

WICHITA A. WOODRICKS
COUNTY CLERK
MARION COUNTY, MISSOURI
RECORDS & TAXATION
1000 W. BROADWAY
MARION, MISSOURI 64860

PLAT NO. 2004-0183800

**PLAT COVENANTS
WICHITA HILL AT SOUTHERN DUNES, SECTION 2**

This instrument, executed by R.N. THOMPSON DEVELOPMENT CORPORATION, hereinafter referred to as "Developer" or as "Declarant", with the consent and approval of the Wellingshire Joint Venture (consisting of R.N. Thompson Development Corporation and Waterway Holdings, Inc.) as Owner of the Real Estate, hereby establishes plat covenants, conditions, and restrictions for the real estate platted as Wichita Hill at Southern Dunes, Section 2, which real estate is described in Exhibit 1 hereto.

The term "Subdivision" as used herein shall mean Wichita Hill at Southern Dunes. Wichita Hill at Southern Dunes, Section 2 shall consist of 44 lots, numbered Lots 42 through 85 and Blocks "C", "D" and "E", together with streets, easements and public ways shown on the plat.

In order to provide adequate protection to all present and future owners of lots in this subdivision, the following covenants, restrictions and limitations, in addition to those set forth in the Declaration of Covenants, Conditions and Restrictions for Southern Dunes (the "Master Declaration"), recorded with the Recorder of Marion County on December 23, 1998 as Instrument No. 1998-0228187, are hereby imposed upon and shall run with the land included in this subdivision and shall be binding upon the Developer and anyone at any time owning or using any part or portion of such land. Ownership of the real estate in this subdivision shall also be subject to rights, powers, duties, and obligations of the Southern Dunes Homeowners Association, Inc. (the "Association"), the Southern Dunes New Construction Committee ("New Construction Committee"), and the Southern Dunes Architectural Control Committee (the "Architectural Control Committee"), as set forth in the Declaration, and Design Guidelines promulgated by either Committee. All owners shall take their title subject to the terms and conditions of the Declaration.

If there is an irreconcilable conflict between any of the covenants and restrictions contained in this plat and the covenants and restrictions contained in the Declaration, the conflicting covenant or restriction contained in this plat shall govern and control, only to the extent of the irreconcilable conflict, it being the intent hereof that all such covenants and restrictions shall be applicable to said real estate to the greatest extent possible.

NOTICE: Prior to application for an improvement location permit from the appropriate governmental agency for the construction of a residence or other structure, site plans, landscaping plans and building plans shall have been approved in writing by the Southern Dunes New Construction Committee as defined in Article 10 of the Master Declaration. Such approval shall include but not be limited to: building design, color and location, private drives, tree preservation, and proposed landscaping and fencing, all in accordance with the requirements of the Southern Dunes Design Guidelines.

NOTICE 2: The Southern Dunes community is located over a wellfield owned and operated by the Indianapolis Water Company ("IWC") as one of its primary sources of water. As a result, there are substantial covenants contained in the Master Declaration imposed to prevent contamination of the soil and groundwater under this community. Those covenants, combined with other covenants, restrictions, servitudes, rights and easements imposed on IWC's behalf to protect this public water source affect the use of land in the community and prohibit certain uses that might be allowed on other property. Exhibit 2 to these covenants contains a description of the IWC covenants, restrictions, servitudes, rights and easements designed to protect this water supply. The land of Southern Dunes is also subject to the provisions of the Wellfield Protection Zoning Ordinance of Marion County,

Indiana, added to the Code of Indianapolis and Marion County (Vol. III, App. D), and thereafter amended under Metropolitan Development Commission Docket Nos. 95-AO-6, 13A and 13B; 96-AO-6, 97-AO-1 and 10; and 98-AO-3.

NOTICE 3: Also because the Southern Dunes community is located over a wellfield, there will be substantial variations in the water level of the water retention ponds and lakes throughout this community. Included within these variations will be occasions when the water retention ponds and lakes may be completely dry or have a very low water level. Also, there will be occasions when the water level will be higher than normal, decreasing the usable portion of an owner's yard or resulting in greater water pressure against the foundation and/or basement of a residence or other building. Neither the Declarant, the Fee Owner, Indianapolis Water Company, or the Association shall be liable to any owner, occupant or other person or entity within the community for excessive water levels, for flooding, or for inadequate water levels or the absence of water in the water retention ponds and lakes throughout the Southern Dunes community.

NOTICE 4: Block "D" in Wichita Hill at Southern Dunes has been reserved as a Cultural Resources Protection Area, which is defined and explained in Paragraph 2.

1. Lots are subject to the following: Drainage Easements, Utility Easements, Sewer Easements and Landscape Easements, either separately or in combination, as shown on the Plat, which easements are reserved for the use of the Declarant, the Southern Dunes Homeowners Association, Inc. (hereinafter referred to as the "Association"), public or private utility companies, and governmental agencies, as follows:

"Drainage Easements" are created as shown on the Plat to provide paths and courses for area and local storm drainage, either over land or in adequate underground conduit, to serve the needs of the subdivision and adjoining ground and/or the public or private drainage system. Under no circumstances shall drainage easements be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict the water flow in any manner, without the prior approval of the Architectural Control Committee and the governmental authority having jurisdiction over drainage. Drainage Easements are subject to maintenance, construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage or by Declarant, its successors or assigns.

"Utility Easements" are hereby created as shown on the Plat for the use of public or private utility companies and cable television companies, not including transportation companies, for the installation, maintenance, and replacement as necessary of pipes, mains, ducts and cable or other related utility structures, as well as for the uses specified for sewer easements. No above ground utilities may be installed without the prior written consent of the Architectural Control Committee.

"Sewer Easements" also referred to as "Sanitary Easements" are hereby created as shown on the Plat, either specifically designated as Sewer Easements or designated generally as Utility Easements, for the use of the Utility, public or private, having jurisdiction over the sanitary waste disposal system designated to serve Southern Dunes. All designated Utility Easements shall also include Sewer Easements. Additional provisions relating to Sanitary Sewers are contained herein.

"Landscape Easements" are hereby reserved and created over and across Lots as shown on the Plat, within which landscaping, earth

mounds, screening material, fencing, walls, neighborhood and community identification signs, directories, lighting, irrigation systems and other improvements may be constructed and maintained by the Developer or the Association to provide landscape design continuity and ensure attractive and aesthetically pleasing entryways into the Community.

Within Landscape Easements, the Developer and the Association shall have the right to install, inspect, maintain, reconstruct and remove such landscape improvements as described herein. Without limiting the generality of the foregoing, the Landscape Easements may include sidewalks, walking trails and paths. Owners of lots shall have the right to fully use and enjoy their own lot, except for such use as may impair, impede, or interfere with the exercise by the Developer or Association of the landscaping and other rights granted herein. Owners of lots shall not construct, nor permit to be constructed any structure or obstruction on or over any part of a lot or interfere with the Developer's or Association's ability to use or gain access to the lot for purposes permitted by this Landscape Easement, without the prior written approval of the Developer or the Association.

The Developer, the Association and any other Utility for whose use the Easement areas are created and reserved shall have a right to go on any lot temporarily to the extent reasonably necessary for the exercise of the easement rights granted by this paragraph. **No permanent structures shall be erected or maintained upon Drainage, Utility, Sewer or Landscape Easements by any Owner without the prior approval of the Architectural Control Committee.**

The following provisions shall also apply to sanitary sewers:

- 1) Sanitary sewer easements may be used by the Department of Public Works of the City of Indianapolis or such other utility company having authority over sewer easements within the Southern Dunes community (hereinafter collectively referred to as "Utilities") for the construction, extension, operation, inspection, maintenance, reconstruction, and removal of sanitary sewer facilities, and all such easements shall include a right of ingress and egress necessary and appropriate to accomplish the purposes stated herein.
- 2) Pavement or concrete, including driveways and sidewalks, shall not be constructed on or within one (1) foot horizontal distance of any sanitary sewer manhole or cleanout casting.
- 3) The drip line of all trees must be located a minimum of ten (10) feet from the center of sanitary sewers and manholes and no trees shall be planted directly over building sewers (laterals). Any landscaping placed within easements or rights-of-way is at risk of being removed by Utilities without the obligation of replacement.
- 3) No mounding, lighting, fencing, signs, retaining, landscaping or entrance walls, irrigation lines, etc. shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure. Any of the above listed items placed within easements or rights-of-way is at risk of being removed by Utilities without the obligation of replacement.
- 4) All homeowners not served by gravity sanitary sewer service are responsible for all maintenance, repair and replacement of all grinder/ejector pumps, force mains and gravity laterals from the residence to its connection to the sanitary sewer main.
- 5) No owner or occupant, and no lot or unit may discharge storm water or other clear water sources (foundation drains, sump pumps, roof

drains, etc.) into the sanitary sewer system.

6) Grade changes across sanitary sewer facilities must be approved in writing by the Department of Public Works of the City of Indianapolis.

The Developer shall retain the right to display marketing and promotional signs within this subdivision, including within any right of way island, both for the Developer and for any Builder approved by the Developer, until the sale of the last lot in the Southern Dunes Community, including Sections not yet platted, to an Owner other than a Builder.

The owners of lots in this subdivision shall take and hold title to their lots subject to all of the foregoing Easements, to the rights of the public utility companies, governmental agencies, the Developer, the Association and others therein (which rights also include the right of ingress and egress in, along, across and through said Easements), to the jurisdiction of the proper authorities and to the covenants herein granted and reserved.

2. LIMITED ACCESS AREAS. Portions of Blocks in this section shall be limited access areas, unless otherwise modified by the Declarant. Limited access area means that, even though there may be common area behind a lot, persons other than the owner of the lot (and persons having specific easement rights such as the Declarant or utilities) shall not be entitled to the use of such common area. With regard to Block "C", the limited access area shall be behind lots 64 through 69. With regard to Block "E", the limited access area shall be behind lots 62 and 63.

CULTURAL RESOURCE PROTECTION AREA. Block "D" is a Cultural Resource Protection Area which means that natural, archaeological, historical or cultural artifacts may exist in this area and that it may have been a part of a village or camp site, hunting station, root and berry gathering area, ceremonial place or other cultural resource site.

This area must be retained in its natural condition. Neither the Association, nor any Owner, Occupant, Contractor, Visitor or other Person or Entity may disturb this area, or its trees and other plant growth, without first having obtained written permission from the Indiana Division of Historic Preservation and Archaeology or other applicable governmental entity having jurisdiction over preservation of such cultural resources. Included within this restriction shall be the prohibition of the application of any herbicide or the dumping of any material within this protection area. Notwithstanding the proceeding restrictions, the Association may, pursuant to and within applicable governmental laws and regulations, cut any trees or portions of trees or other vegetation which may fall into any public street or which constitutes a danger to persons or property.

3. DRAINAGE PLAN. It shall be the responsibility of the owner of any Lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Department of Public Works of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said Department.

It shall also be the duty of every Owner of every Lot in this Subdivision on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair.

In the event that the Owner does not comply with the drainage plan or does not maintain the storm drainage ditch or swale upon their Lot or any portion of a drainage pond upon their Lot, after written notice and a thirty

day opportunity to do so, the Association shall have an easement to come upon such Owner's property to make any necessary corrections or repairs, and the Association shall be entitled to reimbursement for its costs and shall have a lien upon such Owner's property therefor, collectable as provided in Section 11.9 of the Declaration. In the event of an emergency, the thirty day requirement above shall not be required, but the Association shall give the Owner such notice as is practical under the circumstances.

4. DEDICATION OF STREETS. The rights-of-way of the streets as shown on this plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way, subject however to a reservation of ingress-egress for the maintenance to medians in the subdivision and also subject to an easement for utility services as provided in paragraph 1 of these Plat Covenants.

5. BUILDING LOCATION AND SIZE. All building locations must comply with the zoning ordinances and zoning commitments for this subdivision. Subject to other provisions contained herein, building setback lines are hereby established as shown on this plat, and no building or structure shall be erected or maintained between the setback lines and the property lines of the lots. The owners of all lots shall be required to submit a drainage plan, including a minimum building elevation, to the governmental agency which issues building permits. The minimum pad or building elevation as so approved by the New Construction Committee and the governmental agency shall constitute the minimum elevation for all buildings on said lot.

Except with the advanced written approval of the New Construction Committee and subject to easements shown on the plat, no building, structure or accessory building shall be erected closer than five feet (5') to any side lot line, and in no case shall aggregate side yards between homes be less than ten feet (10'). No building, structure or accessory building shall be erected closer to the right-of-way of any street than twenty five feet (25') on local streets and thirty feet (30') on collector streets. Where buildings are erected on more than one single lot (or parts thereof), these restrictions shall apply to the combined lots (or parts thereof) as if they were one single lot, and the restrictions applied based on the distance from the buildings, structures or other improvements to the adjacent lot lines adjoining the combined lot.

Each one story residence shall be not less than one thousand (1,000) square feet of finished and livable floor area, exclusive of open porches and garages, and each multiple story structure shall be not less than one thousand six hundred (1,600) square feet, in the aggregate, of finished and livable floor area, exclusive of open porches and garages. The Design Guidelines may also specify the minimum square footage requirements for the first floor of any multiple story residence.

Each residence shall have an attached garage of a size to accommodate at least two cars. No garage may be converted to a livable space without prior approval of the Architectural Control Committee and the construction of another attached garage.

6. DRIVEWAYS. Each driveway in this Subdivision shall be of concrete or asphalt material, and no additional parking shall be permitted on a Lot other than the existing driveway, except with the prior approval of the Architectural Control Committee. No Lot may have a driveway on more than one street.

7. RESIDENTIAL USE ONLY. All Lots in this Subdivision shall be used solely for residential purposes except for residences used as model homes during the sale and development of this Subdivision. No business buildings

shall be erected on said Lots, and no business may be conducted on any part thereof, other than home occupations approved by the Southern Dunes Board. No residence shall be erected, altered, placed or permitted to remain on any Lot herein, other than one detached single-family residence not to exceed two and one-half stories in height.

No trailer, shack, tent, boat, garage or outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence. With the consent of the Declarant, a builder may have a temporary structure during the construction of a residential building on the property, which temporary construction building or trailer shall be promptly removed upon completion of construction of the building.

8. LIMITATION ON VEHICLES. No inoperative or unlicensed vehicle shall be parked or repaired anywhere within the Subdivision, including on any Lot or on the driveway thereof. No camper, trailer, mobile home, boat, truck or school bus may be parked in the Subdivision, including on any Lot or on the driveway thereof, except:

a. Personal automobiles, vans and pick-up trucks (not larger than 3/4 ton) may, subject to rules and regulations established in the Master Declaration or by the Southern Dunes Board of Directors, be parked on a private driveway, and

b. A camper, trailer, mobile home, or boat may be stored in an enclosed attached garage of average residential proportions, and

c. The Southern Dunes Board of Directors may establish rules prohibiting or regulating parking on the public streets within the Subdivision.

9. LIMITATIONS REGARDING TRASH. Garbage and trash shall be kept in approved containers, kept in a clean and sanitary condition, and kept in a location which is not visible from the street, except on collection day or the evening before collection day. No Lot shall be used or maintained as a dumping ground for rubbish or other waste materials and trash shall be regularly removed from the Property.

10. ARCHITECTURAL DESIGN AND ENVIRONMENTAL CONTROL. No structure or improvement -- including but not limited to residences, accessory structures, landscaping, fences, walls, mounds, ponds, pools, patios, basketball goals and other permanent structures for sports and recreation -- shall be erected, placed or altered on any Lot in this Community until the building plans, specifications and plot plan showing the location, materials, and appearance of the planned improvement have been submitted to and approved by the Architectural Control Committee or by the New Construction Committee, as appropriate, regarding conformity and harmony of external design, topography, and finished ground elevations.

The provisions of Article 10 of the Southern Dunes Master Declaration shall be followed and complied with by every owner, builder, contractor and any other person or entity residing in this subdivision or making any improvement to any lot or structure within this subdivision.

Each Owner or builder of a new home on a Lot shall submit a detailed landscape plan to the New Construction Committee, in conjunction with its application for initial approval, which plan shall include sodding the front yard of each residence and the side yards to the back line of the residence. The landscape plan shall be completed on or before the transfer of title of said Lot to the first occupant of such residence, or funding therefore shall be escrowed with an approved title company. A corner lot shall be considered to have two front yards. In the event that the owner's back yard lawn treatment does not result in full grass coverage within one

year of initial occupancy, the Declarant may require the Owner to install sod in all areas of inadequate coverage.

Any exception as to method or timing of lawn treatment and coverage must be approved by the Developer in writing prior to beginning construction. In the event that title passes to a homeowner without meeting the above requirements, the homeowner and general contractor will become jointly responsible for meeting this requirement.

The Design Guidelines may establish special restrictions regarding fences for Lots adjacent to, or visible from, the lakes or the golf course.

11. INTERSECTION VISIBILITY. No fence, wall, hedge, shrub or planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street, shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of the sight line.

12. LANDSCAPE EASEMENTS - PRO RATA MAINTENANCE OBLIGATION. If, for any reason, the Southern Dunes Homeowners Association would cease to exist or cease to function, the areas designated on the plat as Blocks, landscape easements or landscape and utility easements shall be maintained by the title owner of the Lot upon which the easement exists. Whoever has the maintenance responsibility herein detailed shall have the right of contribution to the extent of money so expended (including reasonable costs for administration), from each Lot owner on an equal proratable basis for all Lots in all of the sections of this Subdivision. Each Lot owner's obligation may be collected in advance of the expenditure in a reasonable amount, shall mature thirty (30) days after the date of receipt of notice of his or her obligation, and shall draw interest at twelve percent (12%) per annum after the obligation matures with reasonable attorney fees if such services are required to secure payment.

13. MISCELLANEOUS PROVISIONS.

a. Each residence shall have a single mailbox, standardized in size, appearance and color, according to the Design Guides, and maintained in good condition at all times. The size, design and color shall be specified by the Declarant and shall be purchased, installed and maintained by the Homeowner.

b. Each residence shall have at least one coach light attached and hard wired to the garage and/or the front entry of the house which is illuminated by a photo cell, as set forth in the Design Guidelines, which shall be maintain by the Owner in good working condition.

c. Except as may be specifically approved by the Architectural Control Committee, window air conditioning units may not be installed on any lot.

d. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Control Committee.

e. No satellite receiving dish greater than one meter in diameter shall be erected or installed on any Lot. Exposed antennae shall not exceed one

meter, in diameter or horizontal dimensions, and shall not exceed twelve (12) feet above roof peak. No lot shall have more than one satellite dish and one antennae without the prior approval of the Architectural Control Committee, and, to the extent that acceptable reception may be obtained, any satellite dish or antennae shall be attached to the house and installed on the back of the house. The Design Guidelines may impose requirements (which do not impair reception) for painting or screening of satellite dishes and antennae, location, and other restrictions on antennae and satellite dishes.

f. No fuel storage tanks shall be permitted on the Property, except during the initial construction of any home, and then only with the express written consent of the Developer.

g. Sump pumps, gravity drains and other drains serving individual residences or lots shall not outfall or empty onto grass swales between lots, but only into major drainage swales or storm structures included in the storm drainage system for the subdivision, without the express consent of the Developer.

h. The discharge of firearms within Southern Dunes, except for the protection of an individual from personal attack or injury, is prohibited. The term "firearms" includes bows and arrows, slingshots, "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

14. SWIMMING POOLS, HOT TUBS AND OTHER STRUCTURES. No above ground swimming pools shall be erected, constructed or installed on any Lot. Below ground pools, hot tubs, spas, jacuzzis or similar water recreational facilities may be installed with prior approval of the Architectural Control Committee. The Committee may consider lot size and available room on the lot for such facilities as one of its considerations. The Committee may impose a fencing requirement for such facilities which is greater than what is required by governmental entities.

Any attached garage, tool shed, storage building or any other attached building erected or used as an accessory to a residence shall be of a permanent type of construction and shall conform to the general architecture and appearance of such residence.

Detached garages, tool sheds or minibarns may not be erected on any Lot. Other detached structures, including enclosures for approved swimming pools, hot tubs or spas and enclosures for pets, shall be limited (or prohibited) as determined by the Committee, and plans shall be submitted to the Committee for approval prior to construction. The Master Declaration contains additional provisions relating to such structures.

15. MAINTENANCE. It shall be the duty of each owner in the subdivision to maintain the house and any additional structures on their lot. In the event the owner of any lot fails to do so in a manner satisfactory to the Association, the Association shall have the right (but not the obligation) through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and/or the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be and constitute a special assessment against such lot and the owner thereof, to be assessed, collected and enforced as provided in the Southern Dunes Declaration.

16. DURATION OF COVENANTS. These covenants and restrictions shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part thereof, and on all persons or entities claiming under them, until twenty (20) years after the date of recording hereof. After the initial 20 years, these covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any such

extension period, by a vote of at least seventy percent (70%) of the then owners of the Lots in the Wichita Hill at Southern Dunes Subdivision, it is agreed that said covenants and restrictions shall terminate in whole or in part; provided, however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

Lot owners may amend these covenants in whole or in part by an affirmative vote of 70% of the Lot Owners. No amendment to these covenants may be made without Developer's approval and consent, until the Developer has sold all of the lots in any section of this Subdivision. Any amendment or termination shall be evidenced by a written instrument, signed by the Lot owner or owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana.

17. ENFORCEMENT. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by Developer, any person or entity having any right, title or interest in the Real Estate (or any part thereof), or any person or entity having any right, title or interest in a Lot in the Subdivision and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that the Developer shall not be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

The Board shall have the authority to assess a fine or penalty, not exceeding fifty dollars (\$50) per incident, against any Owner violating the Covenants and Restrictions in these Plat Covenants or in the Declaration or any rule established by the Board. A continuing violation may be assessed an additional fine, not exceeding fifty dollars (\$50) each week until corrected, at the discretion of the Board. Any such fine will be considered to be a special assessment against the Owner and the Owner's Lot or Unit, and collectable as provided in Section 11.9 of the Master Declaration.

18. SEVERABILITY. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions.

19. DECLARATION. A Declaration of Covenants and Restrictions for the entire Southern Dunes Community and establishing the rights and obligations of the Southern Dunes Homeowners Association, Inc. was recorded in the office of the Recorder of Marion County, Indiana on December 23, 1998 as Instrument No. 1998-0228187. Every Owner of a Lot in Wichita Hill at Southern Dunes will automatically be and become a member of the Southern Dunes Homeowners Association. Every Owner will be required to pay all duly established annual and special assessments, including temporary assessments in the event that the annual assessment is not timely established. All unpaid assessments will become a lien on the Owner's Lot, which may be foreclosed pursuant to the procedures established in the Declaration. No Owner may exempt himself or herself from the obligation to pay assessments by abandoning the Lot, the common areas or otherwise.

In the event that the Declaration is invalidated for any reason, every Owner nevertheless assumes a responsibility for a pro-rata portion of all common expenses, including maintenance, taxes, insurance, legal, accounting, management fees, and reserves for replacements and contingencies as a member of the Association, for regular annual assessments and for special assessments, and a lien shall attach upon the Lot owned by an Owner for such

assessments. Further, an Owner who fails or refuses to pay such common expenses and assessments on a timely basis shall incur a late charge determined by the Board of up to twenty percent of the unpaid assessment plus interest of one and one half percent per month beginning thirty days after the date due, plus costs and attorney fees incurred in collection.

IN WITNESS WHEREOF, the undersigned, as the Developer of the above described real estate and a Member of the Wellingshire Joint Venture, has hereunto executed these Plat Covenants this 20th day of September, 2004.

R.N. THOMPSON DEVELOPMENT CORPORATION

By: [Signature]
R. N. Thompson, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, personally appeared R.N. Thompson, President of R.N. Thompson Development Corporation, Declarant and Member of the Wellingshire Joint Venture, and acknowledged the execution of these Plat Covenants this 20th day of September, 2004.

[Signature]
~~Notary Public~~
LAMAR A. ZIEGLER Notary Public

My commission expires: June ~~March~~ 4, 2007
My county of residence: ~~Marion~~ Hamilton



This Instrument was prepared by William T. Rosenbaum, Attorney at Law,
5875 Castle Creek Parkway, #285, Indianapolis, Indiana 46250 (317) 577-5176

8/21/04

APPROVED THIS 20th
DAY OF September, 2004
PERRY TOWNSHIP ASSESSOR
[Signature] GIS MANAGER

Land Description

Wichita Hill at Southern Dunes, Section 2

Part of the Southwest Quarter, Section 16 and part of the of the Northwest Quarter, Section 21 Township 14 North, Range 3 East, Second Principal Meridian, Perry Township, Marion County, Indiana, and being more particularly described as follows;

Commencing at the Southwest corner of the Southwest Quarter of said Section 16, also being the Northwest corner of the Northwest Quarter of said Section 21;

thence South 89 degrees 54 minutes 48 seconds East 1869.62 feet along the South Line of said Southwest Quarter, also being the North line of said Northwest Quarter to the Point of

Beginning:

thence North 18 degrees 10 minutes 47 seconds East 83.64 feet;

thence North 71 degrees 43 minutes 51 seconds West 26.46 feet; thence North 18 degrees 16 minutes 09 seconds East 155.44 feet to a non-tangent curve to the left from which the radius point bears North 40 degrees 53 minutes 48 seconds West;

thence Northerly along said curve an arc distance of 41.06 feet to a point from which the radius point bears North 87 degrees 56 minutes 39 seconds West and having a radius of 50.00 feet;

thence North 64 degrees 29 minutes 01 second East 25.00 feet to a point on the south right-of-way line of Stop 11 Road, eastbound lanes, the right-of-way grant of which is recorded as Instrument Number 2002-0081605 in the Office of County Recorder, Marion County, Indiana and to a non-tangent curve to the left from which the radius point bears North 64 degrees 29 minutes 01 seconds East;

thence Easterly along said curve and said south right-of-way line an arc distance of 367.70 feet to a point from which the radius point bears North 00 degrees 20 minutes 25 seconds West and having a radius of 325.00 feet;

thence North 89 degrees 39 minutes 35 seconds East 403.46 feet on and along the said south right-of-way line;

thence South 35 degrees 57 minutes 51 seconds West 1322.62 feet;

thence South 70 degrees 00 minutes 00 seconds West 219.16 feet;

thence North 20 degrees 00 minutes 00 seconds West 120.00 feet;

thence North 70 degrees 00 minutes 00 seconds East 71.49 feet;

thence North 20 degrees 00 minutes 00 seconds West 50.00 feet;

thence North 08 degrees 27 minutes 25 seconds West 103.89 feet;

thence North 29 degrees 26 minutes 17 seconds East 567.90 feet;

thence North 35 degrees 45 minutes 31 seconds West 175.58 feet;

thence North 05 degrees 00 minutes 00 seconds East 65.75 feet;

thence North 18 degrees 10 minutes 47 seconds East 59.36 feet to the Point of Beginning and containing 12.154 acres more or less.

Subject to all legal easements and rights of way of record.

Exhibit 1

Indianapolis Water Company Covenants

1. the liens for taxes payable in 1999, and thereafter;
and
2. all other easements, rights-of-way, restrictions, covenants and encumbrances of record.

Waterway further reserves to Indianapolis Water Company ("IWC"), and the South Well Field Land is hereby made subject to, the following covenants, restrictions, rights, easements and servitudes, all of which shall run with the South Well Field Land and shall be binding upon and inure to the benefit of Wellingshire and IWC and their successors and assigns:

1. Title to the South Well Field Land shall include only the surface of the South Well Field Land and the air above. Wellingshire shall have no rights with respect to water below the surface of the South Well Field Land. IWC shall have the right at any time and from time to time to pump, remove, own and dispose of water from the Aquifer and, for that purpose, to install on and in the South Well Field Land and thereafter operate, maintain, repair and replace, at its election, production and observation wells, lines, equipment and other facilities deemed necessary or appropriate by IWC for such pumping and removal of water from the Aquifer for delivery to its system or for the observation of ground water located in or about the South Well Field Land (such wells and related

facilities being referred to hereinafter collectively as the "Wells").

2. IWC shall have an easement of reasonable ingress and egress at all times for vehicles and pedestrians upon, across and through the South Well Field Land, in order to provide ready access to the Wells for its personnel, materials and equipment. Around each of the Wells that IWC develops there shall also be a wellhead protection zone for a distance of one hundred (100) feet in all directions from the wellhead on the property. There shall be no construction permitted in any such wellhead protection zone, including, but not limited to, the construction of any golf green or fairway or other facility.

3. The South Well Field Land shall not be used by Wellingshire for any industrial, commercial or other business purpose of a type which stores, uses, produces or otherwise permits to be located on the premises noxious materials or materials which might cause contamination or pollution of the Aquifer or interfere with proper use, functioning or maintenance of the Wells. No waste, oil or other deleterious materials shall be discharged, and no trash, garbage or debris shall be dumped in or upon, the South Well Field Land or the Aquifer. Nor shall any septic or waste disposal system be installed which discharges any effluent or substance of any kind into, under or upon the South Well Field Land. No wells shall be installed by Wellingshire in or on the South Well Field Land. The South Well

Field Land shall not be used in any manner which causes or might cause contamination or pollution of the Aquifer or interfere with proper operation, functioning, or maintenance of the Wells. No fertilizers, pesticides, agrichemicals, or other substance may be applied to growing crops, lawns, gardens, or other landscaping which has not been approved by IWC and Purdue University or the Office of the Indiana State Chemist, for application in, on, or near a wellfield. The South Well Field Land shall not be excavated or mined without the written approval of IWC. Such approval will be considered only after the submission of a plan which provides for the protection and preservation of the Wells and the Aquifer. If the South Well Field Land is excavated or mined and a lake or inundated area results, IWC shall own the water in such lake or inundated area and may withdraw water therefrom without regard to the water level of the lake or inundated area. Neither Wellingshire nor any subsequent owner of the South Well Field Land shall have rights of any character with respect to the water level of the Aquifer, lake or lakes, retention ponds, or an inundated area on the South Well Field Land. It is understood that the water level in the Aquifer, lake or lakes, retention ponds, and inundated areas will fluctuate and there will be times when such water level may be higher or lower than normal, affecting nearby land, including the South Well Field Land.

Exhibit 2

4. If Wellingshire violates or causes or permits any condition to exist in violation of any of the provisions hereof, after reasonable notice, IWC may, in addition to its other remedies at law or in equity, enter upon the South Well Field Land and correct or eliminate such violation or condition and recover the cost thereof from Wellingshire.

5. IWC has committed to use reasonable care and good workmanship in the exercise of any of its rights described herein. If, however, the South Well Field Land is damaged by action of IWC, IWC will, to the extent it deems reasonably possible, repair and restore the property of Wellingshire to its previous condition, and this shall be IWC's sole obligation and Wellingshire's sole remedy arising out of any damage caused by IWC.

6. IWC has the right to release or modify in any manner not more burdensome to Wellingshire all or any part of the covenants, restrictions, easements and servitudes that are described herein, without the consent of any other party. The release or modification of all or any part of said covenants, restrictions, easements and servitudes with respect to any part of the South Well Field Land shall not affect the validity or enforceability of any of said covenants, restrictions, easements and servitudes with respect to any other part of the South Well Field Land, and a failure to enforce the same shall not constitute a waiver thereof. Any consent that may be given by

IWC to actions that would violate said covenants, restrictions, easements and servitudes must be in writing, signed by the IWC President or a Vice President thereof.

7. Wellingshire shall be responsible for all taxes and assessments imposed with respect to the South Well Field Land.

8. The undersigned person executing this deed on behalf of Waterway represents and certifies that he is a duly elected officer of Waterway and is authorized to execute and deliver this deed on Waterway's behalf; and that all necessary corporate action for the execution and delivery of this deed has been taken.