access to the information in the Cloud Storage, and protecting the information in the Cloud Storage from any unauthorized access, including without limitation unauthorized access to the information when in transit to or from the Cloud Storage. Client represents that it has authority to provide Crowe access to information in the Cloud Storage and that providing Crowe with such access complies with all applicable laws, regulations, and duties owed to third parties.

**DATA PROTECTION** – If Crowe holds or uses Client information that can be linked to specific individuals who are Client's customers ("Personal Data"), Crowe will treat it as confidential and comply with applicable US state and federal law and professional regulations (including, for financial institution clients, the objectives of the Interagency Guidelines Establishing Information Security Standards) in disclosing or using such information to carry out the Services. The parties acknowledge and understand that while Crowe is a service provider as defined by the California Consumer Privacy Act of 2018 and processes Client information pursuant to this Agreement, Crowe retains its independence as required by applicable law and professional standards for purposes of providing attest services and other services. Crowe will not (1) sell Personal Data to a third party, or (2) retain, use or disclose Personal Data for any purpose other than for (a) performing the Services and its obligations on this Agreement, (b) as otherwise set forth in this Agreement, (c) to detect security incidents and protect against fraud or illegal activity, (d) to enhance and develop our products and services, including through machine learning and other similar methods and (e) as necessary to comply with applicable law or professional standards. Crowe has implemented and will maintain physical, electronic and procedural safeguards reasonably designed to (i) protect the security, confidentiality and integrity of the Personal Data, (ii) prevent unauthorized access to or use of the Personal Data, and (iii) provide proper disposal of the Personal Data (collectively, the "Safeguards"). Client represents (i) that it has the authority to provide the Personal Data to Crowe in connection with the Services, (ii) that Client has processed and provided the Personal Data to Crowe in accordance with applicable law, and (iii) will limit the Personal Data provided to Crowe to Personal Data necessary to perform the Services. To provide the Services, Client may also need to provide Crowe with access to Personal Data consisting of protected health information, financial account numbers, Social Security or other government-issued identification numbers, or other data that, if disclosed without authorization, would trigger notification requirements under applicable law ("Restricted Personal Data"). In the event Client provides Crowe access to Restricted Personal Data, Client will consult with Crowe on appropriate measures (consistent with legal requirements and professional standards applicable to Crowe) to protect the Restricted Personal Data, such as: deleting or masking unnecessary information before making it available to Crowe, using encryption when transferring it to Crowe, or providing it to Crowe only during on-site review on Client's site. Client will provide Crowe with Restricted Personal Data only in accordance with mutually agreed protective measures. Otherwise, Client and Crowe agree each may use unencrypted electronic media to correspond or transmit information and such use will not in itself constitute a breach of any confidentiality obligations under this Agreement. Crowe will reasonably cooperate with Client in responding to or addressing any request from a consumer or data subject, a data privacy authority with jurisdiction, or the Client, as necessary to enable Client to comply with its obligations under applicable data protection laws and to the extent related to Personal Data. Client will reimburse Crowe for any out-of-pocket expenses and professional time (at Crowe's then-current hourly rates) incurred in connection with providing such cooperation. Client will provide prompt written notice to Crowe (with sufficient detailed instructions) of any request or other act that is required to be performed by Crowe. As appropriate, Crowe will promptly delete or procure the deletion of the Personal Data, after the cessation of any Services involving the processing of Client's Personal Data, or otherwise aggregate or de-identify the Personal Data in such a way as to reasonably prevent reidentification. Notwithstanding the forgoing, Crowe may retain a copy of the Personal Data as permitted by applicable law or professional standards, provided that such Personal Data remain subject to the terms of this Agreement. If Crowe uses a third-party provider, Crowe will include terms substantially similar to those set forth in this Data Protection Paragraph in an agreement with such provider.

**GENERAL DATA PROTECTION REGULATION COMPLIANCE** – If and to the extent that Client provides personal data to Crowe subject to the European Union General Data Protection Regulation ("GDPR"), then in addition to the requirements of the above Data Protection section, this section will apply to such personal data ("EU Personal Data"). The parties agree that for purposes of processing the EU Personal Data, (a)

Client will be the “Data Controller” as defined by the GDPR, meaning the organization that determines the purposes and means of processing the EU Personal Data; (b) Crowe will be the “Data Processor” as defined by GDPR, meaning the organization that processes the EU Personal Data on behalf of and under the instructions of the Data Controller; or (c) the parties will be classified as otherwise designated by a supervisory authority with jurisdiction. Client and Crowe each agree to comply with the GDPR requirements applicable to its respective role. Crowe has implemented and will maintain technical and organizational security safeguards reasonably designed to protect the security, confidentiality and integrity of the EU Personal Data. Client represents it has secured all required rights and authority, including consents and notices, to provide such EU Personal Data to Crowe, including without limitation authority to transfer such EU Personal Data to the U.S. or other applicable Country or otherwise make the EU Personal Data available to Crowe, for the duration of and purpose of Crowe providing the Services. The types of EU Personal Data to be processed include name, contact information, title, and other EU Personal Data that is transferred to Crowe in connection with the Services. The EU Personal Data relates to the data subject categories of individuals connected to Client, Client customers, Client vendors, and Client affiliates or subsidiaries (“Data Subjects”). Crowe will process the EU Personal Data for the following purpose: (x) to provide the Services in accordance with this Agreement, (y) to comply with other documented reasonable instructions provided by Client, and (z) to comply with applicable law. In the event of a Crowe breach incident in connection with EU Personal Data in the custody or control of Crowe, Crowe will promptly notify Client upon knowledge that a breach incident has occurred. Client has instructed Crowe not to contact any Data Subjects directly, unless required by applicable law. In the event that a supervisory authority with jurisdiction makes the determination that Crowe is a data controller, Client will reasonably cooperate with Crowe to enable Crowe to comply with its obligations under GDPR.

**INTELLECTUAL PROPERTY** - Any Deliverables, Works, Inventions, working papers, or other work product conceived, made or created by Crowe in rendering the Services under this Agreement (“Work Product”), and all intellectual property rights in such Work Product will be owned exclusively by Crowe. Further, Crowe will retain exclusive ownership or control of all intellectual property rights in any ideas, concepts, methodologies, data, software, designs, utilities, tools, models, techniques, systems, Reports, or other know-how that it develops, owns or licenses in connection with this Agreement (“Materials”). The foregoing ownership will be without any duty of accounting.

**DATA USAGE AND AGGREGATIONS** - Client hereby acknowledges and agrees that Crowe may, in its discretion, use any Client information or data provided to Crowe to improve Crowe services and Materials, including without limitation developing new Crowe services and software or other products. Client also agrees that Crowe may, in its discretion, aggregate Client content and data with content and data from other clients, other sources, or third parties (“Data Aggregations”) for purposes including, without limitation, product and service development, commercialization, industry benchmarking, or quality improvement initiatives. Prior to, and as a precondition for, disclosing Data Aggregations to other Crowe customers or prospects, Crowe will anonymize any Client data or information in a manner sufficient to prevent such other customer or prospect from identifying Client or individuals who are Client customers. All Data Aggregations will be the sole and exclusive property of Crowe.

**LEGAL AND REGULATORY CHANGE** – Crowe may periodically communicate to Client changes in laws, rules or regulations. However, Client has not engaged Crowe, and Crowe does not undertake an obligation, to advise Client of changes in (a) laws, rules, regulations, industry or market conditions, or (b) Client’s own business practices or other circumstances (except to the extent required by professional standards). The scope of Services and the fees for Services are based on current laws and regulations. If changes in laws or regulations change Client’s requirements or the scope of the Services, Crowe’s fees will be modified to a mutually agreed amount to reflect the changed level of Crowe’s effort.

**PUBLICATION** – Client agrees to obtain Crowe’s specific permission before using any Report or Crowe work product or Crowe’s firm’s name in a published document, and Client agrees to submit to Crowe copies of such documents to obtain Crowe’s permission before they are filed or published.

**CLIENT REFERENCE** – From time to time Crowe is requested by prospective clients to provide references for Crowe service offerings. Client agrees that Crowe may use Client’s name and generally describe the

nature of Crowe's engagement(s) with Client in marketing to prospects, and Crowe may also provide prospects with contact information for Client personnel familiar with Crowe's Services.

**NO PUNITIVE OR CONSEQUENTIAL DAMAGES** – Any liability of Crowe will not include any consequential, special, incidental, indirect, punitive, or exemplary damages or loss, nor any lost profits, goodwill, savings, or business opportunity, even if Crowe had reason to know of the possibility of such damages.

**LIMIT OF LIABILITY** – Except where it is judicially determined that Crowe performed its Services with recklessness or willful misconduct, Crowe's liability will not exceed fees paid by Client to Crowe for the portion of the work giving rise to liability. A claim for a return of fees paid is the exclusive remedy for any damages. This limit of liability will apply to the full extent allowed by law, regardless of the grounds or nature of any claim asserted, including, without limitation, to claims based on principles of contract, negligence or other tort, fiduciary duty, warranty, indemnity, statute or common law. This limit of liability will also apply after this Agreement.

**INDEMNIFICATION FOR THIRD-PARTY CLAIMS** – In the event of a legal proceeding or other claim brought against Crowe by a third party, except where it is judicially determined that Crowe performed Services with recklessness or willful misconduct, Client agrees to indemnify and hold harmless Crowe and its personnel against all costs, fees, expenses, damages and liabilities, including attorney fees and any other fees or defense costs, associated with such third-party claim, relating to or arising from any Services performed or work product provided by Crowe that Client uses or discloses to others or this engagement generally. This indemnification is intended to apply to the full extent allowed by law, regardless of the grounds or nature of any claim, liability, or damages asserted, including, without limitation, to claims, liability or damages based on principles of contract, negligence or other tort, fiduciary duty, warranty, indemnity, statute or common law. This indemnification will also apply after termination of this Agreement.

**NO TRANSFER OR ASSIGNMENT OF CLAIMS** – No claim against Crowe, or any recovery from or against Crowe, may be sold, assigned or otherwise transferred, in whole or in part.

**TIME LIMIT ON CLAIMS** – In no event will any action against Crowe, arising from or relating to this engagement letter or the Services provided by Crowe relating to this engagement, be brought after the earlier of 1) two (2) years after the date on which occurred the act or omission alleged to have been the cause of the injury alleged; or 2) the expiration of the applicable statute of limitations or repose.

**RESPONSE TO LEGAL PROCESS** – If Crowe is requested by subpoena, request for information, or through some other legal process to produce documents or testimony pertaining to Client or Crowe's Services, and Crowe is not named as a party in the applicable proceeding, then Client will reimburse Crowe for its professional time, plus out-of-pocket expenses, as well as reasonable attorney fees, Crowe incurs in responding to such request.

**MEDIATION** – If a dispute arises, in whole or in part, out of or related to this engagement, or after the date of this agreement, between Client or any of Client's affiliates or principals and Crowe, and if the dispute cannot be settled through negotiation, Client and Crowe agree first to try, in good faith, to settle the dispute by mediation administered by the American Arbitration Association, under its mediation rules for professional accounting and related services disputes, before resorting to litigation or any other dispute-resolution procedure. The results of mediation will be binding only upon agreement of each party to be bound. Costs of any mediation will be shared equally by both parties. Any mediation will be held in Chicago, Illinois.

**JURY TRIAL WAIVER** – FOR ALL DISPUTES RELATING TO OR ARISING BETWEEN THE PARTIES, THE PARTIES AGREE TO WAIVE A TRIAL BY JURY TO FACILITATE JUDICIAL RESOLUTION AND TO SAVE TIME AND EXPENSE. EACH PARTY AGREES IT HAS HAD THE OPPORTUNITY TO HAVE ITS LEGAL COUNSEL REVIEW THIS WAIVER. THIS WAIVER IS IRREVOCABLE, MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND APPLIES TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, OR MODIFICATIONS TO THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS

AGREEMENT MAY BE FILED AS WRITTEN CONSENT TO A BENCH TRIAL WITHOUT A JURY. HOWEVER, AND NOTWITHSTANDING THE FOREGOING, IF ANY COURT RULES OR FINDS THIS JURY TRIAL WAIVER TO BE UNENFORCEABLE AND INEFFECTIVE IN WAIVING A JURY, THEN ANY DISPUTE RELATING TO OR ARISING FROM THIS ENGAGEMENT OR THE PARTIES' RELATIONSHIP GENERALLY WILL BE RESOLVED BY ARBITRATION AS SET FORTH IN THE PARAGRAPH BELOW REGARDING "ARBITRATION."

**ARBITRATION** – If any court rules or finds that the JURY TRIAL WAIVER section is not enforceable, then any dispute between the parties relating to or arising from this Agreement or the parties' relationship generally will be settled by binding arbitration in Chicago, Illinois (or a location agreed in writing by the parties). Any issues concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of any of this Section, will be governed by the Federal Arbitration Act and resolved by the arbitrator(s). The arbitration will be governed by the Federal Arbitration Act and resolved by the arbitrator(s). Regardless of the amount in controversy, the arbitration will be administered by JAMS, Inc. ("JAMS"), pursuant to its Streamlined Arbitration Rules & Procedures or such other rules or procedures as the parties may agree in writing. In the event of a conflict between those rules and this Agreement, this Agreement will control. The parties may alter each of these rules by written agreement. If a party has a basis for injunctive relief, this paragraph will not preclude a party seeking and obtaining injunctive relief in a court of proper jurisdiction. The parties will agree within a reasonable period of time after notice is made of initiating the arbitration process whether to use one or three arbitrators, and if the parties cannot agree within fifteen (15) business days, the parties will use a single arbitrator. In any event the arbitrator(s) must be retired federal judges or attorneys with at least 15 years commercial law experience and no arbitrator may be appointed unless he or she has agreed to these procedures. If the parties cannot agree upon arbitrator(s) within an additional fifteen (15) business days, the arbitrator(s) will be selected by JAMS. Discovery will be permitted only as authorized by the arbitrator(s), and as a rule, the arbitrator(s) will not permit discovery except upon a showing of substantial need by a party. To the extent the arbitrator(s) permit discovery as to liability, the arbitrator(s) will also permit discovery as to causation, reliance, and damages. The arbitrator(s) will not permit a party to take more than six depositions, and no depositions may exceed five hours. The arbitrator(s) will have no power to make an award inconsistent with this Agreement. The arbitrator(s) will rule on a summary basis where possible, including without limitation on a motion to dismiss basis or on a summary judgment basis. The arbitrator(s) may enter such prehearing orders as may be appropriate to ensure a fair hearing. The hearing will be held within one year of the initiation of arbitration, or less, and the hearing must be held on continuous business days until concluded. The hearing must be concluded within ten (10) business days absent written agreement by the parties to the contrary. The time limits in this section are not jurisdictional. The arbitrator(s) will apply substantive law and may award injunctive relief or any other remedy available from a judge. The arbitrator(s) may award attorney fees and costs to the prevailing party, and in the event of a split or partial award, the arbitrator(s) may award costs or attorney fees in an equitable manner. Any award by the arbitrator(s) will be accompanied by a reasoned opinion describing the basis of the award. Any prior agreement regarding arbitration entered by the parties is replaced and superseded by this agreement. The arbitration will be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq., and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. All aspects of the arbitration will be treated by the parties and the arbitrator(s) as confidential.

**NON-SOLICITATION** – Each party acknowledges that it has invested substantially in recruiting, training and developing the personnel who render services with respect to the material aspects of the engagement ("Key Personnel"). The parties acknowledge that Key Personnel have knowledge of trade secrets or confidential information of their employers that may be of substantial benefit to the other party. The parties acknowledge that each business would be materially harmed if the other party was able to directly employ Key Personnel. Therefore, the parties agree that during the period of this Agreement and for one (1) year after its expiration or termination, neither party will solicit Key Personnel of the other party for employment or hire the Key Personnel of the other party without that party's written consent unless hiring or engaging party pays to the other party a fee equal to the hired or engaged Key Personnel's compensation for the prior twelve-month period with the other party.

**CROWE AND EQUAL OPPORTUNITY** – Crowe abides by the principles of equal employment opportunity, including without limitation the requirements of 41 CFR 60-741.5(a) and 41 CFR 60-300.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. Crowe also abides by 29 CFR Part 471, Appendix A to Subpart A. The parties agree that the notice in this paragraph does not create any enforceable rights for any firm, organization, or individual.

**CROWE GLOBAL NETWORK** – Crowe LLP and its subsidiaries are independent members of Crowe Global, a Swiss organization. “Crowe” is the brand used by the Crowe Global network and its member firms, but it is not a worldwide partnership. Crowe Global and each of its members are separate and independent legal entities and do not obligate each other. Crowe LLP and its subsidiaries are not responsible or liable for any acts or omissions of Crowe Global or any other Crowe Global members, and Crowe LLP and its subsidiaries specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Global or any other Crowe Global member. Crowe Global does not render any professional services and does not have an ownership or partnership interest in Crowe LLP or any other member. Crowe Global and its other members are not responsible or liable for any acts or omissions of Crowe LLP and its subsidiaries and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe LLP and its subsidiaries. Visit [www.crowe.com/disclosure](http://www.crowe.com/disclosure) for more information about Crowe LLP, its subsidiaries, and Crowe Global.

**ATTACHMENT A**

Municipal Advisory services related to the refunding of the 2007 and 2013 Cedar Lake Redevelopment Authority Lease Rental Bonds.

**Planning and Financial Structuring**

1. Attend either in person or virtually working group meetings
2. Communicate with local counsel and bond counsel concerning timetables and necessary documentation.
3. Summarize estimated sources and uses of funds and prepare estimated amortization schedules for the bonds.
4. Provide financial parameters to bond counsel for the bond ordinance.
5. Make inquiries concerning fees and services for Escrow Agent, Paying Agent and Registrar services and analyze the responses, if necessary.

**Disclosure and Presentations**

1. Participate in due diligence investigations as requested by the Town in connection with the client's financial disclosure obligations under SEC regulations, including Rule 10(b)(5), and the Securities Acts of 1933 and 1934 and the disclosure rules applicable to governmental issuers under SEC Rule 15c2-12.
2. Prepare for and attend up to three (3) public meetings.
3. Prepare a term sheet or official statement for the sale of securities at on a negotiated basis, including determining direct and overlapping community debt, debt ratios and per capita ratios for the purpose of establishing limitations, if any, and credit capabilities. Crowe will not serve as a placement agent, nor a broker or dealer.
4. Apply for and manage data presentations relative to request for credit ratings by Moody's Investors Service, Standard & Poor's and or Fitch Ratings.

**Sale, Closing and Follow-Through**

1. Participate in pricing calls on behalf of the Client.
2. Assist for closing of sale and transfer of funds.
3. Assist with preparation of financial closing documents required by bond counsel.

The fee for this project will be \$ 35,000.00 plus out-of-pocket expenses. Services requested which are outside the Scope of Services listed herein will be described and quoted separately.

We will invoice you for our services and out-of-pocket expenses at the time of issuance of the bonds.

Out-of-pocket expenses paid by Crowe are billed to the Client at cost. These expenses generally include, but are not limited to, communication, printing (including, without limitation, printing the Official Statement, to the extent applicable) , binding, electronic marketing, electronic bidding expense , evaluation software and travel expenses incurred on behalf of the Client.

Should the project terminate prior to completion (bond issue prior to the issuance of the bonds) we will invoice the Client for the time and out-of-pocket expenses through the date of project termination. Otherwise, our fees can be paid from bond proceeds at closing.



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August 13, 2020

Town of Cedar Lake, Lake County, Indiana  
Cedar Lake Redevelopment Authority  
c/o David M. Austgen, Esq.  
AUSTGEN KUIPER JASAITIS P.C.  
130 North Main Street  
Crown Point, Indiana 46307

Attention: Town Council of the Town of Cedar Lake, Lake County, Indiana  
Cedar Lake Redevelopment Authority

**Re: Cedar Lake Redevelopment Authority Lease Rental Revenue Refunding  
Bonds of 2020**

Dear Redevelopment Authority and Town Council Members:

The purpose of this letter is to set the terms and conditions under which our Firm will serve as bond counsel to you in connection with the proposed issuance of the above-referenced refunding bonds (the "Bonds") by the Cedar Lake Redevelopment Authority (the "Redevelopment Authority" or "Issuer") for the purpose of refunding the Redevelopment Authority's Lease Rental Revenue Bonds of 2007 and Lease Rental Revenue Bonds of 2013 (collectively, the "Prior Bonds") and the payment of the costs of issuance of the Bonds (collectively, the "Transaction"). We understand the Bonds will be sold through a private negotiation with an underwriter (the "Underwriter"). It is our understanding that Crowe LLP (the "Municipal Advisor"), will be serving as the Municipal Advisor for the Issuer in the Transaction.

I am enclosing our Standard Terms of Engagement for Legal Services dated January 2019, setting forth the standard terms upon which our Firm accepts client engagements. Our engagement by you in this matter will be governed by these standard terms to the extent not expressly modified by this letter.

## Identity of Client

It is important from the outset of our relationship that we have a clear understanding as to the identity of our client. Our only client in this matter is the Issuer, and not any of its officials,

officers, employees or other affiliates. You have agreed that our representation of the Issuer in this matter will not give rise to any attorney-client relationship between our Firm and any official, officer, employee or other affiliate of the Issuer. You have also agreed that, during the course of our representation of the Issuer in this matter, our Firm will not be given any confidential information regarding any official, officer, employee or other affiliate of the Issuer. Accordingly, our Firm's representation of the Issuer in this matter will not give rise to any conflict of interest in the event other clients of our Firm are adverse to any official, officer, employee or other affiliate of the Issuer.

### **Services**

Bond counsel is engaged to render an objective legal opinion with respect to the authorization and issuance of bonds. As bond counsel in the Transaction, we advocate the interests of the Issuer and not any other party to the transaction. It is our understanding that the Issuer will also be represented by Austgen Kuiper Jasaitis P.C., the Town Attorney. We also assume that the other parties to the Transaction, including, but not limited to the Underwriter, will retain such counsel as they deem necessary and appropriate to represent their interests in this Transaction.

As bond counsel, we will provide the following services as and when requested by the Issuer:

1. Meet with and assist the Issuer, the Underwriter, the Municipal Advisor and the Town Attorney in structuring the Transaction, and provide the Issuer with details of using certain structures and the legal requirements associated therewith.
2. Prepare the basic documentation for the Transaction, including bond resolutions, lease agreements, trust indentures, mortgages, escrow agreements and bond certificates, together with petitions, affidavits, notices, resolutions and certifications related thereto.
3. Assist the Issuer in preparing for and attending required hearings at the local level.
4. Prepare or assist in preparing for and participate in any meetings with any rating agency, municipal bond insurer or other credit provider concerning the Transaction.
5. Attend any meetings as requested by the Issuer.
6. Coordinate the scheduling and supervise the closing of the Bonds, including preparation of required closing documents.
7. We will assist the Municipal Advisor in preparing or reviewing certain sections of the official statement or offering circular that will be used to market the Bonds, specifically, the portions that describe the Bonds and other legal documents, federal tax matters, and our legal opinion.

8. We will assist the Redevelopment Authority in its continuing disclosure undertaking, if necessary, under federal securities law to allow an underwriter to purchase the Bonds.

Subject to the completion of proceedings to our satisfaction with respect to the Bonds, we will render our opinion to the effect that: (i) the Bonds are the valid and binding obligation of the issuer of the Bonds, enforceable against such issuer in accordance with their terms, and (ii) the interest on the Bonds is excludable from gross income for federal income tax purposes and is exempt from taxation in the State of Indiana (all subject to certain limitations which will be expressed in the opinion).

The opinion will be executed and delivered by us in written form on the date the Bonds are exchanged for their purchase price (the "Closing") and will be based on facts and law existing as of its date. In rendering the opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us, without undertaking to verify the same by independent investigation.

Upon delivery of the opinion for the Bonds, our responsibilities as bond counsel will be concluded with respect to the Transaction. Specifically, but without implied limitation, we do not undertake (unless separately engaged) to provide continuing advice to the Issuer or any other party concerning any actions necessary to assure that interest on the Bonds will continue to be excludable from gross income for federal income tax purposes.

As bond counsel, we will not provide the following services in connection with the Transaction:

1. We will not review the financial condition of the Issuer, the feasibility of the projects to be financed or refinanced with the proceeds of the Bonds or the adequacy of the security provided to owners of the Bonds, and we will express no opinion relating thereto.
2. Except as specifically set forth above, we will not assume or undertake responsibility for the preparation of an official statement or any other disclosure document with respect to the Bonds, nor are we responsible for performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document.
3. We will not provide any other services not specifically set forth above.

Although I will be the lawyer responsible for this matter, I may assign portions of the work to be done to other Firm lawyers. In an effort to effect greater efficiencies and to reduce total fees, I may also ask one or more of our paralegals to assist in this matter as well in the areas of (1) filing certain documents, such as the UCC filing statements, with certain state and local agencies and (2) compiling the executed documents for the transcript.

### **Municipal Advisor Matters**

We understand that the Municipal Advisor is an independent registered municipal advisor, and that the Issuer will look primarily to the Municipal Advisor for financial advice in the Transaction. We (a) are not a financial advisor or financial expert regarding the issuance of municipal securities or municipal financial products, and (b) are not subject to the fiduciary duty imposed on independent registered municipal advisors by the United States Securities and Exchange Commission and the Municipal Securities Rulemaking Board

### **Fees**

Our fees in this matter will be based primarily on the hours actually worked by each lawyer and legal assistant involved in this matter. These fees will be computed using hourly billing rates for the lawyer or legal assistant and the type of work involved that are in effect at the time you are billed for the work. Generally speaking, our billing rates vary in accordance with the experience and seniority of the lawyers and legal assistants performing the services. Our billing rates are adjusted annually, typically in December. Based upon: (i) our understanding of the terms and structure of the Transaction and the assumptions set forth in this letter, (ii) the duties we will undertake pursuant to this letter, (iii) the time we anticipate devoting to the Transaction, and (iv) the responsibilities we assume, we expect that our fees will range from \$50,000 to \$55,000 for the work necessary to complete the refunding of the Prior Bonds. In addition to our fees, we anticipate incurring expenses in the transaction all of which will be charged to the Issuer. Our fees and expenses are usually paid at the Closing out of the proceeds of the Bonds, and we customarily do not submit any statement until the Closing unless there is a substantial delay in completing the Transaction.

### **Waiver of Certain Potential Conflicts of Interest**

Before our firm agrees to represent you, we believe that it is appropriate to spell out the expectations or standards that will govern conflicts of interest that arise in the course of our relationship. As you are aware we have over 500 lawyers representing thousands of clients in various states, so it is foreseeable that our representation of our other clients may be or become directly adverse to your interests from time to time. For example, such conflicts may arise in (a) municipal finance transactions in which you propose to issue obligations, (b) local units of government and elected officials in various government issues, or (c) contracts for goods, services or public works, because, as you know, we regularly represent clients in these matters.

You should know that Rule 1.7 of the Rules of Professional Conduct governing lawyers generally prohibits a lawyer from representing one client in a matter directly adverse to another client unless the affected client provides informed consent confirmed in writing. Similarly, if one lawyer in a firm has a conflict under this rule, other lawyers in the same firm are likewise limited by Rule 1.10 from accepting the conflicting engagement in the absence of informed consent. In light of these rules, we request that you consent and acknowledge that our representation of you in

this and other matters on which you engage us from time to time will not disqualify the firm from representing other clients in unrelated matters adverse to you. Specifically, we understand that you agree and consent that we may represent other clients in matters that are not substantially related to the matters on which we are advising you, even where our representation of such clients may be or become directly adverse to your interests. For example, such representations may include:

- advising our other clients regarding the existence, scope or validity of your rights in real, personal or intellectual property;
- advising our other clients regarding the interpretation and application of provisions of contracts or other legal documents to which you may be party or that may affect your legal rights or obligations;
- advising our other clients in connection with contractual or transactional negotiations and preparing contracts or other legal documents to which you will be a party or that may affect your rights or obligations, including, but not limited to, obligations or securities issued by the Issuer;
- advising our other clients regarding the existence or potential existence of legal claims that our other clients may have against you or that you may have against our other clients, and defenses to such claims; and
- advising and representing our other clients in the resolution of disputes with you that may arise in the future, including the defense of claims you may assert against our other clients, or the prosecution of claims our other clients may assert against you, including mediated proceedings, arbitrations or proceedings in any court.

You should bear in mind that this consent would also allow us to take on unrelated representations for other parties, including government entities, whom we are opposing, or to whom we are adverse, in matters, transactions or disputes that we are handling on your behalf. We do confirm, however, that the foregoing consent does not affect our obligation to protect confidential information you share with us in connection with our representation of you and not to use such information to your detriment. Accordingly, we may from time to time, in order to avoid any risk of misuse of your confidential information, implement procedures to screen lawyers handling matters for other clients that are directly adverse to your interests from confidential information you have shared with us.

Of course, loyalty and independent judgment are essential elements of the lawyer-client relationship. You should consider whether this arrangement might impair the vigor with which the firm represents you; whether our representation of clients adversely to you is likely to place the firm in a position to use your confidences or secrets against you; and whether the knowledge that we may represent other parties in matters directly adverse to you might affect your ability to communicate candidly with our lawyers who are representing you in your matters. We do not believe that our Firm's role in unrelated representations adverse to you will have any material adverse effect on our representation of you in matters on which you engage us. Indeed, were we

Town of Cedar Lake, Lake County, Indiana  
Cedar Lake Redevelopment Authority  
c/o David M. Austgen, Esq.  
August 13, 2020  
Page 6

to conclude that undertaking an unrelated adverse representation would materially impair our representation of you in ongoing matters, we would not undertake the representation. These are, however, necessarily issues that you should evaluate for yourself and you may wish to consider these matters with independent counsel.

### **E-Verify Participation**

In connection with this engagement, we agree that Barnes & Thornburg LLP is enrolled in and will verify the work eligibility status of all newly hired employees through the Federal E-Verify program (unless and until the E-Verify program no longer exists). This letter confirms that Barnes & Thornburg LLP has signed an affidavit stating that it does not knowingly employ an unauthorized alien, and we will provide a copy of that affidavit to you upon request.

### **Conclusion**

If you (i) agree to our service as bond counsel in the Transaction upon the terms set forth herein, (ii) agree and consent that we may represent other clients in matters that are not substantially related to the matters on which we are advising you, even where our representation of such clients may be or become directly adverse to your interests, and (iii) acknowledge that the statements made in the heading "Municipal Advisor Matters" are accurate and true to your knowledge, please indicate your acknowledgement and agreement on behalf of the Issuer by executing the enclosed copy of this letter in the space provided below and return the executed copy to me.

You may terminate our engagement as bond counsel at any time simply by notifying us. We may terminate our engagement for nonpayment of our fees and other charges and where we are required or permitted to do so by the Rules of Professional Conduct after giving you reasonable notice and allowing time for you to engage successor counsel, if necessary.

Town of Cedar Lake, Lake County, Indiana  
Cedar Lake Redevelopment Authority  
c/o David M. Austgen, Esq.  
August 13, 2020  
Page 7

We ask you to acknowledge that, in reviewing and executing this letter, you have not relied on any advice provided by our Firm but instead have acted solely in reliance upon the advice of other legal counsel.

We are pleased to have this opportunity to be of service to you.

Sincerely,

BARNES & THORNBURG LLP



Philip J. Faccenda, Jr.

PJF/bej  
Enclosure

ACKNOWLEDGED, AGREED TO AND ACCEPTED:

CEDAR LAKE REDEVELOPMENT AUTHORITY

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

TOWN OF CEDAR LAKE, LAKE COUNTY, INDIANA

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

DMS 17893080

## **BARNES & THORNBURG LLP**

### **TERMS OF ENGAGEMENT FOR LEGAL SERVICES**

The following terms are an integral part of our agreement with you and, unless modified expressly in writing by mutual agreement, govern all of our engagements for you. We ask that you review these terms carefully and write us promptly if you have any questions. We suggest that you retain this document in your file together with our engagement letter(s).

#### **Our Client**

The person or entity that we represent is the person or entity identified as our client in our engagement letter and does not include any affiliates or relatives of such person or entity. This means that, unless we specifically agree otherwise, we do not have any lawyer-client relationship with:

- Your subsidiaries, parent company or other business entities in a commonly controlled group, without regard to any internal arrangements for the management of affairs between our client and any such affiliate, or any operational commonality among such entities such as consolidated administrative services, common in-house legal functions, or any overlapping officers, directorships or ownership;
- Your owners, shareholders, members, managers, partners, directors, officers, employees, representatives or agents;
- Your spouse, partner, children or other family members.

Therefore, our representation of you will neither limit nor impair our ability to represent another client with interests adverse to any such affiliated entity, affiliated person or family member without obtaining your consent.

#### **The Scope of Our Work**

Our practice with new clients is to describe the scope of our initial engagement in the letter we send accepting employment. With existing and recurrent clients, we may or may not provide a description of new matters depending on the circumstances, but we will always provide such a description if asked. In any engagement we limit our services to those you ask us to perform and those we deem reasonably necessary to accomplish the requested services. If you ask us to limit our work to only one or certain aspects of a transaction, matter or case, we will address only what you request, even if full legal representation on such matter would normally be more involved or extensive.

If you do not expressly request in writing that we notify your insurance carrier(s) on your behalf regarding any

matter in which we are representing you, we will assume you are taking responsibility yourself for such notification. Similarly, unless you specifically ask us in writing for our advice concerning your data security practices, we shall have no obligation to inform or advise you regarding such matters.

The outcome of legal matters and proceedings cannot be predicted with certainty. If we offer an assessment of the likely outcome of a matter, that is merely our opinion based on our understanding of the facts and the law at the time. We cannot guarantee results.

#### **Who Will Provide the Services**

Each client matter handled by our Firm is assigned to a principal lawyer contact. The principal lawyer should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal lawyer at any time. Under the supervision of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the Firm.

To help us serve our clients, we employ law clerks (often law students), paralegals, lobbyists, investigators, patent agents, foreign lawyers, research librarians, environmental analysts, translators, draftsmen, ediscovery/litigation support personnel and other technical (non-legal) specialists. Such personnel possess training, experience and skills that enable them to assist our lawyers in discharging their responsibilities, but they are not lawyers. Accordingly, you should not construe or rely upon any communications you receive from such personnel as legal advice.

#### **How Fees Will Be Set**

The basis on which our fees will be determined is described in the pertinent engagement letter. Usually the time and effort required are the primary factors on which our fees are based. We will record the time we devote to your work (typically in increments of 1/10th of an hour). This time may include conferences (both in person and over the telephone), negotiations, court appearances, factual and legal research and analysis, document preparation and revision, required travel and other related matters. Peer collaboration and review is an important element of providing quality services, and so our time records will often include discussions between lawyers within our Firm concerning the matters in which we have been engaged. The hourly rates we charge for our lawyers and service providers are based on their relative experience, skills, reputation, the type of engagement, market factors and similar considerations.



We review our hourly rates at least annually and may adjust them periodically. Our statements will reflect the applicable rates in effect at the date of the statement even if they exceed the applicable hourly rates in effect on the date the services were performed.

We are sometimes requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter on which our fees are hourly or otherwise variable. But fees and costs are often unpredictable. Accordingly, except in those engagements in which we specifically agree in writing to a flat or maximum fee, we make no commitment concerning the maximum fees and costs that will be necessary to resolve or complete the matter, even when we have provided an estimate. The ultimate cost is invariably more or less than the amount estimated. In addition, your obligation to pay the Firm's fees and costs is in no way contingent on the ultimate outcome of the matter.

In instances in which we offer and you accept a flat fee, that flat fee covers only the services within the scope of work specified in the flat fee proposal. Any additional work will be billed at our standard hourly rates unless otherwise agreed in writing.

#### Other Charges

In addition to our fees we will likely bill you for various charges that we itemize separately. These may include charges or fees for:

- messengers and couriers
- photocopying, desktop publishing or printing
- data storage
- ediscovery data hosting services
- litigation support technology services
- computerized research
- certain clerical services
- filing fees (including electronic filings)
- court reporters
- witnesses
- outside experts and consultants, including for example accountants, appraisers and other legal counsel
- travel
- phone and Web conferencing

Certain of these other charges may represent more than our out-of-pocket cost to contribute toward covering indirect expenses we incur. We incur outside

charges on your behalf as your agent. You agree to pay these charges when due. We may require that you pay significant expenses directly or in advance. In some instances when we make advance payment on your behalf as a convenience, we may be entitled to incentives, rebates or rewards from our banks or credit card companies for using their services. Such arrangements lower our overhead and administrative expense and are not passed along to clients.

In some engagements, it is necessary to engage legal counsel in a foreign country. When we engage counsel in a foreign country on your behalf, we are not guarantors or indemnitors for such foreign counsel's work, nor are we in a position to review the adequacy of their legal work or translation of documents. We engage foreign counsel to assist you specifically because we are not licensed or familiar with the applicable legal system and therefore are not in a position to provide those legal services or judge their adequacy.

#### Terms of Payment

We will bill you on a regular basis, typically monthly, for both fees and other charges. Our fees and charges are due when you receive our statement. Also, if you do not pay us within 30 days of our statement or as otherwise agreed, you agree that we may discontinue providing services immediately and withdraw from representing you after providing reasonable notice of our intention to do so. You also agree that until we are paid in full on all of your legal matters, and except to the extent otherwise prohibited or limited by law, we shall have a lien on all papers and files in our possession related to any of the matters in which we have represented you, and any property recovered or obtained as a result of our work on your behalf. To the extent not prohibited by applicable law or court rule and effective with new clients on or after January 1, 2019, you agree to pay us finance charges at the rate of 12% per annum on all fees and charges that you fail to pay within 30 days of our invoice(s) (or, if applicable, a later past due date agreed by us in writing). You agree to pay the costs of collecting your debt to us, including court costs, filing fees and reasonable attorneys' fees.

#### Advance Deposits and Amounts Received in Trust

New clients of our Firm will ordinarily be asked to make an advance deposit with the Firm. The Firm may also in its sole discretion at any time during our representation require existing clients to make an advance deposit based, for example, on past payment history, creditworthiness, increases in the scope or intensity of our work, or other factors that may cause the Firm to conclude it is appropriate to do so.



If we require an advance deposit from you, we will charge or draw against the advance deposit for fees and other charges as our legal services are provided. We will issue regular statements to you describing the fees and other charges which have been deducted from the advance deposit and the amount which must be paid to replenish the advance deposit to the agreed level. If the advance deposit is insufficient to cover fees and other charges anticipated in the current and following month, or if the scope or intensity of our work is anticipated to increase, we may require that the balance be increased. At the conclusion of our legal representation, once we are fully paid, or at such time as the advance deposit is no longer necessary or is appropriately reduced, the remaining balance, if any, will be returned to you.

Any advance deposit we receive from you will be held in our trust account until it is charged for fees and other charges for your account or is returned to you. No interest is paid on amounts held by us in our trust account. In particular, court rules in jurisdictions in which we practice require that interest earned on pooled client trust accounts is payable to a charitable foundation established in accordance with the court's rule. While your advance deposit is held by us in our trust account, it remains your property. You authorize us to apply the deposit to any fees and charges that you owe us.

Other deposits that we receive to cover specific items, and any funds that we recover or receive on your behalf, will also be held by us in our general trust account (without interest) and disbursed as provided in our agreement with you, and you will be notified from time to time of the amounts applied or withdrawn. You grant us a security interest in any funds we receive and hold in trust for you (including any advance deposits) to secure payment of any outstanding fees or other charges you owe us. Any amount remaining after disbursement or application to your account will be returned to you.

#### Identifying Conflicts of Interest

We maintain an electronic database relating to our client engagements which we use in evaluating and avoiding conflicts of interest. The Rules of Professional Conduct governing lawyers generally prohibit a lawyer or law firm from representing one client in a matter directly adverse to another client unless the affected clients provide informed consent confirmed in writing. To allow us to identify and address potential conflict issues, you represent to us that you have identified for us all persons and entities that are or may become involved in the matter in which we are being engaged, including all persons and entities affiliated with you who you believe have interests that could be affected by our engagement.

You also agree that you will promptly notify us if you become aware of any other persons or entities that are or may become involved in the matter.

#### Waiver of Certain Potential Conflicts of Interest

As you are aware, we are a large law firm with multiple practices in multiple offices throughout the country, and we represent many different clients in many different industries, including clients who are competitors of each other and sometimes adversaries in legal matters. In taking on this representation, we commit that we will not represent any other client in any matter adverse to you that is substantially related to a matter in which we represent you. In this context, "substantially related" is a term that has come to have a settled meaning in the case law and in Bar ethics opinions. What this commitment means is that we will not take on any matter adverse to you on behalf of another client in circumstances in which any of your confidential data or information, as normally would have been obtained by us in our representation of you, would be material to any new matter adverse to you that we might accept from another client.

In return for our agreement to represent you in this matter and future matters (if any), you consent and agree that we may be adverse to you on behalf of other clients in matters that are not substantially related to the matter we are now undertaking on your behalf or to any additional matter we may undertake on your behalf in the future. Such unrelated matters may include, but are not limited to:

- a. Agreements, business contracts, licenses, mergers and acquisitions, joint ventures, loans and financings, and securities offerings, including contract negotiations with you in which we represent another party, and preparation for other clients of contracts or other legal documents to which you will be a party or that may affect your rights or obligations;
- b. Advice regarding the existence, scope or validity of your rights in real, personal or intellectual property and/or concerning the interpretation and application of provisions of contracts or other legal documents to which you may be party or that may affect your legal rights or obligations;
- c. Advice and representation of our other clients regarding the existence or potential existence of legal claims that our other clients may have against you or that you may have against them, in disputes with you of any nature, or in claims our other clients may assert against you or you against them including litigation in a court, agency or other tribunal, and in arbitration or mediation.



- d. Bankruptcies, reorganizations, receiverships or insolvencies (including proceedings under the US Bankruptcy Code or state insolvency proceedings); non-judicial debt restructurings, including representation of creditors, liquidators or other insolvency professionals in domestic or international matters in which you are a creditor, debtor or other party in interest;
- e. Patents, copyrights, trademarks, trade secrets or other intellectual property matters; including advice to other clients regarding the existence, scope or validity of your rights in intellectual property and assistance in securing or protecting other clients' intellectual property in ways that may limit or constrain your rights;
- f. Real estate, zoning and environmental matters in which your interests in real property may be involved or adversely affected, or in which you may face liability for environmental contamination;
- g. Representation and advocacy with respect to legislative issues, policy issues, or regulatory issues, including rulemakings, administrative proceedings and enforcement proceedings; and,
- h. Third-party discovery requests (including subpoenas) to be served on you, and discovery requests (including subpoenas) that have been served by you on others.

If at a later time you withdraw or modify this advance waiver in any respect, you agree and consent to our withdrawal from our representation of you pursuant to these General Terms of Representation and the applicable Rules of Professional Conduct.

In addition, if there are parties adverse to you in the matter we are undertaking on your behalf, it is possible that those adverse parties will have need for counsel in matters which do not have a substantial relationship to the matter in which we represent you. Even though we would, as a result, be receiving some fee income from your adversary, you consent to our representing such parties in matters that are not substantially related to any of our work for you. For our part, we commit to continued zealous representation of your interests in the matters in which we do represent you notwithstanding any fee income we may receive from your adversary. Of course, the foregoing consent does not affect our obligation to protect confidential information you share with us in connection with our representation of you and not to use such information to your detriment.

#### Consent to Electronic Communications

You agree that both you and our Firm may use electronic devices and Internet services to communicate with each other and forward documents notwithstanding some risk that such communications may be intercepted by and disclosed to unauthorized parties. You agree that the benefits of using such technology outweigh the risks of unauthorized or inadvertent disclosure. We caution you that, to maintain the confidentiality and privilege of our communications with each other, you should not use a computer, other electronic device, network or Internet address that is owned, controlled or on which your communications may be accessed by anyone other than you. This warning includes electronic venues provided by your employer, a hotel, a library, an Internet café, or even a shared home computer. Any device you use to communicate with us should be password protected and not accessible by any third party.

#### Lawyers Holding Public Offices

Our lawyers may from time to time serve in elected or appointed positions with various governmental bodies. Such lawyers must discharge those duties without regard to their employment or association with the Firm, and more importantly, it would be a prohibited conflict of interest for them to give any special consideration, benefit, or access to you or any other client of the Firm. Accordingly, you confirm that your engagement of our Firm is not in consideration for or in contemplation of any expected benefit to be derived from the activities of any elected or appointed official.

#### Certain Client Responsibilities

You agree to cooperate fully with us, to provide promptly and candidly all information (including documents and electronic data) known or available to you that is relevant to our representation. If your engagement involves actual or potential claims or litigation, you have an obligation to preserve potentially relevant information, including electronic data. It is important for you to ensure automatic deletions or record retention policies are suspended as necessary to ensure this information is preserved. If you have questions, you should discuss these issues with us at the outset of our engagement involving any claim or litigation or as soon as a dispute or litigation related to any matter on which you have engaged us becomes reasonably foreseeable. You also agree to respond promptly to our requests for direction and other communications and to attend meetings and court proceedings at our request.

### Use of Publicly Available Information

We will protect nonpublic, confidential information related to your representation in accordance with our professional obligations. To best serve all of our clients, however, it is helpful for us to be able to describe our experiences in the practice of law to assist others in choosing counsel and for other business reasons. Accordingly, we understand that you authorize us, unless you specifically instruct us to the contrary, to truthfully disclose or describe to others information related to our representation of you that is otherwise publicly available (e.g., in public filings, government publications, press releases, on the Internet and the like).

### Termination and Withdrawal

You may terminate our representation of you at any time without cause simply by notifying us. Your termination of our services will not affect your responsibility for payment of fees and other charges incurred before termination and in connection with an orderly transition of the matter.

We are subject to the Rules of Professional Conduct that require or allow us to withdraw from representing a client in various circumstances. These may include any circumstances in which withdrawal can be accomplished without material adverse effect on the interests of the client. Among other circumstances that may give rise to withdrawal, subject to the Rules of Professional Conduct, we may withdraw from representing you if you do not fulfill your client responsibilities to us, including failure to pay our fees and charges, or if we determine that our relationship has become impaired, such as by your failure to follow our advice relating to a representation.

Unless previously terminated, our representation of you in any matter terminates upon our completion of the services you retained us to perform. Generally, this will be indicated by your receipt of our final statement for services rendered on that matter. In general, our representation shall be deemed completed if there is no billable work for a period of six months and there are no ongoing appeals proceedings or intellectual property maintenance obligations.

Except where applicable laws require otherwise, you agree that the following provisions will govern the way we handle materials and records related to our representation of you. We typically store the materials we retain in electronic form. We do not keep our copies of such materials and records indefinitely. We will discard or delete the materials we retain related to your representation when we believe it is reasonable to do so, without further notice to you. Accordingly, you are

strongly encouraged to keep your own files related to our representation, especially important legal documents. So that you can do so, we will provide you with copies of materials we have retained whenever you request them during our representation. Even after your matter is completed, on request we will provide you with copies in electronic form of any materials we still have to which you are entitled. You agree to pay our charges for retrieving and copying materials for you, and any other fees and charges that remain outstanding in connection with our representation of you. We may require such payment before delivering such materials. You authorize us to follow these procedures without providing you further notices or seeking further instructions in the future.

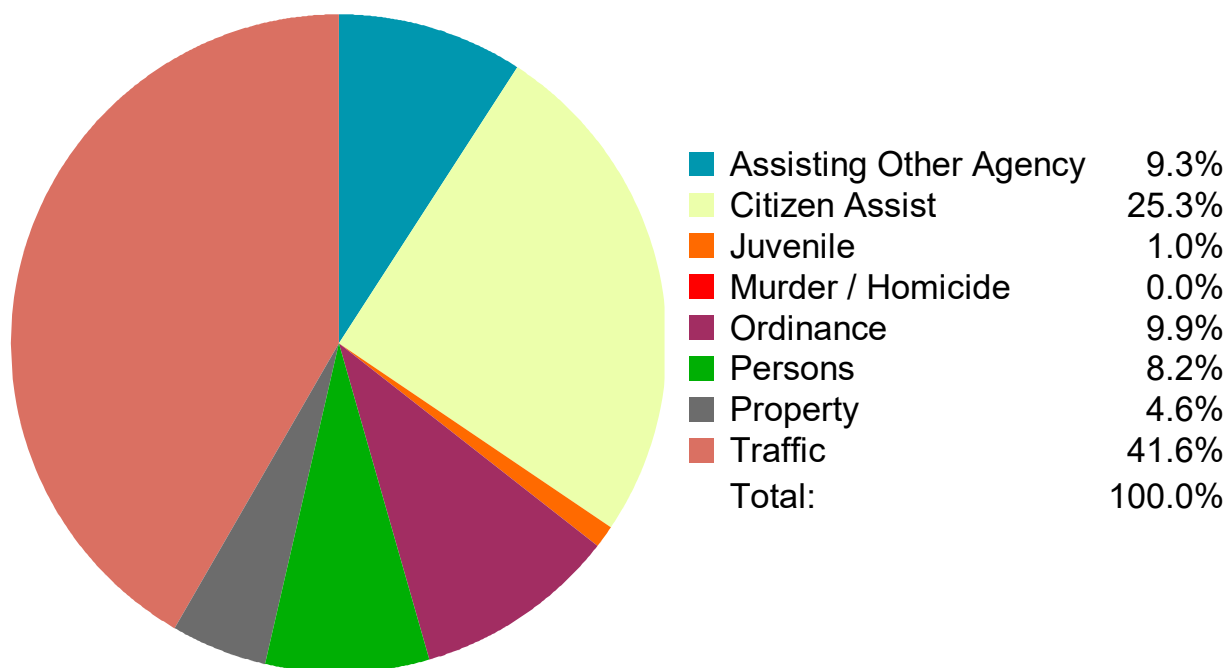
Our representation of you in any matter is limited to that specific matter, and will not give rise to any ongoing attorney-client relationship. After our representation of you in any matter has ended, we may from time to time represent you in such subsequent matters as you may request. However, we are under no obligation to represent you in any subsequent matters, and nothing herein should be construed to give rise to any attorney-client relationship after our representation has concluded or terminated. If we do undertake to represent you in any subsequent matter, the scope and duration of our representation will be limited to that specific subsequent matter and, unless we expressly establish new terms of engagement with you at that time, the terms of engagement stated in this document and our engagement letter will apply.

Lawyers sometimes become personally entangled in court proceedings in connection with their clients' matters. If our Firm or any of our lawyers or staff are named as a party, or are required to produce evidence or appear, in a legal proceeding or deposition as a result of our services performed for you (other than as a result of our misconduct or negligence), you agree, even after our representation has terminated, to pay us for our lawyers' and non-lawyers' time and other charges and expenses incurred in connection with our defense or participation in such proceeding, on the same basis that applies to our standard hourly fees and charges in effect at the time.

After our representation of you in any matter has ended, changes may occur in applicable laws or regulations that could have an impact upon your rights and liabilities. Unless you subsequently engage us to provide such advice on the same matter, our Firm has no continuing obligation to advise you with respect to future legal developments.

**CEDAR LAKE POLICE DEPARTMENT  
INCIDENT AND CALLS FOR SERVICE REPORT  
July 2020 and Year-To-Date 2020**

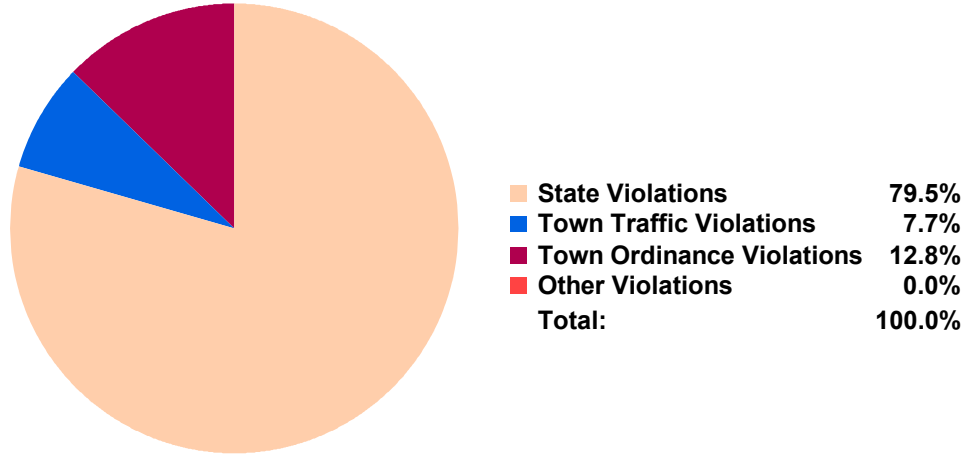
Incident Type	Month Total	Year Total
Incidents Assisting Other Agency (Including Fire and EMS):	80	576
Incidents related to Citizen Assists:	218	1229
Incidents related to Juveniles:	9	48
Incidents related to Murder/Homicide:	0	0
Incidents related to Ordinances:	85	601
Incidents related to Persons:	71	476
Incidents related to Property:	40	220
Incidents related to Traffic:	359	1908
Incidents Not Classified:	8	39
<b>Totals:</b>	<b>870</b>	<b>5097</b>



**CITATION REPORT**  
**July 2020 and Year-To-Date 2020**

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State Violations: 124  
Town Traffic Violations: 12  
Town Ordinance Violations: 20  
Other Violations: 0  
Total for July: 156  
Year To Date: 885

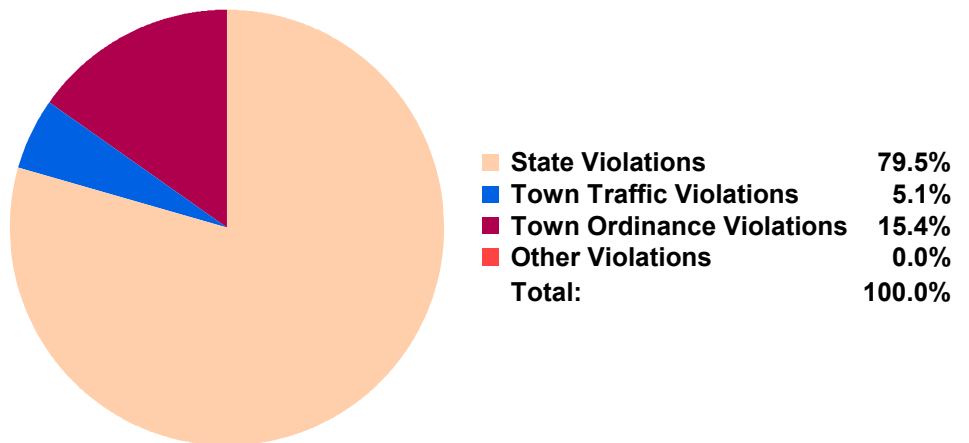


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**WARNING REPORT**  
**July 2020 and Year-To-Date 2020**

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State Violations: 186  
Town Traffic Violations: 12  
Town Ordinance Violations: 36  
Other Violations: 0  
Total for July: 234  
Year To Date: 1,177



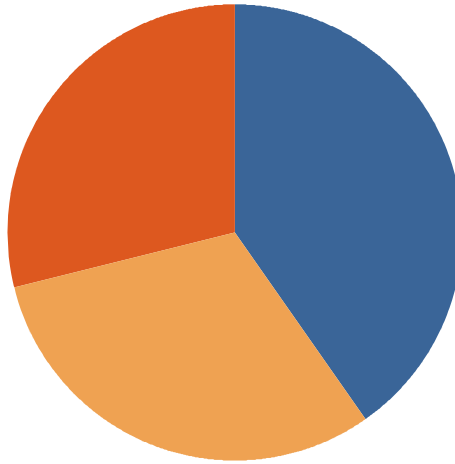
**ARREST REPORT**  
**July 2020 and Year-To-Date 2020**

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**Total Arrests: 22**  
**Total Charges Filed: 52**  
**Misdemeanor: 21**  
**Felony: 16**  
**Infraction: 0**  
**Not Classified: 15**

**Year-To-Date**

**Total Arrests: 148**  
**Total Charges Filed: 249**



■ Misdemeanor	40.4%
■ Felony	30.8%
■ Infraction	0.0%
■ Not Classified	28.8%
<b>Total:</b>	<b>100.0%</b>

## PERMITS NEW & ALTERATIONS January-July 2020

MONTH	NEW	RES. VALUE/COMM. VALUE	ALT.	VALUE	Occupancy
January	7*	\$1,091,595	31	\$454,313	24
February	9	\$1,351,076	33	\$389,522	17
March	33*	\$7,698,207	26	\$536,069	10
April	12	\$2,805,220	27	\$475,162	16
May	27*	\$5,525,336	62	\$719,873	15
Jun	18	\$6,477,014	73	\$578,378	15
July	19	\$4,100,890	64	\$624,062	20
<b>Total</b>	<b>125</b>	<b>\$29,049,338</b>	<b>316</b>	<b>\$3,777,433</b>	117