

Handwritten signature

Instrument
200600001271

FG 1 OF 37

200600001271
Filed for Record in
BOONE COUNTY, INDIANA
MARY ALICE "SAM" BALDWIN
02-07-2006 at 11:21 am.
COVENANTS 82.00

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made and entered into this 6th day of February, 2006 by

SAN BEL DEVELOPMENT, LLC, an Indiana Limited Liability Company

("Developer").

WITNESSETH

WHEREAS, Developer is the fee simple title holder of all the lands in Boone County, contained in and fully described on Exhibit "A", attached hereto and made a part hereof (hereinafter the "REAL ESTATE").

WHEREAS, Developer intends to divide the Real Estate into Two Hundred Forty-Two (242) tracts (each such tract hereinafter referred to individually as a "Lot" and collectively as "Lots"), more or less, such subdivision known as The Willows.

WHEREAS, Developer desires to sell and convey Lots subject to the imposition of certain mutual and beneficial easements, restrictions, covenants, conditions and charges designed to assure ingress and egress thereto and to protect the value and desirability thereof.

NOW, THEREFORE, Developer hereby declares that each Lot and all Lots shall be held, conveyed, encumbered, leased, rendered, used, occupied and improved subject to the following covenants, conditions and restrictions, which shall run with the Real Estate and be binding on each party having any right, title or interest in any Lot or Lots, and his, her or its heirs, beneficiaries, successors, assigns and personal and legal representatives, and which covenants, conditions and restrictions shall inure to the benefit of the Owners and each and every one of the Owner's successors in title to any Lot or Lots into which the Real Estate is subdivided.

and each and every one of the Owner's successors in title to any Lot or Lots into which the Real Estate is subdivided.

ARTICLE I

Definitions

Section 1.01. Declaration: "Declaration" shall mean this instrument, together with any amendments or changes hereto which are hereafter made and evidenced as herein required.

Section 1.02. Developer: "Developer" shall mean **San Bel Development, LLC, an Indiana Limited Liability Company** their successors or assigns in the ownership, development and division of the Real Estate, and/or any person, firm, corporation or other legal entity specifically designated as such as set out in Article III of this Declaration.

Section 1.03. Lot: "Lot" (also referred to as "Tract"), referred to in the plural thereon as "Lots", shall mean any of the Two Hundred Forty-Two (242) tracts, more or less, into which the Real Estate is subdivided. The legal description being attached as Exhibit "A", which tracts are to be numbered in sequence as set out in the plat of The Willows Subdivision recorded in the office of the Recorder of Boone County, Indiana, on 02-07-2006 in Book Number 16, Pages 40-54 as Instrument Number 200600001270 and any subsequent phases recorded thereto, as any tract(s) may be enlarged or diminished by Developer in connection with a reconfiguration thereof (in which event each tract shall be defined by the outside boundaries thereof). In no event shall any reconfiguration result in any tract having an area less than the area permitted by applicable zoning laws and in no event shall the Real Estate be divided to permit the construction of more than Two Hundred Forty-Two (242) single family residences and

related improvements otherwise permitted hereunder. Further, no changes to the exterior boundaries of the plat can be made unless a replat is approved by the Boone County Area Plan Commission.

Section 1.04. Owner: "Owner", referred to in plural as "Owners", shall mean and refer to the record owner, whether one or more persons or entities, their respective heirs, beneficiaries, successors, assigns and personal and legal representatives, of the legal title to any Lot, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation. Developer shall also be considered an Owner for purposes of this Declaration for so long as, and to the extent that, Developer owns a Lot or Lots.

Section 1.05. Driveway: "Driveway", referred to in the plural as "Driveways", shall mean that portion of any Lot developed and hard surfaced for the purpose of permitting ingress and egress to and from such Lot from any public road or easement.

Section 1.06. Lot Development Plans: "Lot Development Plans" shall mean and consist of the following plans: (i) a site plan, prepared by a licensed civil engineer or registered land surveyor approved by Developer, showing existing improvements on a Lot, any proposed alteration of the topography, elevation or natural state of the Lot in connection with the improvement thereof or any construction thereon, and locating thereon all proposed improvements and structures showing finished floor elevations and details relating to drainage; (ii) complete house building and/or accessory structure plans, including structural details, exterior elevations and floor plans; (iii) material plans and specifications; (iv) landscaping plans with a minimum of three (3) trees of two and a half inches (2 1/2") or greater in diameter; (v) all other data or information which Developer may reasonably request.

Section 1.07. Property Owners' Association: "Property Owners'

Association" shall mean the incorporated association of Owners established in accordance with Article IV of this Declaration, or such other legal entity as may be formed as a successor thereto.

Section 1.08. Subdivision: "Subdivision" shall mean the Real Estate as divided into Lots, all as evidenced by a plat thereof recorded herewith in the Office of the Recorder of Boone County, Indiana, Book Number ~~48~~¹⁶, Pages ~~40-57~~, identified as the plat of The Willows Subdivision, as Instrument Number ~~2006 0000 1270~~

ARTICLE II

Character of Lots

Section 2.01. In General: Every Lot or group of Lots referred to in these covenants shall be used exclusively for single family residential and accessory use purposes.

Section 2.02. Improvement and Development of Lots: No Lot shall be further divided to create any additional tract upon which a single family residence and improvements otherwise permitted hereunder may be constructed, nor shall any improvements be made thereto or construction commence, proceed or continue thereon, except in strict accordance with the terms and provisions of this Declaration. Not more than one (1) single-family dwelling house, together with attached garage and such related accessory structures and recreational facilities as may be permitted by this Declaration shall be constructed, altered, placed or permitted to remain on any Lot referred to by the covenants.

Section 2.03. Occupancy or Residential Use of Partially Completed

Dwelling House Prohibited: No dwelling house constructed on a Lot shall be occupied or used for residential purposes for human habitation until it has been substantially completed. The determination of whether a dwelling house has been "substantially completed" shall be made by Developer and the Boone County Building Inspector, and such decision shall be binding on all parties affected thereby.

ARTICLE III

Developer

Section 3.01. Developer: The powers and authorities contained in this Article shall be vested in Developer and the covenants, conditions and restrictions in Article V of this Declaration shall be administered and enforced by Developer, or their designated successors and/or assigns. Developer's administration and enforcement of such covenants, conditions and restrictions shall include, but not be limited to, approval of Lot Development Plans prior to the improvement of any Lot. Neither the exercise of such administration and enforcement duties by Developer, nor the approval of any Lot Development Plans by Developer, shall relieve any Owner of any duty and obligation imposed by this Declaration or compliance with the covenants, conditions or restrictions as the same are recorded in the Office of the Boone County Recorder. In the event that a written approval is not received from Developer within thirty (30) days from the date submittals are made, the failure to issue such written approval shall mean the disapproval thereof. In the event of a disapproval, Developer shall give a short statement of the reason or reasons for such disapproval within ten (10) days following receipt of a written request to do so. Developer reserves the right to unilaterally deny approval of Lot

Development Plans if the single family dwelling is inconsistent as to design, size or costs with adjacent lots.

Section 3.02. Powers of Developer: No Lot shall be developed and no single family dwelling house, accessory building, driveway or other structure or improvement of any type, kind or character shall be constructed, placed, altered or permitted to remain on any Lot in the subdivision without the prior written approval of Developer. Any required approval shall be requested by an Owner by written application to Developer. Such written application shall be made in the manner and form prescribed from time to time by Developer, and shall be accompanied by two (2) complete sets of Lot Development Plans and such other information as may be reasonably required by Developer. The authority given to Developer hereby is for the purpose of determining whether the proposed improvement and development of a Lot is consistent with the terms and provisions of this Declaration, is consistent with and meets Developer's overall plans for improvement and development of the Real Estate and is compatible and consistent with the development of other Lots. In furtherance of the foregoing purposes, Developer is hereby given discretion as to matters related to location, building orientation, layout, design, architecture, color schemes and appearance in approving Lot Development Plans. Any house, building or other accessory structure plans included as a part of any application to Developer for required approvals shall set forth the color and composition of all exterior materials proposed to be used and any site plan submitted shall describe and detail all proposed landscaping and include any other material or information which Developer may reasonably require. All plans and drawings representing a part of the Lot Development Plans and any other plans reasonably required to be submitted to Developer shall be drawn to a scale of 1" = 10', or to such other scale as Developer may require. All

plans submitted shall be prepared by either a registered land surveyor, engineer or architect unless Developer specifically permits otherwise.

Section 3.03. Liability of Developer: Neither Developer, nor his agents, successors or assigns, shall be responsible in any way for any defects or insufficiencies in any plans, specifications or other materials submitted for review, whether or not approved by Developer, nor for any defects in any work done in accordance therewith. Developer shall not be liable to any person, firm, corporation or other legal entity aggrieved by Developer's exercise of (or failure to exercise) any of his powers as specified in Article III hereof, and shall have no liability whatsoever which is claimed or alleged to result, in whole or in part, upon refusal by Developer to approve Lot Development Plans submitted by Developer.

Section 3.04. Inspection: Developer shall have the right to go upon any Lot without being a trespasser to inspect any work being performed thereon to assure compliance with this Declaration and conformity with Lot Development Plans and with any other plans or submittals made to him and upon which any approvals required by this Declaration were based.

Section 3.05. Assignment of Duties: All of the duties, responsibilities and rights held by Developer under this Declaration shall be exercised and administered by Developer in good faith until such time, if any, as they may be assigned by Developer to a unincorporated association of Lot Owners referenced by these covenants or any other legal entity formed as a successor thereto. Any such assignment shall be at the option and sole discretion of Developer and may be made at any time or stage of development. Any assignment by Developer shall be by written instrument duly executed and recorded in the Boone County Recorder's Office. Following any such assignment and recordation, the

duties, responsibilities and rights of Developer under this Declaration shall immediately vest in and be performed by assignor or successor.

ARTICLE IV

Association of Property Owners and Assessments

Section 4.01. Association of Property Owners: In order to provide for the

continuing maintenance and administration of the Subdivision, there will be established an unincorporated association of Owners of Lots in The Willows ("Property Owners' Association"). The Property Owners' Association shall be comprised of and limited in members to the Owners from time to time of the Lots within the respective Subdivisions. Membership in the Property Owners' Association shall commence immediately upon becoming an Owner and continue for so long as ownership of a Lot or Lots continues. At such time as an Owner conveys title and ceases to be an Owner, membership in the Property Owners' Association shall terminate. A new Owner of a Lot shall automatically become a member. The Developer shall act as the Property Owners' Association until the organization of the resident Owners of Lots as the Property Owners' Association. Until such time that administration of the Property Owners' Association is turned over to the resident Owners of Lots, the Developer shall establish the amount of general assessments, the dates that such general assessments are due and the manner in which the same shall be paid. The provisions of this declaration for uniform assessment shall not apply to Lots owned by the Developer (not yet sold). Developer shall have the right as set out in Builder's Agreements or Lot Purchase Agreements to waive the Uniform Assessments for up to six (6) months from lot purchase. Accordingly, the provisions of this Declaration for Uniform Assessment shall not apply to those builders who have purchased lots per

Builder's Agreements or Lot Purchase Agreement executed by Developer, consistent with the six (6) month waiver limitation. Although an Owner need not participate in the administration of the Subdivision, all Owners and the ownership of any Lot or Lots shall be subject to any and all rules and regulations duly established by the Property Owners' Association (as well as being subject to the rights of Developer and the terms and provisions of this Declaration) and shall be liable for the payment of all assessments levied by the Property Owners' Association. The Property Owners' Association may assign or otherwise transfer its rights, responsibilities and duties under this Declaration to any legal entity that may be formed as a successor thereof. Any such assignment or transfer shall be in writing and shall be effective when written evidence thereof is duly recorded with reference to this Declaration in the office of the Recorder of Boone County, Indiana.

Section 4.02. Separate Maintenance Fee: Lots in The Willows (lots 75-124,

188-201 and 224-242, inclusive) shall be charged a separate maintenance fee of One Hundred Seventy Five Dollars (\$175) per month which, in addition to monthly property owners' fees and assessments set out in Section 4.03 (d), shall be paid for the following services:

- i. Grass cutting, edging, weeding, trimming, pruning, leaf removal, weed inhibitor and fertilization of grass, shrubs and trees performed at a frequency as deemed necessary by the Association.
- ii. Start up and winterization of irrigation systems, but not routine repair or monitoring of irrigation systems.
- iii. Snow removal of driveway and walk to front door for snow accumulation of two inches (2") or more.

- iv. Planting bed re-mulching of all Builder installed planting beds on an annual basis.

Section 4.03. Rights and Duties Of Property Owners' Association: The

Property Owners' Association shall be responsible for the following:

- a) The maintenance and upkeep of the landscaping installed by the Developer and/or Association within the areas shown on the plat and contained within the drainage and utility easements (D and U) as well as all other Common Areas (CA) shown on the plat. The Property Owners' Association shall also be responsible for maintenance and upkeep of the signage within the Common Areas (CA) or easements at the entrances of the Subdivision. The Property Owners' Association shall also be responsible for maintenance and upkeep of any wet retention areas and any and all "Common Area" (CA), as may be shown on the plat.
- b) Procuring of utilities used in connection with Common Areas (CA), including providing and maintaining access to an E.M.S. Siren located in the northwest corner of C.A.(B). The Association shall not be responsible for the maintenance of the E.M.S. Siren, pole or utility connection or payment.
- c) Payment of insurance (if any may be required under other sections to this Declaration).
- d) Determination of general and special assessments levied against the Owners. The initial general per month assessment shall be Seventy Five Dollars (\$75), per month, for all lots in the subdivision.

- e) Promulgation and enforcement of the rules and regulations in this Declaration or as otherwise duly promulgated by the Owners.
- f) The Separate Maintenance Fee Services as set out in Section 4.02 of this Declaration.
- g) Exercise of the powers vested in the Property Owners' Association by this Declaration or by the Articles of Incorporation and Bylaws of any successor corporation thereto.

Section 4.04. Meetings of the Property Owners' Association and Voting

Rights: Business of the Property Owners' Association shall be conducted at meetings of this Association. Meetings of the Association may be called by the then current Chairman or Secretary-Treasurer of the Property Owners' Association or upon request of the Owner(s) of at least five (5) Lots. Written notice of any meeting of the Lot Owners shall be personally delivered or mailed by first class United States mail by the Secretary-Treasurer to all Owners at least fourteen (14) days prior to any proposed meeting. The Corporation shall have the following classes of membership with the following voting rights:

- a) Class A. Class A members shall be all Owners of Lots in the Subdivision. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be members of the Association, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among

themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

- b) Class B. Class B members shall be Developer and all successors and assigns of Developer designated by Developer as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the Owner on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate on the date upon which the written resignation of the Class B members as such is delivered to the Association or successor thereto or the date Developer no longer owns any Lots in the Subdivision, whichever occurs first. After the above, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned in the Subdivision.

Section 4.05. Assessments: The Property Owners' Association shall have the power to levy uniform, general and special assessments against each Owner and each Lot, without regard to the size thereof relative to any other Lot in the Subdivision.

Section 4.06. Creation of a Lien and Personal Obligation of Assessments:

Developer hereby covenants and each Owner of each Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Property Owners' Association general and special assessments, such assessments to be established and collected as provided in this Article. Until paid in full, an assessment not paid when due, together with interest thereon (at a percentage rate per annum equal to the then current Indiana statutory maximum annual interest rate) and

costs of collection (including reasonable attorneys' fees and court costs) shall be a continuing lien upon the Lot against which such assessment is made. Each assessment, together with interest and costs of collection as aforesaid, shall also become and remain, until paid in full, the personal obligation of the one or more persons or entities in ownership of the Lot at the time when the assessment first became due and payable. If any Owner fails, refuses or neglects to make payment of an assessment when due, the lien for such assessment on such Owner's Lot may, at any time following notice thereof, by first class United States mail of the amount due, to an Owner and the expiration of ten (10) days from the date such notice is sent, be foreclosed by the Property Owners' Association in the same manner in which a Mechanic's Lien is foreclosed from time to time under Indiana law, or in any other manner otherwise from time to time permissible or provided by law. The Property Owners' Association may, at its option, bring a suit against the Owner (and if more than one, either jointly or severally) to recover a money judgment for any unpaid assessment without foreclosing the lien for such assessment or waiving the lien securing the same. In any action to recover an assessment, whether by foreclosure or otherwise, the Property Owners' Association shall be entitled to recover interest as aforesaid and the costs and expenses of such action, including, but not limited to, reasonable attorneys' fees and court costs.

Section 4.07. Purpose of Assessment: General or special assessments levied by the Property Owners' Association shall be used exclusively to exercise those powers and advance those purposes for which the Property Owners' Association has been formed by this Declaration.

Section 4.08. Basis for Assessment: Except as provided in Sections 4.01 and 4.09 hereof, general or special assessments levied by the Property Owners' Association

shall be assessed uniformly against each Lot (and the Owner(s) thereof), regardless of whether any such Lot is improved or unimproved and without regard to the type of improvements constructed on any Lot, or the extent of use of the facilities and improvements for which any assessment, general or specified, is made.

Section 4.09. Annual Meeting, Adoption of Budget and General Assessment:

Between May 1st and July 10th of each year, the Association shall hold an annual meeting with notice to all Owners in the manner required by 4.03 of this Declaration. At the annual meeting, the Owners shall elect a Chairman and a Secretary-Treasurer to coordinate and handle the day to day affairs of the Property Owners' Association and shall adopt a proposed annual budget. The budget, adopted by the Property Owners' Association, shall provide for allocation of anticipated expenses in such a manner that the obligations imposed by this Declaration will be met and shall further outline all anticipated expenses and obligations for the period covered thereby. Following approval of the budget, the Chairman and Secretary-Treasurer shall fix a uniform general assessment against each Lot (and the Owner(s) thereof) in an amount necessary to defray the expenses and obligations budgeted, together with an amount, if any, approved by the Owners to permit establishment of and/or contribution into a reserve account in order to defray anticipated future capital expenditures. An annual accounting from the previous year shall be submitted at the annual meeting. Notice of the uniform general assessment shall be sent by the Secretary-Treasurer to each Lot Owner as soon as practicable following the annual meeting. Unless otherwise determined by majority vote of the Owners, the general assessment established shall be paid in full to the Secretary/Treasurer of the Property Owners' Association in one (1) installment on or before November 30th next succeeding. Upon receipt of payment, the Secretary-Treasurer shall deposit the

amount involved in an account opened and maintained in the name of the Property Owners' Association at a state or national bank having its principal banking offices in either Lebanon, Zionsville or Indianapolis, Indiana. Withdrawals from such account shall be made only upon the approval of either the Chairman or Secretary-Treasurer signing individually and only for a purpose or purposes set forth in this Declaration.

Section 4.10. Special Assessments: In addition to the general assessment, the Property Owners' Association may levy in any calendar year one (1) or more uniform special assessments against each Lot (and the Owner(s) thereof) for the purpose of defraying, in whole or in part any unanticipated expenses or obligations or the costs of any major reconstructions, repair, replacement or maintenance required, PROVIDED THAT the levy of any such special assessment must be approved by the Owner(s) of at least two-thirds (2/3's) of the Lots who are voting in person or by written proxy at a special meeting of Owners duly called for such purpose, subject to written notice delivered in person or sent by first class United States mail at least fifteen (15) days in advance to each Owner of the time, place and purpose of such meeting. Following approval of the levy of any such special assessment, the vote of the Owner(s) of at least a majority of the Lots shall establish the date or dates any such special assessment shall become due, and the manner in which it shall be paid to the Secretary-Treasurer for deposit in the Property Owners' Association account established and maintained in accordance with Section 4.08 hereof, for use consistent with the purpose or purposes for which such special assessment was levied.

Section 4.11. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein against a Lot shall be subordinate to the lien of a recorded bona fide first mortgage covering such Lot and subordinate to any tax or special

assessment lien of such Lot in favor of any governmental taxing or assessing authority. The sale or transfer of a Lot shall not affect the assessment lien. The sale or transfer of a Lot pursuant to bona fide mortgage foreclosure proceedings or any other bona fide proceeding in lieu thereof shall, however, extinguish the lien of such assessment as to any payment, which became due prior to such sale or transfer. No such sale or transfer shall release a Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4.12. Duties of Chairman and Secretary-Treasurer of the Property

Owners' Association: The Chairman and Secretary-Treasurer of the Property Owners' Association, or their designee, shall have the duties set forth in this Declaration, shall attend to and handle the day to day affairs of the Property Owners' Association and shall attend to handle such other duties delegated to them by the Owners. All acts taken and things done shall be measured by a standard of reasonableness and neither the Chairman nor the Secretary-Treasurer shall have any liability to an Owner, Owners or the Property Owners' Association unless acting in bad faith in a manner inconsistent with the terms and provisions of this Declaration. Notwithstanding the foregoing, in no event (except in the case of a bona fide emergency involving a total expenditure not exceeding One Thousand Dollars (\$1,000) or such other amount from time to time established by the Owners), shall either the chairman or Secretary-Treasurer have any right, privilege or authority to contract for, solicit, hire or otherwise obtain services or materials which are not included within and covered by the budget then applicable or which are otherwise funded by a special assessment levied in accordance with Section 4.09 hereof.

Section 4.13. Receipt For Payment: The Property Owners' Association shall, within twenty (20) days after demand made at any time, furnish a receipt in writing signed

by the Secretary-Treasurer of the Property Owners' Association, specifying that the assessment respecting a Lot has been paid or that certain assessments remain unpaid, as the case may be. Such receipts shall be conclusive evidence of payment of any assessment therein stated to have been paid.

ARTICLE V

Lot Development

Section 5.01. Lot Development: Prior to the development, improvement or alteration of, or the construction on or addition to, a Lot or Lots, the Owner(s) thereof shall first obtain written approval from Developer of the Lot Development Plans as required by Article III of this Declaration. Any improvement, development or alteration of a Lot or Lots, and any construction thereon or addition thereto, shall strictly comply with this Article V. In the event of a conflict between a set of duly approved Lot Development Plans and the terms and provisions of this Article V, the terms and provisions of Article V shall control.

Section 5.02. Type, size and Nature of Construction Permitted: No single family dwelling house, garage, driveway, accessory building, fence, swimming pool, tennis court or other recreational facility permitted by this Declaration shall be erected, placed or altered on any Lot without the prior written approval of Developer or his assigns, respectfully, as required by this Declaration. Such approval and all such approvals required by the Boone County Area Plan Commission, shall be obtained prior to the commencement of construction and shall be subject to the following minimum standards:

- (a) No structure or building shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling not exceeding two and one-half (2 1/2) stories in height, one private attached garage for a minimum of two vehicles, maximum of three garage door openings (excluding Lots 202-223, inclusive which shall have a minimum of three vehicles, maximum of four garage door openings), and such other accessory buildings or structures related to swimming pools, tennis courts and other recreational facilities, including greenhouses, which are usual and incidental to the use of the Lot for single family residential purposes. Each attached garage shall be designed as a part of the single-family dwelling house to which it is attached. Unattached garages and carriage houses may be erected only upon express written approval of Developer or assignee or designee. Further, garage doors shall remain closed except when entering, exiting or otherwise having the need to access the garage. The garage door openings for each single family dwelling are discouraged from facing directly and/or running parallel to the dedicated public road or the private roadway serving the Subdivision. It is the intent of this paragraph that the garage door opening shall be designed and constructed in such a manner to minimize, to the extent possible, any direct viewing from the dedicated public streets or private roadways.
- (b) The minimum finished floor area of a one story dwelling house constructed on a Lot, exclusive of open or screened porches, attached garages and basement or below grade levels, shall be as follows:

- i. The Willows (Lots 75-124, 188-201 and 224-242, inclusive), 2,000 square feet in the case of a one story, and in the case of a residential dwelling having more than one story, a minimum of 1,800 square feet of the required minimum finished floor area shall be located on the first floor.
- ii. The Willows, Lots 202-223, inclusive, 3,500 square feet in the case of a one story residence, and in the case of a residential dwelling having more than one story, a minimum of 2,500 square feet of the required minimum finished floor area shall be located on the first floor with total square footage of house 5,500 square feet including basement finish.
- iii. The Willows, all other lots, 2,500 square feet in the case of a one-story, and in the case of a residential dwelling having more than one-story, a minimum of 2,250 square feet of the required minimum finished floor area shall be located on the first floor.
- (c) No single family dwelling house, garage or accessory structure of any kind shall be moved onto any Lot and all materials incorporated into the construction thereof shall be new, except that used brick, weathered barn siding or the like, or interior design features utilizing other than new materials, may be approved by Developer. No tent, basement, storage sheds, garage, barn or other structure shall be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required as an accessory structure in connection with the construction of a single family dwelling on a Lot.

- (d) The single family dwelling house along with any accessory buildings (other than greenhouses or indoor pools with track roofs) constructed on a Lot shall have a slate, tile, wood shake or architectural grade dimensional fiberglass or asphalt shingle roof and accessory buildings shall be made out of the same materials, or combination thereof, out of which the single family dwelling house on the same Lot is constructed.
- (e) The concrete or block foundation of any single family dwelling house or accessory structure constructed on a Lot shall be covered on the exterior with wood, brick or stone veneer so that no portion of the exterior thereof is left exposed above ground.
- (f) Each attached garage shall be designed as a part of the single-family dwelling house to which it is connected.
- (g) The roof of each single family dwelling house constructed on a Lot (excluding that portion of the roof covering the attached garage or open or enclosed porch) shall have a pitch of 7 to 12 or greater unless otherwise approved by Developer as a part of Developer's approval of Lot Development Plans. The roof shall be comprised of slate, tile, wood shake or architectural grade dimensional fiberglass or asphalt shingles.
- (h) No house or other structure shall contain aluminum or vinyl siding. Further, no plywood, hardj plank or other sheets of wood with dimensions of four (4) by eight (8) foot may be used for exterior siding.
- (i) No open loop geothermal heat pumps shall be allowed.
- (j) Each single family residence shall include the following sound mitigation features:

- (i) Attic insulation of R-18
- (ii) Well insulation of R-19
- (iii) Roof materials with a minimum grade of 250 lbs/sq.

Section 5.03. Tree Preservation: Existing mature trees (having a trunk in

excess of six (6) inches in diameter measured at a point three (3) feet from undisturbed ground) shall be preserved to the extent the removal thereof is not mandatory in connection with the construction of an approved single family dwelling house or accessory building unless the removal thereof is otherwise specifically approved by Developer or any such tree is dead or decayed and dangerous.

Section 5.04. Completion of Construction: All construction upon a Lot shall be completed in strict accordance with the Lot Development Plans approved by Developer. The exterior of any dwelling house built upon a Lot or combination of Lots shall be completed within eighteen (18) months after the date of commencement of the foundation and the site graded and any areas to be covered with grass shall be seeded or sodded. Each Lot shall be kept and maintained in a sightly and orderly manner during the period of construction. All builders will be required to utilize and pay for a thirty (30) cubic yard trash receptacle for each home during the period of construction in order to properly dispose of debris. Every builder or Owner shall be required to furnish a Port-O-Let for their workers during construction. However, multiple builders or Owners may combine to provide Port-O-Lets to their workers.

Section 5.05. Storage Tanks: No storage tanks, of any nature, for any use, shall be allowed on the surface or be buried on any Lot.

Section 5.06. Mailboxes: All mailboxes installed throughout the Subdivision will be uniform (per distinct house-type area) and will be approved by the Developer in a

material suitable to Developer at his sole discretion. The cost of these mailboxes, including the installation, will be paid by the Owner. Further, all mailboxes in Lots 202-223 shall be served by electricity, which shall be furnished and installed by Owner at the time of the construction of the single-family residence. To the extent that mailboxes are constructed of brick or stone, the Developer and Owners hereby release the County of Boone from any and all liability due to mailbox damage caused by snowplows or other vehicles owned or operated under control of the County. Mailboxes and lights thereon shall be maintained by Owner and in good working order at all times. All mailboxes shall have uniform street numbers affixed to the box or post as required by Developer.

Section 5.07. Driveways: No Lot shall be permitted to contain more than one driveway and each lot shall be allowed only one cut onto a public road adjoining the property. The driveway on each Lot shall be cut and stone or gravel placed thereon prior to development or improvement of the Lot to the extent necessary to avoid the transmittal of mud from construction traffic to the Public Roads. Upon substantial completion of construction, each driveway shall be constructed of either hard mixed aggregate, concrete or concrete pavers, asphalt, brick or other material acceptable to Developer.

A driveway constructed on any Lot to and from the Public Road shall be constructed and maintained so as to provide the sole means of ingress and egress to such Lots for vehicular traffic. However, circular drives which provide more than one cut onto a public road may be allowed upon approval of the Developer. Under no conditions shall driveways be constructed over curb inlets of the storm sewer system within the right-of-way of the public road. No asphalt or concrete driveway shall be placed behind a curb containing these inlet grates. **Each Lot Owner shall be required to obtain a Driveway Permit from the Boone County Highway Department prior to or at the time of an**

Application for a Building or Improvement Location Permit. Specific attention shall be paid to corner lots (lots with frontage on two public streets). No driveway shall be located within seventy-five feet (75') of right-of-way line of intersecting public streets.

The following lots shall have driveway cuts only from the following public streets.

<u>Lot</u>	<u>Street</u>
6	Wild Life Trail
16	Wild Life Trail
17	Wild Life Trail
37	Wild Life Trail
38	Wild Bend Drive
46	Wild Life Trail
56	Wild Bend Drive
75	Weeping Willow Drive
124	Weeping Willow Court
177	Sunrise Court
234	Golden Willow Court

Section 5.08. Fences, Walls, Hedges or Shrub Plantings: No fence, wall,

hedge or other screening shall be erected, placed, altered or permitted to remain on any

Lot other than as approved (as to location, type, materials, design and height) by

Developer under Article III of this Declaration. No chain link fence shall be erected upon

a Lot. No fence shall be erected or maintained on or within any Landscaping Easement

except upon express written permission by Developer. Developer may establish further

restrictions with respect to fences, including limitations on (or prohibition of) the

installation of fences in the rear yards of certain Lots.

Section 5.09. Sewer and Water: The Subdivision will be served by public

sewer and water utilities. No individual septic systems or well shall be allowed in this

Subdivision.

Section 5.10. Ditches and Swales: The Owner of any Lot on which any part of a

private drainage tile, open storm drainage ditch or swale is situated shall keep such

each Owner by the acceptance of a deed to a Lot, shall be deemed to and does thereby **RELEASE AND FOREVER DISCHARGE** Developer from, and shall **INDEMNIFY AND HOLD HARMLESS** Developer against, any and all liability arising out of or in connection with the handling, discharge, transmission, accumulation or control of storm or surface water drainage to, from, over, under or through the Lot described in such deed.

Section 8.05. Public Liability and Property Damage Insurance: Each Owner shall obtain and pay for such public liability and property damage insurance as may be desired to provide protection against loss, cost and expense by reason of injury to or the death of persons or damage to or the destruction of property occurring on or about each such Owner's Lot.

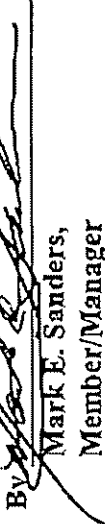
Section 8.06. Binding Effect: This Declaration, and the covenants, conditions and restrictions herein contained shall be binding upon Developer, each Owner and any person, firm, corporation or other legal entity now or hereafter claiming an interest in any Lot and their or its respective successors or assigns.

Section 8.07. Duration: This Declaration and the restrictions imposed hereby shall run with the Real Estate and shall be binding on all Owners and all persons claiming under them for an initial period of twenty-five (25) years from the date of recordation, and shall automatically extend for successive periods of ten (10) years each, unless prior to the expiration of the initial period of any ten (10) year period they are amended or changed.

Section 8.08. Amendments to Declaration: This Declaration may be amended or changed at any time with approval in writing by the Owners of at least sixty percent (60%) of all lots herein and shall not become binding and effective until the date of recordation in the Office of the Recorder of Boone County, Indiana. Notwithstanding

this provision, Sections 6.09, 7.01 and 7.02 of this Declaration may not be amended without the approval of the Boone County Area Plan Commission and/or the Boone County Board of Zoning Appeals after a public hearing in accordance with their Rules and Regulations.

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Covenants, Conditions and Restrictions to be executed on the day and in the year first above written.

SAN BEL DEVELOPMENT, LLC, an
Indiana Limited Liability Company
By 
Mark E. Sanders,
Member/Manager

STATE OF INDIANA)
)SS:
COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared
SAN BEL DEVELOPMENT, LLC, an Indiana Limited Liability Company by
Mark E. Sanders, who after having been duly sworn, acknowledged the execution of the
foregoing Declaration of Covenants, Conditions and Restrictions.

Witness my hand and notarial seal this 6th day of February 2006.

Paula Jayne Bricker
Notary Public Paula Jayne Bricker

My Commission Expires:
5/6/08

County of Residence:
Boone

This instrument prepared by Michael J. Andreoli, ANDREOLI & JACOB,
1393 West Oak Street, Zionsville, Indiana 46077.

EXHIBIT " A "

LAND DESCRIPTION

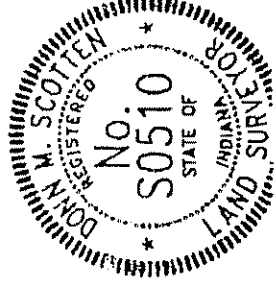
A part of the North Half of Section 24, Township 18 North, Range 2 East in Eagle Township, Boone County, Indiana, being more particularly described as follows:

Beginning at a found mag nail with washer, representing the Northwest corner of the Northeast Quarter of said Section, thence North 88 degrees 18 minutes 13 seconds East on and along the North line of the Northeast Quarter of said Quarter Section 1,145.08 feet; thence South 00 degrees 50 minutes 33 seconds East 220.19 feet; thence North 88 degrees 18 minutes 13 seconds East parallel with the North line of said Quarter Section 180.00 feet; thence South 00 degrees 50 minutes 33 seconds East 437.41 feet; thence North 88 degrees 18 minutes 13 seconds East parallel with the North line of said Quarter Section 1,325.65 feet to a point on the East line of said Northeast Quarter Section (said point also being on the Boone/Hamilton County Line); thence South 00 degrees 53 minutes 45 seconds East on and along said line 374.73 feet; thence South 63 degrees 28 minutes 03 seconds West 76.87 feet; thence South 58 degrees 52 minutes 12 seconds West 220.35 feet; thence South 35 degrees 53 minutes 35 seconds West 51.56 feet; thence South 09 degrees 29 minutes 07 seconds East 140.31 feet; thence South 18 degrees 31 minutes 08 seconds East 116.67 feet; thence South 43 degrees 54 minutes 08 seconds East 45.51 feet; thence South 44 degrees 55 minutes 58 seconds East 55.91 feet; thence South 24 degrees 09 minutes 27 seconds East 31.75 feet; thence South 24 degrees 41 minutes 44 seconds West 41.00 feet; South 45 degrees 19 minutes 16 seconds West 259.60 feet; thence South 26 degrees 03 minutes 34 seconds West 94.12 feet; thence South 02 degrees 23 minutes 01 seconds West 56.81 feet; thence South 18 degrees 13 minutes 54 seconds West 115.16 feet; thence South 31 degrees 18 minutes 11 seconds West 63.66 feet; thence South 15 degrees 06 minutes 34 seconds West 62.21 feet; thence North 89 degrees 30 minutes 10 seconds East 123.36 feet; thence South 00 degrees 53 minutes 45 seconds East parallel with the East line of said Northeast Quarter Section 472.31 feet; thence South 88 degrees 22 minutes 57 seconds West 2,293.27 feet to the Center of said Section; thence South 87 degrees 52 minutes 45 seconds West on and along the South line of said Northwest Quarter Section 1,329.69 feet to the Southwest corner of the East Half of said Northwest Quarter Section; thence North 00 degrees 44 minutes 46 seconds West on and along the West line of the East Half of said Northwest Quarter Section 1,975.35 feet; thence North 88 degrees 17 minutes 40 seconds East 664.03 feet; thence North 00 degrees 48 minutes 02 seconds West 656.21 feet to a point on the North line of said Northwest Quarter Section; thence North 88 degrees 17 minutes 40 seconds East on and along said line 423.78 feet; thence South 00 degrees 47 minutes 19 seconds East parallel with the East line of said Northwest Quarter 363.00 feet; thence North 88 degrees 17 minutes 40 seconds East parallel with the North line of said Northwest Quarter 239.98 feet to a point on the East line of said Northwest Quarter Section; thence North 00 degrees 47 minutes 19 seconds West on and along said East line 363.01 feet to the Northeast corner of the Northwest Quarter, said point also being the POINT OF BEGINNING of this description and containing 195.65 acres, more or less, subject to all restrictions, rights-of-way and easements of record.

SURVEYORS CERTIFICATE

I hereby certify that all of the above is true and correct to the best of my knowledge and belief, and that this plat represents a part of a survey completed under my supervision and hereby set

my hand and seal this _____ day of _____, 2005.



Donn M. Scotten
Registered Land Surveyor
Indiana No. 50510

Prescribed by the
State Board of Accounts
(2005)

County Form 170

Declaration

This form is to be signed by the preparer of a document and recorder with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

Signature of Declarant



Printed Name of Declarant

M. C. T. Howard
A/H of Sun Belt
Dallas, TX

portion thereof as may be situated upon his Lot or Lots continuously unobstructed and in good repair, and shall provide for the installation of such culverts upon said Lots as may be reasonably necessary to accomplish the purposes of this subsection, all at each such Owner's own cost and expense.

Section 5.11. Ponding and Runoff: No Owner shall cause or permit any pond to be created on any Lot, including without implied limitation, from any swale, ditch, stream or creek located on the Real Estate. Further, Owner shall prevent water run-off and the depositing of soil and mud from the Lot onto the street or through drainage swales through the use of silt fences installed during the home building process.

Section 5.12. Direct Digital Television: Receiver dishes of thirty (30) inches or less in diameter shall be permitted without prior written consent of Developer. No other antenna dish, tower or other free standing antenna structure or device shall be erected, placed or permitted to remain on any Lot without prior written consent of Developer. Developer reserves the right to withhold permission for any reason.

Section 5.13. Subsurface Drains: Specific Lots within the subdivision have been provided access to plastic drains, which are connected to the subdivision storm sewer system. These drainage tiles are designed to provide an outlet for the flow from drainage water from sump pump discharges. In no situation shall the discharge from sump pumps or downspouts be outletted directly into the street right-of-way or onto the street surface. Gravity drainage from downspouts may be drained by piping into the storm system. The water from downspouts shall be dispersed onto the lawn area around the home and allowed to flow naturally to drainage ways. All floor drains shall drain into the sewage disposal system of the home. In no situation shall sump pumps be outletted

into the septic system of the home or in any ravine, swale or open ditch on or adjacent to the subdivision.

Section 5.14. Compacted Fill Material on Lots: Lots may contain compacted fill material. This soil, although it has been properly compacted, may not contain similar engineering properties of undisturbed soil for the purpose of foundation construction. The Developer makes no representation, express or implied, as to the suitability of soil conditions for the purpose of foundation construction. The Owner of each Lot is solely responsible for determining the suitability of soil conditions prior to the purchase of a Lot and/or the commencement of construction.

Section 5.15. Open Space Areas: Open Space Areas are designated and described on the plat along a portion of the common boundary of the subdivision.

Section 5.16. Bufferyard/Open Space Easement: "Bufferyard/Open Space Easement" is an area that may be designated and described on the plat along the common boundary of the Subdivision. No sheds, barns, tennis courts, swimming pools, fences, improvements or structures of any type are allowed within the designated Bufferyard/Open Space Easement. Further, no vegetation, trees or plant life shall be removed or cut in this Bufferyard Easement area except under the strict requirements as set out in Section 5.03 of this declaration.

Section 5.17. Treehouses and Playground Equipment: No treeshouses will be allowed on any Lot in the Subdivision. Further, any and all playground equipment shall be made of wood as its primary building material. In no event shall any playground equipment be allowed that uses metal or plastic as its primary building material. The location and installation of any playground equipment shall be done only with the express written approval of Developer.

Section 5.18. Irrigation Systems: Owners shall be required to install

underground front and side yard irrigation systems on all Lots in the Subdivision. The installation of irrigation systems shall be installed contemporaneously with the single-family residence to be constructed on each Lot and the landscaping installed therein. Irrigation supply pipes and sprinkler heads shall not be installed in the public road right-of-way. If the mandatory area of irrigation is unclear for any reason, then it will be determined by Developer.

Section 5.19. Common Areas (CA): Common Areas (CA) consist of drainage, club house and amenities areas, utility and landscape easements to provide for drainage, utilities and landscape treatment at the entrance to the subdivision. Common Areas (CA), including the wet retention lake (CA "A"), shall be maintained by the Property Owners Association as set out in Article IV. No watercraft, motorized or non-motorized shall be permitted in the wet retention lake (CA "A"). No structure, such as docks etc, shall be built, erected or maintained in the wet retention lake (CA "A"). Swimming and ice fishing are prohibited in the wet retention lake (CA "A").

ARTICLE VI

Use and Maintenance of Lots

Section 6.01. Vehicle Parking: No camper, motor home, truck, trailer or boat may be parked or stored overnight or longer on any Lot in open public view, except pickup trucks or other similar vehicles customarily used by the Owners of suburban real estate parcels similar in size to the Lots contained herein. Further, no vehicles as set out above, including automobiles, light trucks or pick-ups, shall be parked or stored on the roadways or Common Areas (CA) throughout the subdivision.

Section 6.02. Home Occupations: No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of such Lot and which is generally or regularly conducted at another location which is away from such Lot. No signs of any nature, kind or description shall be erected, placed or permitted to remain on any Lot advertising a permitted home occupation.

Section 6.03. Signs: No sign of any kind shall be displayed to public view on any Lot except that one two-sided sign (not exceeding five (5) square feet per side) may be displayed at any time for the purpose of advertising the property for sale or for rent, or may be displayed by a builder to advertise during construction.

Section 6.04. Maintenance of Tracts and Improvements: The Owner of any Lot shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, each such Owner shall:

- (i) Mow such portion of the Lot or Lots upon which grass has been planted at such times as may be reasonably required.
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance;
- (iv) Keep the exterior of all improvements in such a state of repair and maintenance as to avoid their becoming unsightly.

Section 6.05. Animals: Only dogs, cats and similar animals generally and customarily recognized as household pets, not exceeding the aggregate three (3) in number, may be kept or maintained on any Lot as household pets. All animals kept or maintained on any Lot in this Subdivision shall be kept reasonably confined by means of

leash, invisible fence or other product similar thereto so as not to become an annoyance or nuisance. No animal shall be kept or maintained on a Lot for commercial purposes or primarily for breeding purposes.

Section 6.06. Garbage, Trash and Other Refuse: The outside burning of garbage or other refuse shall not be permitted on any Lot, nor shall any outside accumulation of refuse or trash be permitted on any Lot. Each single family dwelling house built shall be equipped with a garbage disposal unit, and once installed, each such unit shall be kept and maintained in good working order so as to be and remain environmentally acceptable.

Section 6.07. Nuisances: No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood or another Owner.

Section 6.08. Maintenance of Undeveloped and Unoccupied Lots: Owners of undeveloped or unoccupied Lots shall at all times keep and maintain such Lots in an orderly manner, causing weeds and other growths to be reasonably cut and shall prevent the accumulation of rubbish and debris thereon.

Section 6.09. Easement for Utilities and Public and Quasi-Public Vehicles:

All public and quasi-public vehicles, including but not limited to, police, fire, ambulance and other emergency vehicles, trash and garbage collection, post office vehicles, postal employees, utility company vehicles and personnel, privately owned delivery vehicles making deliveries to a Lot, as well as pedestrian traffic are hereby granted the right to enter upon and use the roadway throughout the subdivision in the performance of their duties, for deliveries, for ingress and egress, and for installation, replacement, repair and maintenance of all public utilities, including, but not limited to, water, sewer, gas,

telephone, cable TV and electric. Further, the Boone County Emergency Management Agency shall have Easement Access to any and all emergency warning sirens, which may be furnished and installed by Developer. The County of Boone and the Emergency Management Agency shall have full and complete legal liability and responsibility for the continued maintenance and repair of any sirens and developer and Power of Attorney are relieved of any and all liability and responsibility for maintenance and repairs.

Section 6.10. Lighting: Lighting for lots in The Willows (lots 75-124, 188-201 and 224-242, inclusive) shall install garage coach lights operated by a dusk-to-dawn photocell. The type, style and location of said garage coach light shall be subject to the approval of Developer. Mailboxes for Lots in The Willows (Lots 202-223 inclusive) shall be illuminated by dusk-to-dawn type lighting as specified by the approved mailbox design provided by Developer.

Section 6.11 Noise Sensitive Areas: The owners of lots are put on notice as follows:

- a. The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.

ARTICLE VII Easements

Section 7.01. Easements: The strips of ground shown on the survey of Lots attached hereto and Regulated Designated Drainage and Utility Easements ("RDE" or "UE") either separately or together, are hereby created for the use (including required ingress and egress necessary as a part thereof) of public utility companies, governmental agencies, police, fire, ambulance and other emergency vehicles, and the Owners of the

Lots herein as follows:

"Regulated Drainage Easements" (R.D.E.) are created to provide paths and courses for area and local storm drainage, either overlaid or in adequate underground conduit, to serve the needs of this and adjoining ground and/or the public drainage system. No structures, including fences, shall be built on a regulated drainage easement. No changes shall be made in the finished grade elevations of any Lot, whether in connection with the construction of improvements thereon or otherwise, so as to modify, alter or change the location or depth of any drainage swales, ditches or creeks located within any such drainage easement without the approval of all Federal, State, County or Municipal authorities from whom approvals are required by law, or which would in any way prohibit, impede, restrict or alter the natural flow of surface water drainage.

"Utility Easements" (U.E.) are created for the use of public and private utility companies, not including transportation companies, for the installation, operation and maintenance of mains, ducts, poles, lines and wires necessary to provide utility service to a Lot or Lots, subject to the condition that following any installation or maintenance, the affected area within such Utility Easement shall be returned to the condition existing prior thereto at the cost and expense of the party responsible for having such work performed.

No structures, including fences, shall be built on a regulated drainage easement (R.D.E.) or a utility easement (U.E.) which obstructs flow from the area being served, nor shall any changes be made in the finish grade elevations of any Lot, whether in connection with the construction of improvements thereon or otherwise, so as to modify, alter or change the location or depth of any drainage swales, ditches or creeks located within such drainage easement, without the approval of all federal, state, county or municipal authorities from whom approvals are required by law or which would in any way prohibit, impede, restrict or alter the natural flow of surface water drainage.

PSI Energy, Inc. maintains a Fifty foot (50') Electric Line Easement along the back of Lots 144-168, inclusive, Lots 210-212, inclusive, as well as Common Areas (CA) "K" and "O." All lot Owners take title subject to this Easement as well as an Encroachment Agreement executed by Developer and PSI Energy, Inc. as duly recorded in the Office of the Recorder of Boone County, Indiana.

The Owners shall take title to the Lots subject to the foregoing easement rights in, along and through the strips of ground properly designated as hereinabove set forth on the recorded survey of the Lots for the purposes herein stated. Further, "Landscape Easements" (LE) has previously been defined and referenced in Section 5.15.

Section 7.02. The Willows Legal Drain: All Lots within The Willows are included in The Willows Legal Drain. This legal drain has been established by the Boone County Drainage Board and the Boone County Surveyor to provide a method for future maintenance of the retention pond structures, storm sewers and the subsurface tile drains located in the Subdivision. The Boone County Drainage Board shall not maintain the pond itself. Easements have been provided on certain Lots as shown on the recorded plats in order that contractors employed by the Boone County Surveyor may gain access across Lots in the Subdivision to maintain said drainage improvements. Each Lot will be assessed a yearly drainage fee as may be assessed by the Boone County Drainage Board. This fee is billed by the Boone County Treasurer and is payable at the time of property taxes in May and November. Failure to pay said assessment could result in a property being involved in a Tax Sale for failure to pay delinquent taxes. In the event of major reconstruction and/or repair of The Willows Legal Drain, the Boone County Drainage Board may, after public hearing, impose a Special Assessment to cover the costs of reconstruction and/or repair.

ARTICLE VIII

General

Section 8.01. Waiver of Damages: Neither the Developer, their nominees, representatives or designees, shall be liable for any claim for damages whatsoever arising out of or by reason of any acts taken (or not taken) or things done or performed (or not done or performed) pursuant to any authorities reserved, granted or delegated pursuant to this Declaration.

Section 8.02. Enforcement: The right to enforce the restrictions contained in this Declaration and all covenants and restrictions contained herein including, but not limited to, the right of injunctive relief, or the right to seek the removal by due process of law of structures erected or maintained in violation of this Declaration, is hereby given and reserved to Developer, the Owners from time to time of Lots and all parties claiming under them, all of whom shall have the right, individually, jointly or severally, to pursue any and all remedies, in law and equity available under applicable Indiana law, without being required to show actual damage of any kind whatsoever, and shall be entitled to recover, in addition to appropriate monetary damages, if any, reasonable attorneys' fees and other legal costs and expenses incurred as a result thereof.

Section 8.03. Severability: The provisions of this Declaration shall be severable and no provision shall be affected by the invalidity of any other provision to the extent that such invalidity does not also render such other provision invalid. In the event of the invalidity of any provision, this Declaration shall be interpreted and enforced as if all invalid provisions were not contained herein.

Section 8.04. Non-Liability of Developer: Developer shall not have any liability to an Owner or to any person or entity with respect to drainage on, over, under or through a Lot. Upon the improvement and development of a Lot, the proper handling of storm and surface water drainage shall be the responsibility of the Owner of such Lot, and