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RECORDER FRANKLIN CO., OHIO

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RICHARD B. METCALF, RECORDER

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**THE RESERVE
AT
NEW ALBANY**
New Albany, Ohio

DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS

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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RESERVE AT NEW ALBANY

This DECLARATION is made February 6, 1996 by Berkshire Development Co., PLL, an Ohio registered partnership having limited liability, (hereinafter "Declarant").

ARTICLE I

Declarant is the owner of all that certain real property located in Franklin County, Ohio, more particularly described on Exhibit A attached hereto (hereinafter the "Property") and hereby makes this Declaration of Protective Covenants, Conditions and Restrictions (the "Declaration") for the purposes hereinafter set forth.

Declarant hereby declares that the Property shall be held, sold, conveyed, encumbered, leased, occupied and improved subject to the following covenants, conditions, and restrictions which shall run with the Property and be binding upon and inure to the benefit of all parties now or hereafter having any right, title, or interest in such property or any part thereof, and their heirs, personal and legal representatives, successors and assigns.

Whereas, in order to advance the purposes of the Declaration, The Reserve at New Albany Homeowners' Association, Inc. (the "Association"), an Ohio non-profit corporation, has been established for the purpose of owning, operating, maintaining, and administering portions of the Property, together with certain improvements constructed and developed or to be constructed and developed thereon, including, but not limited to, common areas, parks, and lakes as dedicated to either the Association or the Village of New Albany from time to time by Declarant for the common use by the owners of Lots within the Property and/or the public; and the Association, as formed by the Declarant, has joined in this Declaration for purposes of acceptance of all powers and duties of operation, administration, maintenance and repair as delegated and assigned by Declarant together with the collection and disbursement of "operating expenses" (as said term is hereinafter defined); and

Whereas, the Association shall administer and enforce the provisions of this Declaration with the costs incurred by the Association in connection with said operation, administration, maintenance and repair, being an encumbrance upon those portions of the Property which are benefited thereby (as more particularly set forth herein).

Now, therefore, in the interest of enhancing the inherent value of ownership within the Property; to ensure proper development and use of the Property; to provide for adequate maintenance of common areas and residential Lots; to promote the health, safety and welfare of the residents; and to promote a cohesive aesthetically pleasing living community, the Declarant, for itself and its successors and assigns, hereby declares and agrees that all portions of the Property shall hereafter be held, conveyed, leased, occupied,

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FRANKLIN COUNTY AUDITOR

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JOSEPH W. TESTA
AUDITOR
FRANKLIN COUNTY, OHIO

used and improved subject to the covenants, conditions and restrictions set forth herein, which shall run with the Property for all purposes and shall be binding upon the Property, the Declarant, and its grantees, together with its respective successors and assigns, and shall inure to the benefit of the Property, the Declarant, its grantees and owners, their respective successors and assigns.

ARTICLE II

Definitions

Certain words and terms as used in this Declaration shall have the meanings given to them by the definitions and descriptions in this Article.

- 2.01 Architectural Review Board (also referred to as the ARB): The board created pursuant to Article V of this Declaration for purposes of advising Lot owners and ensuring compliance with the guidelines set forth in the Design Review Manual.
- 2.02 Articles: The Articles of Incorporation of The Reserve at New Albany Homeowners' Association, Inc., an Ohio non-profit corporation, which said Articles are filed with the Secretary of State, State of Ohio, and as may be amended from time to time.
- 2.03 Assessment: Shall be defined as follows:
- (i) Regular Assessment shall mean the charge against each Owner and respective Lot representing an allocable portion of the Common Expenses of the Association;
 - (ii) Compliance Assessment shall mean the charge against an Owner and respective Lot representing a portion of the cost of reconstructing any damaged or destroyed portion or portions of the Common Area and facilities, for which such owner was responsible, the costs incurred by the Association in bringing such Owner and his Lot into compliance with this Declaration; or any amount due to the Association based upon disciplinary proceedings against an Owner in accordance with this Declaration;
 - (iii) Special Assessment shall mean the charge against an Owner and respective Lot representing a portion of the cost of constructing or installing any capital Improvements to the Common Area and facilities, or of taking any extraordinary action for the benefit of the Common Area and facilities or the membership of the Association pursuant to the provisions of this Declaration;
 - (iv) Initial Reserve Assessment shall mean the charge against an Owner and respective Lot representing an initial contribution for purposes of creating an operating reserve fund, thereby creating funds available to the Association to pay obligations when and as they become due.

2.04 Association: The Association is "The Reserve at New Albany Homeowners' Association, Inc.", an Ohio non-profit corporation, and its successors and assigns. It is understood that all owners of land subject to this Declaration will belong to said Association.

2.05 Board: The Board of Trustees of the Association.

2.06 Builder: A person or entity who or which acquire title to any Lot or parcel for the purpose of construction of a residential dwelling thereon, in accordance with the Design Review Manual (as hereinafter defined), with the strict purpose of reselling the improved Lot to an Owner. In the event a Builder occupies a dwelling on any Lot as his principal residence, then he shall be deemed to be an Owner as to that Lot and may be a Builder as to other Lots within the Property.

2.07 Code of Regulations: The Code of Regulations of the Association which has been adopted by the Board, as such Code of Regulations may be amended from time to time.

2.08 Common Area: The land controlled and/or owned by the Association, as well as those areas of the Property shown on any recorded plat of all or any portion of the Property, or designated in any recorded declaration, or both, as devoted to the common use and enjoyment of the Owners and/or the public, including without limitation, areas deeded to the Village of New Albany, landscape easements, buildings and Improvements now or hereafter constructed thereon.

2.09 Common Expenses: The actual and estimated costs to be paid by the Association in delegation of its duties as provided in the Articles, and the Code of Regulations including but not limited to those expenses incurred to maintain Common Area.

2.10 Declarant: Berkshire Development Co., PLL, an Ohio registered partnership having limited liability, and its successors in interest. A person or entity shall be deemed a successor in interest of Declarant only if so specifically designated in a duly recorded written instrument as a successor or assign of Declarant under this Declaration and/or under a Supplemental Declaration and shall be deemed a successor in interest of Declarant only as to the particular rights or interests of Declarant under this Declaration or under such Supplemental Declaration which are specifically designated in the recorded written instrument.

2.11 Declaration: This Declaration of Covenants, Conditions and Restrictions as supplemented and/or amended from time to time.

2.12 Design Review Manual: That collection of standards and/or guidelines as adopted by the ARB as supplemented and/or amended from time to time.

2.13 Improvement: Any and all Buildings and structures, parking areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, signs, changes in any exterior color or shape, excavation and any and all other site work including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. Improvement does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. Improvement does include both original Improvements and all later changes and Improvements.

2.14 Landscape Easement: That easement retained over portions of certain Lots and/or Common Areas for the installation and maintenance of decorative features. The retained Landscape Easements and the Lots affected thereby are identified on the Plat.

2.15 Lot: Each separate tract depicted, designated and shown upon any recorded subdivision Plat, excepting, however, any lot described in the Declaration or Plat as Common Area.

2.16 Member: Every person or entity who holds Membership in the Association. There are three categories of Membership: Declarant, Builders, and Owners of Lots.

2.17 Operating Expenses: The expenses of the Association for which all Owners are liable. Said Expenses include, but are not limited to, the costs and expenses incurred by the Association in fulfilling its obligations hereunder, and in administering, operating, owning, constructing, reconstructing, financing, maintaining, repairing and replacing Common Areas or portions thereof and Improvements thereon. Also included are the expenses incurred for maintenance of all Landscape Easements and Reserve areas as designated on the Plat.

2.18 Owner: The holder of record title in fee simple to any Lot, whether or not such title holder actually resides on the Lot. This term specifically excludes those persons or entities holding record title merely as security for the performance of an obligation. This term further excludes Declarant and Builder as they are defined in this Article II.

2.19 Plat: Each and every subdivision record plan of real estate as recorded in the plat records of Franklin County, Ohio.

2.20 Property: All land described in the attached Exhibit A and all Improvements now or hereafter built, installed or erected thereon.

2.21 Registered Notice: Any written notice which has been signed for by the addressee, or by the spouse, son or daughter or any domestic servant or employee of the addressee; Registered Notice also means and refers to any written notice which as been certified by the US Postal Service or other delivery service as actually having been delivered at the address listed for the addressee on the records of the Association or as to which delivery was attempted by was refused by the addressee or other persons at such address, to the

extent that such refusal was witnessed by an employee of the Postal Service or other delivery service.

2.22 Reserve and Conservation Areas: Those areas, as designated on the Final Plat, reserved as part of the Common area and/or portions of lots which have specific protections. Said Reserve Areas may be deeded to the Homeowners' Association or to the Village of New Albany. Said Conservation Areas are and shall remain as parts of individual Lots, as designated on the Plat. The entities responsible for the maintenance of said areas are designated on the Plat.

2.23 Residence: The individual dwelling and the related Improvements that are constructed upon a Lot, which are designed and intended for use and occupancy by a single family.

2.24 Resident: Each person residing in a Residence.

2.25 Restrictions: These covenants, conditions, restrictions, liens, assessments and easements, together with all of the provisions contained herein as they now appear or as they may hereafter be amended.

2.26 Rules and Regulations: The rules and regulations adopted by the Board pursuant to the Code of Regulations and this Declaration, as they may be amended from time to time.

2.27 Supplemental Declaration: Any Declaration recorded by Declarant to establish additional covenants, conditions and restrictions or to amend any covenants, conditions and restrictions contained herein.

2.28 Tenant: A person, firm, partnership, corporation or other entity possessing or claiming to possess a leasehold interest in any Residence or portion of the Property.

ARTICLE III

3.01 Name: The name of the development shall be "The Reserve at New Albany". The name of the homeowners' association established pursuant to this Declaration shall be "The Reserve at New Albany Homeowners' Association, Inc." Nothing contained in this Declaration, Articles of Incorporation or Code of Regulations of the Association shall permit a name change of this development or the Association. It is the intent of Declarant to establish and maintain proper identity of this development by means of the name assigned hereby.

3.02 Governmental Regulations. This development is subject to the subdivision regulations, zoning regulations and provisions of the Village of New Albany Planning and Zoning Commission.

ARTICLE IV

Association

4.01 Indemnification and Formation: The name of the Association is "The Reserve at New Albany Homeowners' Association, Inc.". It has been formed as an Ohio non-profit corporation pursuant to the provisions of Chapter 1702 of the Revised Code.

4.02 Membership: Every person or entity who is an Owner, Declarant or Builder shall be a Member of the Association. All Memberships in the Association shall be appurtenant to the Lot owned by each Member. Memberships in the Association shall not be assignable, except to the person or entity to whom the title to the Lot has been transferred. The ownership of such Lot shall be the sole qualification for Membership in the Association.

4.03 Voting Rights: Voting Rights of Members shall be as provided in the Code of Regulations of the Association.

4.04 Power: Authority: Duties: The Association shall have all the rights, powers, and duties established, invested, or imposed pursuant hereto, its Articles of Incorporation, its Code of Regulations, its duly adopted rules and regulations, and the laws of the State of Ohio applicable with respect to Ohio non-profit corporations.

4.05 Specific Powers: Among other things, the Association shall have the following specific rights:

- A. Enforce the provisions of this Declaration.
- B. Acquire title to, manage, maintain, repair and replace all Common Area and facilities, maintain all street and traffic signs, and pay all costs of utilities, operation, maintenance, repair, replacement, gardening and other necessary services for the Common Area and facilities;
- C. Grant easements or licenses where necessary for utilities and other service facilities over, on and across the Common Areas and facilities and within platted easements across Lots.
- D. Levy and collect Assessments from the Owners of Lots and enforce payments of such Assessments.
- E. Pay all taxes and Special Assessments which would be a lien upon the Common Areas and facilities, and discharge any lien or encumbrance levied against the Project or the Common Areas and facilities.
- F. Pay for reconstruction of any portion of the Common Areas and facilities damaged or destroyed.
- G. Retain, if deemed appropriate by the Board, and pay for, legal and accounting services necessary and proper for the efficient operation of the Association.

H. Enter into a Lot when necessary in connection with the maintenance or construction for which the Board is responsible.

I. Perform any and all other acts and things that a non-profit mutual benefit corporation organized under the laws of the State of Ohio is empowered to do, which may be necessary, convenient or appropriate in connection with the administration of the Association's affairs and the carrying on of the Association's duties as set forth in this Declaration.

4.06 Delegation of Duties: In the event the Association shall delegate any or all of its duties, powers or functions to any person, corporation or firm to act as manager, neither the Association nor the Members shall be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated.

4.07 Right of Entry: The Association, through its authorized representatives, shall have a Right of Entry and access to, over, upon and through all the Property to enable the Association to perform its obligations, exercise its rights and fulfill its duties pursuant hereto. Such representatives shall not be deemed to have committed a trespass as a result thereof; provided, however, except in an emergency, an occupied building may not be entered unless such written notice of such proposed entry shall have been given or sent to the Owner thereof at least five (5) days prior to such entry.

ARTICLE V

Architectural Control

5.01 Formation: The Association shall establish an Architectural Review Board (hereinafter referred to as the ARB). In the event the Association fails to appoint an Architectural Review Board, the Board of Trustees shall serve as the Architectural Review Board.

5.02 Architectural and Design Standards: The Association shall create and adopt a Design Review Manual which may be amended from time to time as provided therein. The Design Review Manual will serve to establish the standards upon which the ARB is to base its approval or rejection of plans, construction, excavation, grading, landscaping, tree removal, renovation, or other work or action which in any way alters the exterior appearance of the Property from its theretofore natural or improved state.

5.03 Plan Approval Requirement: No improvement, change, construction, addition, excavation, landscaping, tree removal or other work or action which in any way alters the exterior appearance of the Property from its theretofore natural or improved state (and no change, alteration or other modification of any of the foregoing previously approved hereunder) and no addition to or modification of any Improvement or landscaping (whether or not theretofore approved hereunder) shall be commenced or continued until the same shall have first been approved in writing by the ARB in accordance with the Design Review Manual.

- 5.04 Review Process: The review, evaluation and approval or disapproval of proposed plans for development of Lots within The Reserve shall be processed pursuant to the procedures established by the ARB, as outlined in the Design Review Manual.
- 5.05 Review Fee: The Association, through the ARB, shall charge and collect review fees whenever plans are submitted to the ARB for review. The fee, as established by the ARB, may be amended from time to time.
- 5.06 Basis of Approval: Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the standards set forth in the Design Review Manual and other structures on the Property, the effect of the location and use of Improvements on neighboring property, and conformity of the plans and specifications to the general intent of and specific revisions of this Declaration.
- 5.07 Failure to Approve: In the event the ARB fails to approve any plans and/or specifications within 30 days after their submission in such complete form as may be required by the ARB, said plans and specifications shall be deemed to have been disapproved and rejected.
- 5.08 Complete Authority: Submission of plans for approval to the ARB constitutes acceptance of the decisions rendered by the ARB. It is acknowledged that the ARB has total, complete, absolute and final discretion and authority to approve or disapprove all plans submitted.
- 5.09 Liability: Neither the Declarant, the Association, the Board, the ARB nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans. Every person and entity submitting plans to the ARB agrees by said submission that he or it will not bring any action or suit against the Association, the Board, the ARB or Declarant to act or to recover any damages.
- 5.10 Scope of Approval: No approval of plans and specifications and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed Residence. Such approvals and standards shall in no event be construed in representing or guaranteeing that any Residence will be built in a good and workmanlike manner.
- 5.11 Approval Subject to Governmental Regulations: Approval of any plans by the ARB shall not be interpreted or construed as an acceptance of plans that violate any and all applicable township, municipal, state or federal regulations, codes, ordinances, and statutes applicable to standards of building. The terms and conditions of this Article V and the Design Review Manual are deemed subordinate to any and all applicable regulations, codes, ordinances and statutes.

5.12 **Enforcement of Violation:** Any construction or Improvements which were not approved by the ARB as well as any failure to comply with the plans and specifications as submitted and approved by the ARB shall be the subject of a Registered Notice from the ARB directing the Owner and/or Builder to remove all such violative work at once. Removal shall commence within seven (7) days of Registered Notice and shall progress until completion within thirty (30) days. Such removal shall be at the expense of Owner and/or Builder on whose Lot the construction and Improvement is situated. In the event removal is not instituted and completed according to the terms and conditions set forth herein, the Association, its delegates or assigns may enter upon the portion of the Property involved to effect the removal with the cost thereof assessed against the Owner of the Lot.

ARTICLE VI

Environmental Quality

6.01 **Reserve Areas:** The areas designated as "Reserve" on the Final Plat (A,B,C,& D) will be deeded to the Village of New Albany, but remain the responsibility of the Homeowners' Association. Maintenance of said designated areas, and any additional areas as may be designated from time to time, is the responsibility of the Association. Should the Association not fulfill its maintenance responsibilities of said areas, the Village of New Albany has the right to enter the property for maintenance purposes. The costs incurred by the Village will be assessed against the Association which will be obligated to reimburse the Village for such expenses. Additional detail regarding the protection of these areas may be found on the Final Plat.

6.02 **Conservation Areas:** These are areas within certain individual Lots identified for purposes of preserving the natural condition of the land. They are delineated on the Final Plat, as are the individual Homeowners' responsibilities regarding their protection. Careful attention should be paid to said responsibilities at all times. Specifically there are protection guidelines for during the building process as well as restrictions regarding the removal of vegetation.

ARTICLE VII

Protective Covenants and Restrictions

7.01 Residential Use: Subject to the consolidation of two or more Lots for construction of a Residence and related Improvements thereon, each Lot shall be used as a private dwelling for a single family and for no other purpose except such temporary uses as shall be permitted by Declarant while the Project is being developed and Lots are being sold by Declarant; provided, however, that Declarant reserves for itself the right, until all Lots in all Phases are sold (and escrows closed), to carry on normal sales activity on the Property, including the operation of models and sales offices, provided that Declarant shall not unreasonably interfere with any other Owners' use of the Common Area.

7.02 Splits Prohibited: No Lot shall be split, divided or subdivided for sale, resale, gift, transfer or otherwise, so as to create a new Lot or building site.

7.03 Temporary Improvements: No temporary building or structure shall be permitted on any portion of the Property, provided, however, trailers, temporary buildings, barricades and the like shall be permitted for construction purposes during the construction period for a permanent building and for sales purposes during the sale of Lots, provided, in addition, the ARB shall have theretofore approved in writing the design, appearance and location of the same. Any permitted temporary Improvements shall be removed not later than fourteen (14) days after the date of completion of the building(s) for which said temporary structure was intended and shall be permitted for no longer than a period of one (1) year, unless otherwise approved by the ARB.

7.04 Quiet Enjoyment/Nuisance: No Owner or Resident shall permit or suffer anything to be done or kept upon such Lot or Residence which will obstruct or interfere with the rights of quiet enjoyment of other Owners, Residents or occupants, or annoy them by unreasonable noises or otherwise. No Owner shall commit or permit nuisance on the premises or commit or suffer any immoral or illegal act to be committed thereon. Each Owner shall comply with all of the requirements of the Board of Health and of all other governmental authorities with respect to said premises and shall remove all rubbish, trash and garbage from the Lot. There shall be no exterior fires whatsoever, except barbecue fires contained within receptacles made therefore. No odors shall be permitted to arise or to be emitted therefrom so as to render any portion of the Property unsanitary, unsightly, offensive or detrimental to any of the remainder of the Property or to the residents or to the Owners thereof. No exterior lights, the principal beam of which shines upon portions of the Property, other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of the Property or Residence by the occupants or the Owners thereof, shall be permitted on any Lot. No speakers, horns, whistles, bells, or other sound devices shall be located, used or placed on any Lot except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof. Music, either live or by recording device, that

is so loud as to disturb adjacent Owners or Residents is prohibited. No garage or yard sales, auctions or similar activities shall be permitted upon any Lot.

7.05 Trucks, Trailers, Mobile Homes, Recreational Vehicles and Boats: No parking spaces other than those enclosed in garages on the Property shall be used for the parking of any trucks, trailers, mobile homes, recreational vehicles and boats or any other than operative passenger automobiles. The words "Trailer" and "Recreational Vehicle" shall include trailer coach, house trailer, mobile home, motor home, automobile trailer, camper, camp car, or any other vehicle whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation and constructed in such a manner that it was, is, or may be mounted upon wheels or any similar transporting devices and used on streets and highways. The word "Truck" shall include and mean every form of cab, tractor and other attachments customarily hauled by such trucks including, but not limited to, flat bed trailers and other forms of platforms and enclosed or partially enclosed devices which would be pulled by vehicle or equipment devised to be used with a motor vehicle with the exception of trailers and recreational vehicles and with the further exception of boats and operative passenger automobiles.

7.06 Service Screening, Storage Areas: Garbage, trash and refuse shall be placed in containers which shall be concealed and contained within the Residence or shall be concealed by means of a screening wall of materials similar to and compatible with that of the Resident on the Lot or shall be concealed by sufficient landscaping to provide a permanent screen at all time of the year (e.g. evergreen vegetation). These elements shall be integrated with the Resident's plan, be designed so as not to attract attention, and shall be located in as reasonably inconspicuous a manner as is possible. Unless specifically authorized by the ARE in writing, no material, supplies or equipment shall be stored on any Lot except inside the Residence, so that they are not visible from neighboring streets or properties.

7.07 Animal Maintenance: No animals shall be raised, bred or kept in any Lot or in the Common Area except common household pets, including dogs, cats, birds or fish; provided, however, that no animal shall be kept, bred or maintained for any commercial purpose or in unreasonable numbers as may be determined by the Association from time to time. As used herein "unreasonable numbers" shall ordinarily mean more than two animals per Lot. Each Owner shall be responsible for cleaning any excrement or other unclean or unsanitary condition caused by said animal on the Lot, Common Area or Property. All animals maintained in a Lot must be kept within an enclosure, yard, or patio, or on a leash being held by a person capable of controlling the animal. No "runs" or "kennels" shall be permitted or maintained on the Lot. The Association shall have the right to prohibit maintenance of any animal within the Property which, in the opinion of the Association, constitutes a private nuisance to any other person. Any person bringing an animal upon or keeping an animal within the confines of The Reserve at New Albany shall be liable pursuant to the laws of the State of Ohio to each and all persons for any injury or damage to persons or property by such animal.

7.08 Machinery and Equipment: No commercial machinery or equipment of any kind shall be placed, operated or maintained upon any Lot except such machinery or equipment reasonable necessary for use in connection with the maintenance or construction of Improvements as approved by the ARB. Hobbies or activities that tend to detract from the aesthetic character of the Property, and Improvements used in connection with such hobbies or activities shall not be permitted unless carried out or conducted as authorized by the ARB. This paragraph refers to, but is not limited to, such activities as automotive and boat repair.

7.09 Landscaping: All landscaping installed on a Lot shall be installed only in accordance with the architectural and design standards set forth in the Design Review Manual, as may be altered by the Association from time to time. No alterations, modifications, or changes shall be permitted except with permission of the ARB.

7.10 Gardens: Any plot within a Lot utilized for the propagation of edible vegetation shall not exceed a total of one hundred (100) square feet. Any such plot shall be properly maintained to prevent the growth of weeds or other noxious plants. All gardens shall be maintained in accordance with the landscaping standards established by the ARB.

7.11 Removal of Trees: In order that the natural beauty of the Property be preserved, no living tree having a caliper measurement or diameter of 6" or more shall be destroyed or removed from any Lot unless approved by the ARB in connection with its approval of plans and specifications for the construction of Improvements or otherwise with the prior express written consent of the ARB. In the event of the violation of this paragraph, Declarant, the ARB or the Association and their respective representatives may, at any of their option, cause any tree so removed or destroyed to be replaced with another tree and the Owner shall reimburse Declarant, the ARB or the Association for all expenses therein incurred by it; provided, however, that with respect to the replacement of a tree, there shall be no obligation of reimbursement of any amount in excess of the expenses which would be incurred if the destroyed or removed tree were replaced with a tree similar in type and size. The Association may assess and collect such reimbursement (for itself, or on behalf of Declarant, as the case may be) in the same manner as it assess and collects yearly assessments, and such amounts shall become part of the assessment against and a lien upon the Lot as provided for herein.

The majority of lots in The Reserve at New Albany have Conservation Areas delineated in rear and or side yards. These areas have specific restrictions regarding tree and general vegetation removal, as detailed on the Final Plat.

7.12 Drainage and Grading: No drainage ditches, swales, streams, impoundments, ponds or lakes; no mounds, knobs, dams, or hills; and no other physical Improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be destroyed, altered or modified by or at the direction or with the consent of any Owner without the prior written consent of the Association. No Improvements to any Lot shall be made in any manner whatsoever that

are inconsistent with the master grading plans established by Declarant or its successors or assigns for the Property, as they now exist or may hereafter be modified from time to time, without the prior written consent of the Association. In the event of any destruction, alteration, modification, or improvement made or occurring without such prior consent of the Association, Declarant, the Association and their respective representatives shall have the joint and several rights to enter upon any Lot, and to remedy or repair any such destruction, alteration, modification or improvement without being guilty of trespass and without liability to any Owner with respect to the same or the consequences thereof. Whenever, because of construction of Improvements on a Lot or for some other reason, silt would run off of a Lot, siltation control measures shall be implemented to prevent silt from running off of such Lot onto such adjacent Property.

7.13 Commercial Activity: No Lot shall ever be used, or caused to be used or allowed or authorized to be used in any way, directly or indirectly for any business, commercial, mercantile, manufacturing, storage or other non-residential purposes. The provisions of this section shall not preclude professional and administrative occupations so long as there is no evidence of the occupations visible to or affecting the Property and for so long as such occupations are in conformance with all applicable governmental regulations. Any such use of a Lot must be merely incidental to the use of the Lot as a Residence.

7.14 Parking: All streets within the Project are subject to the covenants and terms of the Declaration, as well as all applicable laws, ordinances and regulations of all governmental agencies having jurisdiction over the Property. Additionally, the Association may adopt reasonable rules and regulations regarding parking of vehicles on the Property and procedures to enforce such Rules and Regulations, including, but not limited to, the levying of fines and citing and towing violating vehicles.

7.15 Utility Service: No lines, wires or other devices for communication purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy shall be constructed, placed or maintained anywhere in or upon the Property unless the same shall be in or by conduits or cables constructed, placed, maintained underground or concealed in, under or on a Residence or other approved Improvements, provided, however, above ground electrical transformers and electrical equipment may be permitted if properly screened and approved by the ARB. In addition, all gas, water, sewer, oil, and other pipes for gas or liquid transmission, shall also be placed underground or within or under Residences. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved Improvements. In addition to the covenants set forth herein, no appliances or installations on the exterior of any Residence or accessory structure shall be permitted unless they are designed in such a manner that they are not visible from the streets, other Residences, and adjoining Property, and they have been approved in writing by the ARB, which shall have the right to approval or disapprove the size, shape, style, noise level, and provisions for screening of any roof mounted equipment. Under no circumstances will outside antennas, disks, aerials, antenna poles, antenna masts,

electronic devices, antenna towers, citizens band (CB) or amateur band (HAM) antennas, be permitted unless maintained completely inside the residence.

7.16 Maintenance of Lots and Buildings: No Lot, Residence or other Improvement shall be permitted to become overgrown, unsightly or fall into disrepair, and all Residences and Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the ARB. Each Owner, for himself and his successors and assigns, hereby grants to Declarant and the Association, jointly and severally, the right to make any necessary alterations, repairs or maintenance approved by the Board to carry out the intent of this provision and they further agree to reimburse the Declarant or the Association for any expenses actually incurred in carrying out the foregoing. The Association may assess and collect such reimbursement (for itself or on behalf of Declarant, as the case may be) as a Compliance Assessment.

7.17 Signs: No sign, poster, display or other advertising device of any kind shall be displayed to the public view on or from any Lot or any of the Common Areas and facilities without the approval of the Association or the ARB, except such signs as may be used by Declarant in connection with the development of the Property and the sale of the Lots.

7.18 Mineral Exploration: The Property shall not be used in any manner to explore for, use, or exploit commercially any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, soil, or any other substance located in or under the ground.

7.19 Right of Entry: Declarant and the Association, and their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect any Lot or Residence whether prior to, during or after the completion of any construction of Improvements, for purposes of determining whether or not the provisions of these Restrictions are being complied with, and exercising all rights and powers conferred upon Declarant, the ARB and the Association in this Declaration with respect to the enforcement or correction or remedy of the failure of the Owner to observe these restrictions; and Declarant, the ARB and the Association and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Residence may not be entered hereunder unless written notice of such proposed entry shall have been given to the Resident at least five (5) days prior to such entry.

7.20 Exemption of Declarant: Nothing in this Article or elsewhere in this Declaration shall limit in any manner whatsoever the rights of Declarant to complete the planning, development, grading, construction, advertising, marketing, leasing and sales of the Lots, including, without limitation, the following specific rights, which may be exercised by the Declarant, or by its agents and employees, in conjunction with the development and marketing,, until all Lots in the Property are sold (and escrows closed), whichever shall first occur:

- A. The right to maintain and operate one (1) or more advertising, sales or leasing office(s) located upon any Lot(s) owned by Declarant or upon any Common Area without payment of rent or approval of the Association;
- B. The right to post and display from any Lots owned by Declarant or from any Common Area any sign, flag, banner, billboard or other advertising which Declarant may, in its sole discretion, deem appropriate, irrespective of size, color, shape or materials of such items;
- C. The right to install, place, replace, construct, reconstruct, modify or remove any improvement from any Lot owned by Declarant or from any Common Area as Declarant may, in its sole discretion, deem appropriate; provided that in the event Declarant removes any Association-owned improvement, it shall replace said improvement with any improvement of substantially similar value, appearance, and utility within a reasonable period following completion of any work necessitating the removal of the improvement;
- D. The right to conduct any commercial activity upon any Lot owned by the Declarant or upon any Common Area and facility which reasonably relates to the development, marketing, leasing or sale of the Lots;
- E. The right to park vehicles upon any Lot owned by Declarant or upon any Common Area and facilities.

ARTICLE VIII

Easements

8.01 Owners' Easements: Every Owner shall have a non exclusive right and easement of access, use and enjoyment in and to the Common Area. Said right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the limitations set forth in this Article VIII.

8.02 Limitations on Owners' Easement Rights: The rights and easements of access, use and enjoyment set forth in Paragraph 8.01 herein shall be subject to the provisions of this Declaration, including, but not limited to the following:

- A. The right of the Association to establish and enforce reasonable Rules and Regulations pertaining to the use of the Common Area and all facilities located thereon;
- B. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless approved by two-thirds (2/3s) of the voting power of the Association and a certificate executed by the President and the Secretary of the Association evidencing such approval shall be recorded in the office of the County Recorder for Franklin County, Ohio;
- C. The right of the Declarant (and its sales agents, representatives and customers) to the nonexclusive use of the Common Area and the facilities located

thereon, without charge, in order to market, show, sell, and otherwise dispose of Lots, which rights Declarant hereby reserves; provided however, that such use shall cease upon the date that Declarant no longer owns a Lot or Property;

D. The right of the Association acting by and through its ARB to enact uniform and reasonable architectural guidelines;

E. The right of the Association to fulfill its obligations for maintenance, operation, repair and replacement of all Common Areas;

F. The right of the Association to reasonably restrict access to Common Areas;

G. Any limitations, restriction or conditions affecting the use, enjoyment or maintenance of the Common Area imposed by the Declarant or public agencies including, but not limited to, the rights of the township and county, or such other governmental agency having jurisdiction to use their vehicles over those portions of the Common Area designed for vehicular movement to perform municipal functions or emergency or essential public services.

8.03 Utility Easements: Declarant reserves to itself, its grantees, successors and assigns an additional easement in, through, under and/or over those portions of each Lot and Common Area as shown on the Plat designated as easements, or where such rights of way are necessary for construction, operation and maintenance of sanitary sewer, water, electricity, gas, telephone, cable television or CATV lines and conduits or any other public utility facilities, and no structure shall be erected or maintained upon any part of any Lot or Common Area over or upon which easements for installation and maintenance of such public utilities have been granted.

8.04 Landscape Easements: Declarant reserves to itself, its grantees, successors and assigns an additional easement in, through under and/or over those portions of each Lot and Common Area as shown on the Plat designated as Landscape Easement. Said Landscape Easement shall be maintained by the Association for the benefit of all Owners. The design of the vegetation and other decorative Improvements within each Landscape Easement shall be maintained and included within the normal maintenance responsibilities of the Association. No Owner of any Lot within which a Landscape Easement exists shall conduct any activity which would result in the alteration or demise of the decorative features established thereon.

8.05 Power of Attorney: Each Owner of a Lot, by acceptance of a deed to a Lot, appoints the Association his, her or its Attorney in Fact to execute, deliver, acknowledge and record, for and in the name of such Owner, deeds of easement, licenses, permits and other instruments as may be necessary or desirable, in the sole discretion of the Board, to further establish or effectuate the foregoing easement and rights. This power is for the benefit of each and every Owner of a Lot and the Association, and the Property, runs with the land, is coupled with an interest and is irrevocable.

8.06 Sidewalk Easements: Declarant hereby covenants for itself, its grantees, successors and assigns that every Owner, Resident, Tenant and invitee shall have non-

exclusive reciprocal easements appurtenant on and over all sidewalks located on Lots for pedestrian access, use and enjoyment.

8.07 Encroachment: In the event any portion of the Common Area encroaches upon any Lot, or any Lot encroaches upon the Common Area as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, a valid easement for the encroachment for and the maintenance of the same shall exist so long as the encroachment exists.

ARTICLE IX

Common Areas

9.01 Transfer of Title: Declarant hereby covenants, for itself, its grantees successors and assigns that it will convey to the Association, fee simple title to, or a non-exclusive easement in, certain Common Areas, free and clear of all liens and encumbrances, subject to the covenants set forth in this Declaration and any amendments thereto. It is the intent of Declarant to transfer, by means of the platting process, and/or by special warranty deed, fee simple title for certain portions of the Property designated on the plat as Common Area which may include, but are not limited to, entrance features and open space. Though remaining the maintenance responsibility of the Association, certain Common Areas, as designated on the Final Development Plan, or as added from time to time, will be deeded to the Village of New Albany.

9.02 Maintenance and Use: Once title to the Common Area, or any portion thereof, is passed to the Association or the Village of New Albany, or the Association acquires a non-exclusive easement in the Common Areas or any portion thereof, said Association shall undertake full responsibility for maintenance of the Improvements within all the Common Areas and shall not alter, nor shall it permit the alteration, of any Improvements contained within the Common Area or any portion thereof. Specifically, the Association shall maintain at the level of their current standards of quality all entrance features, signs, lighting, and landscaping constructed on the Property by Declarant. The Association shall not abandon, partition, subdivide, alienate, release, transfer, hypothecate, or otherwise encumber the Common Area unless specifically permitted pursuant to Paragraph 9.05 herein.

9.03 Commencement of Association Responsibilities: The Association's responsibility to maintain the Common Area conveyed by Declarant to the Association and/or the Village, shall commence concurrently with the recordation of the Plat and/or special warranty deed, whichever occurs first, conveying the Common Area, as the case may be. The Association shall be obligated to accept title to the Common Area, and undertake all maintenance responsibilities for the Common Area when title is conveyed and maintenance responsibilities are tendered by the Declarant.

9.04 Use of Common Areas: All Owners, by reason of such ownership, shall have a right and easement of enjoyment in the Common Areas and facilities for so long as they are Owners. Such right and easement is appurtenant to each Lot and shall not be transferable except that it shall automatically transfer with the transfer of the ownership of the Lot. For purposes of this Article only, the terms Owner and Resident shall also include the guests and invitees of any Owner or Resident, if and to the extent the Board in its absolute discretion so directs. Those Common Areas dedicated to the Village of New Albany shall also be available for use and enjoyment by the public.

9.05 Authority to Convey: Notwithstanding the rights, easements and privileges granted under this Article IX, the Association shall nevertheless have the power and authority to convey and dedicate any property or easement or right of way over any Property referred to in this Article IX, free and clear of all such rights, easements, and privileges, if such conveyance or dedication is for use as a public roadway or pedestrian walkway, or to a public or private utility for the installation, operation or maintenance of utility services. Any other conveyance or dedication of Common Areas and facilities shall be made only for public purpose and, if made for a purpose other than those specified in this Section 9.05, only by an affirmative vote of at least two-thirds (2/3s) of the voting Members of the Association represented in person or by proxy entitled to vote at a meeting (annual or special) called for such purposes.

ARTICLE X

Assessments

10.01 Creation and Identification of Assessments: The Declarant, for each Lot Owner within the Property, hereby covenants, and each Owner and/or Builder of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

- A. Regular Assessment
- B. Compliance Assessment
- C. Special Assessment
- D. Initial Reserve Assessments
- E. Such other assessments as the Association may periodically establish.

10.02 Regular Assessment: Each Lot and the Owners and/or Builders thereof, shall be subject to annual operating assessments to be determined, assessed, and collected as hereinafter provided for the following purposes:

- A. To defray the administrative costs or expenses incurred by the Association in the exercise of its powers, authority and duties described herein;
- B. For the protection of the health, safety, enjoyment and welfare of the Owners, Builders, and occupants of the Property;

C. To enhance the values and amenities of the Property, by means of the construction, repair, and maintenance of the Common Area, and to the extent not performed by the appropriate public authorities concerning the Property, including, but not limited to, the payment of taxes and insurance on the Common Area, the cost of the purchase, construction, improvement, repair, beautification, alteration, operation, replacement of and additions to the Common Area and the cost of labor, equipment, materials, utility services, management and supervisions with respect thereto, and the maintenance of a reasonable reserve.

For the purpose of providing funds for the uses specified above, the Board shall, for each year, commencing with the year 1996, affix and assess a yearly assessment against each Lot by establishing a budget for 1996 and dividing the budget by the number of Lots included in the Property (32). In making each such assessment, the Board shall separately assess each Lot, and each such Lot shall be charged with and be subject to a lien for the amount of the Regular Assessment. In the event a Homeowner purchased two Lots on which to build one residence, the Homeowner is subject to payment of two Assessments. This would be true for any of the Assessments defined in this section as they may affect said Homeowner.

10.03 Compliance Assessment: The Association shall levy assessments against an individual Lot or Lots to reimburse the Association for those costs incurred with respect to that Lot or those Lots properly chargeable by the terms hereof to a particular Lot or Lots (such as, but not limited to, the costs of making repairs the responsibility of Lot Owner or Owners or Builder). Any such assessment shall become due and payable on such date as the Association determines.

10.04 Special Assessment: In any fiscal year, the Board may not, without affirmative vote or written assent of Owners in attendance at a duly called meeting of the Association, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which, in the aggregate, exceeds 5% of the budgeted gross expenses of the Association for that fiscal year. Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments set forth in Paragraph 10.02 above. The five percent (5%) limitation shall not apply to the levy of Special Assessments necessary to cover expenses incurred in emergency situations which include extraordinary expenses required by a court of competent jurisdiction; extraordinary expenses necessary to repair or maintain Improvements within the Property where a threat to personal safety is discovered; and an extraordinary expense necessary to repair or maintain any improvement to the Property to which the Association is responsible that could not have been reasonably foreseen by the Board in preparing the operating budget.

10.05 Initial Reserve Assessment: Each initial purchaser of a Lot (whether from Declarant or a grantee, successor or assignee of Declarant, and whether of a Lot now subject hereto or a Lot hereafter subject to this Declaration), shall, at the time of closing of the purchase of the Lot, contribute to the Association a sum equal to one-sixth (1/6th) of the annual Regular Assessment to create an operating reserve fund, so that funds will be

available to the Association to pay its obligations when and as they become due. This contribution shall be non-refundable and shall not be in lieu of or a credit against any other assessments hereinafter provided. Declarant for itself, its successors or assigns, reserves the right to use and appropriate any portion of the operating reserve fund for any purpose that Declarant in its absolute discretion determines to be in the best interest of and for the use and benefit of the Association and/or the Property.

10.06. Declarant Exemption: The Declarant is specifically exempt from application of assessment portions of this Article X. Until such time as a sufficient number of Lots is owned by Residents, Declarant shall annually contribute a sum of money in an amount sufficient to subsidize the Association's shortfall in its budget for that budget year. Declarant reserves the right to restrict, diminish or discontinue the amount, nature and character of the subsidy provided for in this Section 10.06.

10.07 Annual Budget and Statements: On or before December 1st of each year, or as soon as shall be practicable thereafter, the Board shall establish a budget for the Association for the ensuing calendar year, which shall be the basis of the Regular Assessment calculations referred to in Section 10.02 above. As soon after said budget is established, the Board shall send a written statement to each owner setting forth the amount of the budget established for the ensuing calendar year, together with the amount of the Regular Assessment set for the ensuing year and the frequency of payment therefore (e.g. monthly, quarterly, yearly). In the event the Board determines for some reason that the budget must be adjusted after the initial budget has been distributed to the Owners, the Board may send a written statement to each Owner setting forth the amount of the revised budget, together with the amount of the adjusted Regular Assessment required to fund said revised budget. If a Residence is built across two Lots, or an Owner combines two or more Lots to create one assessable parcel for real property tax purposes, the Owner shall be charged a Regular Assessment for EACH Lot. The Regular Assessment may be billed annually, semi-annually, quarterly, or monthly, as may be determined by the Association from time to time.

10.08. Rules and Procedures for Billing and Collecting Assessments: The Board shall have the power and authority to adopt rules and procedures respecting the billing and collection of any and all Assessments which shall be binding on all Owners, provided that such procedures shall not be inconsistent with the provisions of this Article. Any Assessment installment, as provided in 10.01, which is not paid within 30 days of its due date shall be delinquent. In the event that an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

10.08.1 Assess a late charge of not less than 5% of the delinquent amount;

10.08.2 Assess an interest charge from the date of delinquency at 1-1/2% per month or the maximum rate allowed by law;

10.08.3 Suspend the voting rights of the Owner during any period of delinquency;

10.08.4 Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

10.08.5 Bring an action at law against any Owner personally obligated to pay the delinquent installments;

10.08.6 File a statement of lien with respect to the Lot and foreclose on the Lot as set forth in more detail below.

The Association may file a statement of lien by recording with the Recorder of Franklin County, Ohio, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association, and the amount of delinquent Assessments then owing, which statement shall be duly signed and acknowledged by the President or a Vice President of the Association or by the Manager and which shall be served upon the Owner of the Lot by mail to the address of the Lot or at such other address as the Association may have in its records for the Owner of the Lot. Thirty days following the mailing of such notice, the Association may proceed to foreclose the lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Ohio. Such lien shall be in favor of the Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Association shall be entitled to recover as a part of the action, the interest, costs, and reasonable attorneys' fees with respect to the action. The Association shall have the power to bid for the Lot at the foreclosure sale and to purchase, hold, lease, Mortgage and sell the same. During the period in which a Lot is owned by the Association following foreclosure, no Assessments shall be levied against it and each other Lot shall be charged, in addition to its usual Assessments, its prorata share of the Assessment that would have been levied against such Lot had it not been acquired by the Association as a result of foreclosure. The remedies herein provided shall not be exclusive and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

10.09 Successor's Liability for Assessments: In addition to the personal obligation of each Owner of a Lot to pay all Assessments thereon and the Association's perpetual lien on a Lot for such Assessments, all successors to the fee simple title of a Lot, except as provided in this Section, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor. This liability of a successor for such amounts due before the successor's acquiring title to the Lot shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the statement of liens shown on any certificate issued by or on behalf of the Association under Section 10.10 hereof.

10.10 Statement of Status of Assessments: Upon 10 days written notice to the Treasurer of the Association or the Manager and payment of a processing fee set by the Association from time to time, not to exceed \$50, any Owner or Mortgagee of a Lot shall be furnished a statement of the account for such Lot setting forth:

10.10.1 The amount of any unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Lot;

10.10.2 The amount of the current periodic installments of the Assessments and the date through which they are paid; and

10.10.3 Any other information deemed proper by the Association.

The information contained in such statement, when signed by the Treasurer or Manager, shall be conclusive upon the Association as to the person or persons to whom such statement is issued and who rely on it in good faith.

10.11 Authority to Maintain Surplus: The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in other time periods and may carry forward, as surplus, any balances remaining, nor shall the Association be obligated to apply such surpluses to the reduction of the amount of the Regular Assessment in any year.

10.13 Authority to Enter into Contracts: The Association shall have the power and authority to contract with any person, corporation, firm or other entity, including but not limited to Declarant for the exercise of any one or more of the various powers and authority granted to and duties performed by the Association hereunder, and to delegate such powers and authority to any agent or employee of the Association, and the exercise of those powers and authority by such person, corporation, firm, entity, agent or employee shall be deemed the exercise of those powers and authority by the Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Association, its agents, employees, or others assuming the exercise of the powers and authority granted hereunder except as the Board shall in its sole discretion deem necessary or desirable for the safeguarding of any funds received by the Association.

10.14 Professional Management: Any agreement for professional management of the Property, or any contract providing for services of the Declarant may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days written notice.

ARTICLE XI

Real Estate Taxes

11.01 Owner: The Owner of each Lot shall pay the real estate taxes and assessments levied from time to time against the Lot or Lots owned.

11.02 The Association: The Association shall be responsible for the payment of all real estate taxes and assessments that, from time to time, are levied against any Common Area and other real estate owned by the Association.

ARTICLE XII

Insurance

12.01 Public Liability Insurance: The Association shall obtain and maintain a policy or policies of comprehensive public liability insurance (with costs liability endorsement, if obtainable) insuring the Association, the Trustees, the Owners, the Declarant, and the agents and employees of each of the foregoing against any liability to the public or to any Owner, his family, invitees, and/or tenants arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area. The Village of New Albany will be named as a co-insured as such would cover the Village for incidents taking place on the Reserve Areas. The limits of liability under this Section shall be set by the Association and shall be reviewed at least annually and increased or decreased at the discretion of the Association; provided, however, that said limits shall not be less than \$1,000,000 for a bodily injury, including deaths of persons and property damage arising out of a single occurrence. In the event the Federal Home Loan Mortgage Corporation (FHLMC), and/or the Federal National Mortgage Association (FNMA) participate in the financing of Lots in the Property, said limits shall not be less than the minimum limits required under the then current FHLMC and FNMA regulations.

12.02 Casualty and Fire Insurance: The Association shall obtain and maintain a policy or policies of casualty and fire insurance with extended coverage endorsement in an amount equal to one hundred percent (100%) of the current replacement value (without deduction for depreciation or co-insurance) of the Common Area, together with all improvements located thereon. Said policy shall be maintained for the benefit of the Association as the insured, for the use and benefits of the Owners.

12.03 Fidelity Bonds: The Association shall obtain and maintain fidelity coverage (fidelity bonds) to protect against dishonest acts on the part of officers, trustees, agents and employees of the Association and all others who handle or are responsible for handling funds of the Association or to whom such responsibility is delegated, such coverage to be in the form of a fidelity bond shall meet the following requirements:

- A. Such bonds shall include the Association as named insured;

- B. Such bonds shall be written in an amount equal to one and one quarter times the anticipated annual budget;
- C. Such bonds shall include persons who serve without compensation within the definition of employee or similar term.

12.04 D&O Liability Insurance: The Association shall obtain and maintain, if available, Directors and Officers liability insurance as the Association determines to be required or beneficial for the protection of trustees and officers of the corporation.

12.05 Workers Compensation: The Association shall obtain and maintain as appropriate, workers compensation policies in compliance with applicable law.

12.06 Miscellaneous Coverage: The Association may obtain and maintain such other forms of insurance coverage it shall determine to be required or beneficial for the protection and /or preservation of the Property.

ARTICLE XIII

Mortgagee Protection

13.01 Mortgagee Protection Provisions: Notwithstanding any other provisions in this Declaration to the contrary, in order to induce lenders and investors to participate in the financing of the sale of Lots on this Property, the following provisions contained within this Article are added hereto and to the extent these added provisions conflict with any other provisions in this Declaration, these added provisions shall control. The Declaration, the Articles and the By-Laws for the Association are hereinafter collectively referred to in this Article as the "Constituent Documents".

13.02 First Refusal: The right of an Owner to sell, transfer, or otherwise convey his Lot shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

13.03 Lien Subordination: The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter recorded upon any Lot. The sale or transfer of any Lot shall not affect the Assessment Lien; however, the sale or transfer of any Lot pursuant to judicial foreclosure of a first Mortgage, or pursuant to any remedies provided for in the Mortgage, shall extinguish the lien of such Assessments as to payments which became due prior thereto. No sale or transfer shall relieve such Lot from Liability for Assessments due thereafter. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage, or any purchaser at the foreclosure sale of a first Mortgage, will not be liable for unpaid Assessments or charges which accrue prior to the acquisition of title to such Lot by the Mortgagee (except claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all Lots, including the mortgaged Lot).

13.04 Assessment Methods: Except as provided by statute in case of condemnation or substantial loss to the Lots and/or the Common Area, unless seventy-five percent (75%) of the total voting power of the Association and seventy-five percent (75%) of the first Mortgagees (based upon one (1) vote for each first Mortgage owned) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

- A. Change the method of determining the obligations, Assessments, dues or their charges which maybe levied against an Owner's Lot;
- B. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Area shall not be deemed a transfer within the meaning of this clause;
- C. Use hazard insurance proceeds for losses to the Common Area for other than repair, replacement or reconstruction;
- D. Effect any decision of the Association to terminate professional management and assume self-management of the Property, where such professional management was previously required by a holder, insurer or guarantor of any first Mortgage;
- E. By act or omission, change, waive or abandon any provisions of this Declaration or enforcement thereof, pertaining to architectural design of the Residences situated on a Lot, or the maintenance and operation of the Common Area within the Property, including without limitation, sidewalks, fences, driveways, and landscaping within the Property;
- F. Fail to maintain fire and extended coverage on the insurable Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value thereof, and
- G. Abandon or terminate the Association, except for abandonment, partition, or termination as may be provided by law.

13.05 Real Estate Taxes: All taxes, assessments and charges which may become a lien prior to the first Mortgage under local law shall relate only to individual Lots and not the Property as a whole.

13.06 Insurance Distribution: No provision of the Constituent Documents shall be interpreted to give any Owner or any other party priority over any rights of the first Mortgagee in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of all or any portion of the Common Area or such Owner's Lot. All applicable fire and casualty insurance policies shall, if requested, contain loss payable clauses acceptable to each Mortgagee, naming the Mortgagee, as their interests appear, as additional insureds.

13.07 Reserve Funds: The Assessments provided for in the Constituent Documents shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis, and shall be payable in regular installments rather than by Special Assessments.

13.08 Notice Information: Each holder, insurer or guarantor of a first Mortgage who has filed with the Association a written request for notice shall be entitled to a timely written notice of:

- A. Any condemnation or eminent domain proceeding and any loss or taking resulting from such proceedings which affect the Property, or any portion thereof;
- B. Any substantial damage or destruction to the Property, or any portion thereof, when such loss exceeds Ten Thousand Dollars (\$10,000);
- C. Any default in the performance by an individual Owner of any obligation under the constituent documents including, without limitation, the nonpayment of Assessments, which is not cured within sixty (60) days after the Association learns of such default, which notice shall state the length of time which such Owner has been delinquent;
- D. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- E. Any abandonment or termination of the Project; and
- F. Any proposed action that requires the consent of a specified percentage of eligible Mortgagees.

13.09 Payment Reimbursement: First Mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may have become a lien on the Common Area, and may pay overdue premiums on hazard insurance policies, secure new hazard insurance coverage on the lapse of a policy for the Common Area, and first Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. Upon demand by any first Mortgagee, the Board shall execute, on behalf of the Association, an agreement establishing the right of all first Mortgagees to such reimbursement.

13.10 Access to Information: A first Mortgagee of a Lot in the Project will, upon request, be entitled to:

- A. Examine the books and records of the Association during normal business hours.
- B. Association and other financial data as may be distributed to the Owners, within ninety (90) days following the end of any fiscal year of the Association, if such statement has been prepared for the Association;
- C. Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

13.11 Notice of Identity: Each Owner shall notify the Association in writing within ten (10) days after the close of escrow for the purchase of his Lot of the name and address of his first Mortgagee, and thereafter, each Owner shall promptly notify the Association of any changes of name or address of his first Mortgagee.

ARTICLE XIV

General Provisions

14.01 Duration: The Covenants set forth in this Declaration shall run with and bind the Property, and shall inure to the benefit of the Association and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of thirty-five (35) years from the date this Declaration is recorded with the Franklin County, Ohio Records Office, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument meeting the requirements for an amendment to this Declaration has been signed and recorded within one (1) year prior to the termination of the initial thirty-five (35) year term, or within one (1) year prior to the termination of any successive ten year period.

14.02 Time Limits: If any of the privileges, covenants, or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities; (b) any rule restricting restraints on alienation; or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of those descendants of Bill Clinton, now President of the United States of America.

14.03 No Liability for Declarant: Neither the Declarant nor its employees, agents, successors or assigns shall be liable for any claim whatsoever, arising out of or by reason of any actions performed or decisions made pursuant to any authority granted or delegated or reserved to the Declarant by or pursuant to this Declaration, or out of, or by reason of any actions performed or decisions made in the capacity of the Declarant or sell or of any Lot whether or not such claim (a) shall be asserted by any Owner, occupant of any Lot, the Association, or by any person or entity claiming through any of them; or (b) shall be on account of injury to persons or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the previous enumeration includes all claims for the Property or any part thereof becoming or being out of repair or by reason of any act or neglect of any Owner, occupant of any Lot, the Association, their respective agents, employees, guests, invitees and trespassers or by reason of any neighboring property or of personal property located on or about the Property, whether by reason of the failure to function of, or disrepair of, or interruption of service of any utility services, including, but not limited to, heat, air conditioning, electricity, gas, water, sewage, etc.

14.04 Construction: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance off the Property.

14.05 Constructive Notice and Acceptance: Every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Property is and shall be

conclusively deemed to have consented and agreed to every restriction contained herein, whether or not a reference to these Restrictions is contained in the instrument by which such person acquired an interest in said Property.

14.06 Paragraph Headings: The Paragraph Headings are intended for convenience only and are not intended to be a part of this Declaration in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer. As such, said Article and Section Headings shall not be considered or referred to in resolving questions of interpretation or construction.

14.07 Singular includes Plural: Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

IN WITNESS WHEREOF, DECLARANT and the ASSOCIATION have duly signed and acknowledged this Declaration this 6th day of February, 1996.

Berkshire Development Co., PLL,
an Ohio registered partnership having
limited liability

Norma D. Orvedoff
John A. Carter
Witnesses

By: JOMAR, its general partner

By: Joseph A. Ciminello
Joseph A. Ciminello, general partner

JOINDER BY THE RESERVE AT NEW ALBANY
HOMEOWNERS' ASSOCIATION, INC.*

The Reserve at New Albany Homeowners'
Association, Inc. (an Ohio corporation)

Norma D. Orvedoff
John A. Carter
Witnesses

By: Joseph A. Ciminello
Joseph A. Ciminello, President

*The Reserve at New Albany Homeowners' Association, Inc. hereby joins in this Declaration and hereby agrees to enforce its rights and be bound by its obligations as provided herein.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

BE IT REMEMBERED, That on this 6th day of February, 1996, before me, the subscriber, a Notary Public in and for said state, personally came Berkshire Development Co., PLL, an Ohio registered partnership having limited liability, by JOMAR, its general partner, by Joseph A. Ciminello, general partner, and acknowledged the signing hereof to be his voluntary act and deed on behalf of said partnership.

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



JEFFREY A. AUKER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

Jeffrey A. Auker

Notary Public

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

BE IT REMEMBERED, That on this 6th day of February, 1996, before me, the subscriber, a Notary Public in and for said state, personally came The Reserve at New Albany Homeowners' Association, Inc., an Ohio corporation, by Joseph A. Ciminello, President, and acknowledged the signing hereof to be his voluntary act and deed on behalf of said corporation.

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



JEFFREY A. AUKER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date.
Section 147.03 R.C.

Jeffrey A. Auker

Notary Public

THIS INSTRUMENT PREPARED BY:

BERKSHIRE DEVELOPMENT CO., PPL
567 LAZELLE ROAD
WESTERVILLE OH 43081

EXHIBIT A
THE PROPERTY

Situated in the State of Ohio, County of Franklin, and in the Village of New Albany:

Being Lots numbered One (1) through Thirty-Two (32), inclusive in The Reserve at New Albany, and the areas designated Reserve "A", Reserve "B", Reserve "C", and Reserve "D", and further including all of the public rights-of-way shown thereon, of record in Plat Book 83, page 45, Recorder's Office, Franklin County, Ohio. --

**AMENDMENT TO THE DECLARATIONS OF PROTECTIVE COVENANTS
CONDITIONS AND RESTRICTIONS FOR THE
RESERVE AT NEW ALBANY**

**Berkshire Development Co., PLL, an Ohio registered partnership having limited liability
and The Reserve at New Albany Homeowners' Association, Inc., an Ohio corporation**

The Agreement dated February 6, 1996 and recorded in the Recorders Office of Franklin County in Volume 31132, Page A01 by and between Berkshire Development Co., PLL an Ohio registered partnership having limited liability and The Reserve at New Albany Homeowners' Association, Inc., an Ohio corporation setting forth the declarations of protective covenants, conditions and restrictions have been amended effective November 15, 2002 as follows:

Article II, Section 2.08 is amended to read as follows:

Common Area: The land controlled and/or owned by the Association, as well as those areas of the Property shown on any recorded plat of all or any portion of the Property, or designated in any recorded declaration, or both, as devoted to the common use and enjoyment of the Owners and/or the public, including without limitation, areas deeded to the Village of New Albany, buildings and Improvements now or hereafter constructed thereon.

Article VII, Section 7.16 is amended to read as follows:

Maintenance of Lots and Buildings: No Lot, Residence or other Improvement shall be permitted to become overgrown, unsightly or fall into disrepair, and all Residences and Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the ARB. Each Owner, for himself and his successors and assigns, hereby grants to Declarant and the Association, jointly and severally, the right to make any necessary alterations, repairs or maintenance approved by the Board to carry out the intent of this provision and they further agree to reimburse the Declarant or the Association for any expenses actually incurred in carrying out the foregoing. The Association may assess and collect such reimbursement (for itself or on behalf of Declarant, as the case may be) as a Compliance Assessment. Any damage or loss sustained as a result of the actions of an Owner or a third party to the Owner's Property, including the Landscape Easement will be borne by and the Owner and the cost of the replacement and repair thereof will be the responsibility of the Owner as set forth in Article VII, Section 7.16.

Article VIII, Section 8.04 will be amended to read as follows:

Landscape Easements: Declarant reserves to itself, its grantees, successors and assigns an additional easement in, through and under and/or over those portions of each Lot and Common Area as shown on the Plat designated as Landscape Easement. Said Landscape Easement shall be maintained by the Association for the benefit of all Owners. The design of the vegetation and other decorative Improvements within each Landscape Easement shall be maintained and included within the normal maintenance responsibilities of the Association. No Owner of any

Instr: 20030139012321 01/13/2003
Pages: 2 F: \$16.00 3:03PM
Robert G. Montgomery T20030004923
Franklin County Recorder MEPJOY BRO

**TRANSFERRED
NOT NECESSARY**
JAN 13 2003
JOSEPH W. TESTA
AUDITOR
FRANKLIN COUNTY, OHIO

CONVEYANCE TAX
EXEMPT
m. J.
JOSEPH W. TESTA
FRANKLIN COUNTY AUDITOR

Lot within which a Landscape Easement exists shall conduct any activity which would result in the alteration or demise of the decorative features established thereon. The Owner will be responsible for the replacement or repair of any damage or loss to the Landscape Easement as a result of the actions of an Owner or a third party.

In witness whereof the parties have executed this Amendment as of the 28th day of November, 2002.

Berkshire Development Co., PLL
an Ohio registered partnership having
Limited liability

By: JOMAR, its general partner

By: [Signature]
Joseph A. Ciminello, general partner

[Signature]

Witnesses

The Reserve at New Albany Homeowners'
Association, Inc., an Ohio corporation

By: [Signature]
Joseph A. Ciminello, President

[Signature]
Paul D. TROBUS, President

[Signature]
[Signature]
Witnesses



30342601

Eas. 76225

Easement & Right of Way

BERKSHIRE DEVELOPMENT COMPANY P.L.L.C., "Grantor(s)" in consideration of \$1.00, the easement terms, and other good and valuable consideration from Columbus Southern Power Company, an Ohio corporation, 215 N. Front St., Columbus, OH 43215, "Grantee", the receipt and sufficiency of which is acknowledged, grants and conveys with general warranty covenants to Grantee, a right of way and easement "Easement", for electric, other energy or communication purposes for current/future uses, overhead and underground, in, on, over, through and across the following described lands situated in the Village of New Albany, Franklin County, Ohio, and being part of Section No(s) 4 Township No(s) 2 and Range No(s) 16, Survey USML, in Deed/Official Record Volume(s) ORV 28823 E02 Page(s) _____ of the Franklin County Recorder's Office: (Also Reference ORV 28823D19) Part of the above indicated acreage is now a proposed subdivision to be known as The Reserve At New Albany, a subdivision of lots 1 thru 32 and Reserves "A", "B", "C", and "D".

SEE ATTACHED ADDENDUM AND RELATED DRAWING

157570

The Easement conveys all necessary and convenient rights for the Easement's use, including, without limitation, the rights to: construct, operate, maintain, inspect, protect, replace, enlarge, upgrade, relocate within the Easement, extend or remove utility facilities, with poles, anchors, guys, supporting structures, conductors, conduits, service pedestals, grounding systems, foundations, manholes, devices and associated equipment as it may deem appropriate, adding thereto from time to time; perform grading or filling for such facilities; cut, trim, remove and/or otherwise control, at Grantee's option, without any liability to Grantor, any trees, overhanging limbs or branches, brush, shrubs, undergrowth, of whatever size, (including those that are dead, diseased, weak, or leaning), buildings, structures, or other obstructions that in Grantee's reasonable judgment endangers or will endanger the safety of, interfere with or encroach upon the use of its facilities, both within and adjoining the Easement. Within the Easement, Grantor shall not: place any buildings, structures, pile or debris, interfere with lateral support, construct any swimming pool, change the level of the ground by excavation or mounding without Grantee's written consent, allow any construction that would be inconsistent with the National Electric Safety Code or Grantee's design standards, and, for underground lines, permit or cause any excavation deeper than eighteen (18) inches, except for other utilities, provided such utilities rights do not conflict with this Easement. This Easement also conveys the right of ingress and egress in and over any reasonable routes at all times. If any governmental authority requires Grantee to relocate the facilities contemplated by this grant, this Easement conveys the right to relocate such facilities to a comparable location.

Grantor may use its property for all purposes not inconsistent with the full enjoyment of the Easement, but Grantor acknowledges high voltage electric lines will be constructed within the Easement and Grantor shall conduct construction/maintenance activities on its property consistent with all applicable safety rules and regulations for working near electric lines. Safety/required clearance issues may be referred to Grantee's Engineering Group and if Grantor initiates any construction or building activities on its property, always call the applicable utility protection service before the activity begins. Grantee shall restore the premises or pay reasonable damages done to fences, drains, seeded lawns (not landscaping), gates, ditches and crops caused by Grantee's use of the Easement. Grantor has authority to grant this Easement. No delay or omission by Grantee in exercising any right hereunder shall operate as a waiver or forfeiture of such right. This Easement grant is effective and binding upon the parties, their respective successors, assigns, lessees, licensees, heirs and legal representatives, and if any term hereunder is held invalid, the remainder shall not be affected thereby. Easement attachments, if any, are incorporated herein by this reference.

WITNESS, Grantor(s) signed this Easement on the 3RD day of OCTOBER, 1995.

Signed and Acknowledged in the Presence of:

BERKSHIRE DEVELOPMENT COMPANY, P.L.L.C.

Mark R. Cannello
Print Name: MARK R. CANNELLO

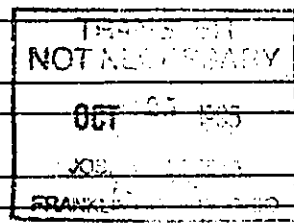
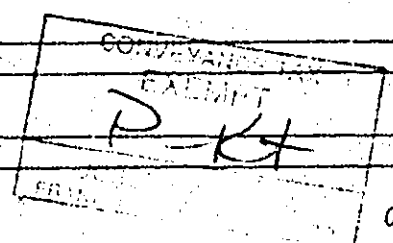
BY: Joseph A. Cannello
Print Name: JOSEPH A. CANNELLO

Diane Montgomery
Print Name: DIANE MONTGOMERY

TITLE: HANGING PARTNER
Print Name: _____

Print Name: _____
Print Name: _____

Print Name: _____
Print Name: _____



CALL BEFORE YOU DIG !!!

D.M.

30342602

STATE OF OHIO, COUNTY OF _____ SS:
The foregoing instrument was acknowledged before me this _____ day of _____, 199_____
by _____

Notary Public
Commission Expires _____

STATE OF OHIO, COUNTY OF _____ SS:
The foregoing instrument was acknowledged before me this _____ day of _____, 199_____
by _____

Notary Public
Commission Expires _____

STATE OF OHIO, COUNTY OF _____ SS:
The foregoing instrument was acknowledged before me this _____ day of _____, 199_____, by _____
[Name], [Title of officer], of _____
[Corporation Name], a _____ [State of incorporation] corporation, on behalf of the corporation.

Notary Public
Commission Expires _____

STATE OF OHIO, COUNTY OF FRANKLIN SS:
The foregoing instrument was acknowledged before me this 3rd day of OCTOBER, 1995, by JOSEPH
A CIMINELLO [Name of partner or agent], MANAGING PARTNER [Title of partner or agent],
on behalf of BERKSHIRE DEVELOPMENT COMPANY, P.C.C. [Partnership Name], a partnership.

Diane Montgomery
Notary Public DIANE MONTGOMERY
Commission Expires JANUARY 21st, 1997

STATE OF OHIO, COUNTY OF _____ SS:
The foregoing instrument was acknowledged before me this _____ day of _____, 199_____, by _____
[Name of attorney in fact], on behalf of _____ [Name of principal].

Notary Public
Commission Expires _____

For use by Recorder's Office and Auditor's Office.

Eas. No. 76235 Address The Reserve at New Albany
Dwg. No. 91953
W.O. No. 7-303001

Easement prepared by Columbus Southern Power Company

Addendum to Easement & Right of Way

The Easement facilities shall be constructed within the limits of certain strips of land, as delineated on the attached drawings, incorporated herein by this reference, to serve buildings and structures within the subdivision and other lands and to extend these electric lines to serve other properties as necessary, together with the right to overhang above and/or be buried beneath the surface of the ground on any and all lots within the subdivision with service wires, cable, conduit or conductors for the benefit of any other lots in the subdivision. In instances of overhead construction where the distances from the rear lot line of the lots to the buildings is greater than 100 feet, the right is hereby granted to set poles along or near side lot lines and to overhang lots with wires in order to reduce the length of service to 100 feet or less. The granting of this Easement does not preclude the use of the easement area by water, sewer, gas, telephone, cable or other communication companies, provided that such facilities do not interfere with Grantee's facilities.

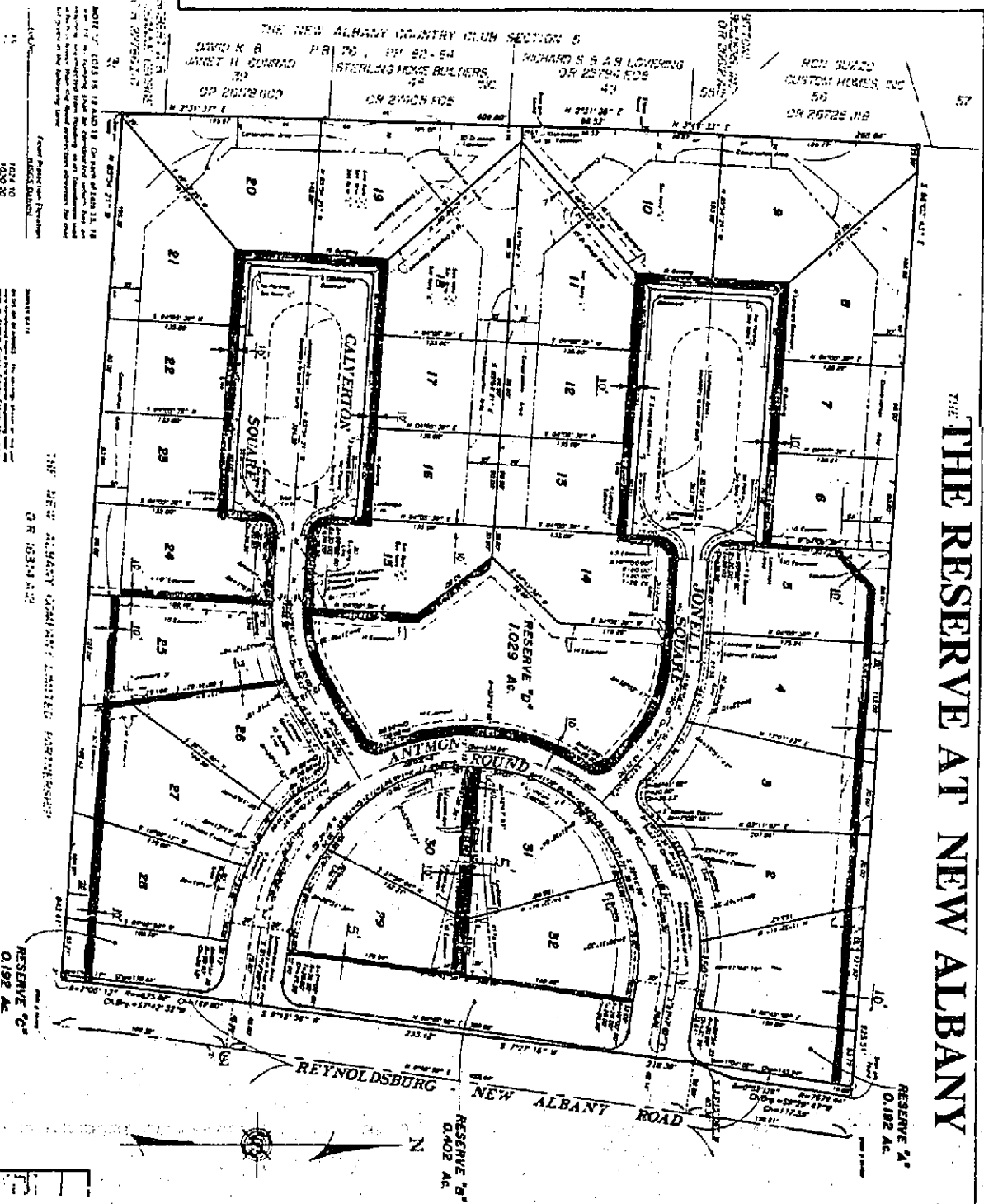
By granting this Easement, Grantor/Developer consents to Grantee installing underground lines, ducts, conduit and/or overhead lines within the limits of proposed streets and roadways as they are presently designed.

TIME 121 PM M
RECORDER FRANKLIN CO., OHIO

OCT 25 1995

RICHARD B. METCALF, RECORDER
RECORDER'S FEE 200

CALL BEFORE YOU DIG !!!



44782

TEMPORARY RIGHT OF WAY AGREEMENT

PARCEL NO. 52-T

COUNTY ROAD NO. 6 SECTION NO. "E", Franklin COUNTY, OHIO

ARTICLES OF AGREEMENT

These articles of agreement, entered into this 28th day of May,
nineteen hundred and eighty-four by Charles Kincade

and the County of Franklin, State of Ohio, Witnesseth:

That Charles Kincade - Unmarried

for and in consideration of the sum of One Dollars (\$1.00--)

to be paid by the Franklin County Commissioners the receipt of which is
hereby acknowledged, does hereby authorize the County Engineer of the
County of Franklin or his duly authorized agents or contractors to enter
upon and use his land hereinafter described as Parcel No. 52-T during
the period beginning with the breaking of ground for the construction of the
above highway improvement, and terminating when the completed work has been
fully accepted by the County Engineer, for the purpose of performing the
work necessary to construct a driveway

in accordance with plans and specifications prepared by the County Engineer.

PARCEL NO. 52-T

Being a part of land situated in Franklin County, Ohio

Plain Township, Section 4 Town 2, Range 16

and lying on the left side of a survey, made by the
Franklin County Engineer, and being located within the following described
points in the boundary thereof:

TRANSFER
NOT NECESSARY
MAY 29 1984
ROGER W. TRACY
AUDITOR
FRANKLIN COUNTY, OHIO

See Exhibit "A"

FRANKLIN COUNTY, OHIO

Recorded: MAY 29 1984 Time: 10:20 A

PALMER C. McNEAL, Recorder

Recorder's Fee No Fee

CONVEYANCE TAX
EXEMPT
P Low
ROGER W. TRACY
FRANKLIN COUNTY AUDITOR

Franklin County Engineer's Box

It is understood the area of land above described contains 0.014 acres, more or less.

IN WITNESS WHEREOF, the said Charles Kincade

 ha^s hereunto set his hand the 28th day of May in the year of our Lord, one thousand nine hundred and eighty-four.

Signed and sealed in the presence of:

Arthur B. Daniels
Donald C. Viney

Charles N. Kincade
Charles Kincade

STATE OF OHIO, COUNTY OF Franklin, ss.

BE IT REMEMBERED, that on the 28th day of May 19 84 before me the subscriber, a Notary Public in and for said county, personally came the above named Charles Kincade and acknowledged the signing of the foregoing agreement to be his voluntary act and deed.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Donald C. Viney
Notary Public
DONALD C. VINEY
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION EXPIRES MARCH 20, 1989

STATE OF OHIO, COUNTY OF _____, ss.

BE IT REMEMBERED, that on the _____ day of _____ 19 _____ before me the subscriber, a Notary Public in and for said county, personally came the above named _____ and acknowledged the signing of the foregoing agreement to be _____ voluntary act and deed.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

EXHIBIT "A"

CHARLES KINCADE

52-T

Situated in the State of Ohio, Franklin County, Plain Township, located in lot 37, Quarter Township 4, Township 2, Range 16, United States Military Lands. Being a rectangular tract of land on the west side of a survey of Reynoldsburg-New Albany Road (C.R. 6) made by the Franklin County Engineer's Office and being located within the following described points in the boundary thereof:

Beginning at a point on the westerly proposed right of way line, said point being left, 45.0 feet radially from station 69 + 14.22;

thence northwesterly 18.0 feet to a point, said point being left 63.0 feet radially from station 69 + 13.30;

thence northeasterly 32.1 feet to a point, said point being left 63.0 feet radially from station 69 + 45.0;

thence northeasterly 18.7 feet to a point, said point being left 45.0 feet radially from station 69 + 50.0;

thence with the proposed westerly right of way line, a curve to the left having a radius of 4628.66 feet, a long chord distance of 36.1 feet, southwesterly to the point of beginning containing 0.014 acre (615 square feet) more or less.

Vol 1746 Page 107

EASEMENT

In consideration of the Sum of One Dollar (\$1.00), the receipt whereof is hereby acknowledged, the grantors:

B. FRANK GRASH AND AGNES GRASH HIS WIFE

do hereby grant unto COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY, its successors, assigns, lessees and licensees (hereinafter called the Company), so long as the same may be used for the purposes herein contemplated, the right and easement to construct, reconstruct, repair, replace, remove, operate and maintain a pole line for the transmission and distribution of electric energy, together with (1) pole and () to guy and support said pole line, and for the attachment and carrying of the wires and cables of other companies using electric energy in the conduct of their business, over, across, through and/or upon the property and/or the highway, crossing the property which ~~is~~ is ~~is~~ is an interest, situated in R16, T. 2, Sec. 4, Fr. ~~Franklin~~ Franklin, Ohio, and known as ~~1.24~~ 1.24 acres, more or less, as the same is more particularly described in the deed dated 3-4-53 from Edward E. and Thelma L. Bernsdorf to B. Frank and Agnes Grash and recorded in Deed Book 1730, Page 349, Record of Deeds in Recorder's Office, Franklin County, Ohio

Received 5/25/53 1953 At 5:23 o'clock P.M. 8174
Recorded MAY 27 1953 In Franklin County
RAYMOND E. SCHAEFER, Recorder
Recorder's fee \$ 6.00

Said lines shall be constructed according to the following course: One (1) pole shall be located upon private property at a point approximately 23 feet west from the center line of Reynoldsburg - New Albany Road and approximately 185 feet south from the north property line of the above described property.

If at any time the company is required by the State Highway Department or any other governmental authority having control over said highway to relocate any or all of the poles of said pole line, then the company may and is hereby granted the right to relocate said pole or poles within the limits of the highway as it now exists or may hereafter exist.

Said easement includes the right to trim any trees which may hereafter interfere with the construction, reconstruction, operation and/or maintenance of said pole line, and to trim or cut, as mutually agreed, any trees that now interfere with the construction or reconstruction of said pole line.

The Company hereby agrees to pay for damages to the stock, crops, fences, or structures of the grantor(s), done by the Company or its employees while engaged in the construction or maintenance of said transmission line.

The Company shall have the right of ingress to and egress from the site occupied or to be occupied by said pole line, guy poles and/or anchors, and the right to do any and all things necessary, proper or incidental to the successful operation and maintenance thereof. It is specially provided, however, that the poles supporting said lines shall be so located as not to interfere with the undersigned's ingress to and egress from said property.

WITNESS D.W.P. hand & this 12th day of MAY, 1953

Signed and acknowledged in the presence of:
Ralph W. Carey
John R. Cutnaw
B. Frank Grash
Agnes Grash

NOT NECESSARY
MAY 25 1953
FRED C. LUNN
AUDITOR
FRANKLIN COUNTY, OHIO



STATE OF OHIO FRANKLIN COUNTY
Before me, a Notary Public in and for said county and state, personally appeared the above named B. FRANK GRASH AND AGNES GRASH

who acknowledged that they did sign the foregoing instrument and that the same is THEIR free act and deed.

In WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 12th day of MAY, 1953.
JOHN R. CUTNAW
NOTARY PUBLIC, FRANKLIN COUNTY, OHIO
MY COMMISSION EXPIRES OCT 31, 1954
Commission expires Oct 31 day of 1954
John R. Cutnaw Notary Public
in and for Franklin County, Ohio
FD-53-124-015



3375

CONSENT FOR ELECTRIC TRANSMISSION LINE

J.R. Miller,
Estella Miller,
SO

THE COLUMBUS RAILWAY, POWER AND LIGHT COMPANY,

CONSENT FOR ELECTRIC TRANSMISSION LINE ALONG HIGHWAY

FOR AND IN CONSIDERATION, of the sum of One Dollar (\$1.00) the receipt of which is hereby acknowledged, the undersigned, does hereby Grant unto The Columbus Railway, Power & Light Company, its successors and assigns forever, or

so long as the same may be used for the purposes herein specified, the right, privilege, permission and consent to construct, operate and maintain a line for the transmission and distribution of electric energy and such other purposes as may be necessary, convenient, desirable or incidental thereto, over, across, through and upon the highway known as Wayne Taylor Free Pike or Worthington & Greenville Road in front of our property, and at near the property line as it is convenient to do so, situated in the Township of Plain County of Franklin, and State of Ohio. The frontage which we own upon said highway is approximately 250 feet.

If at any time the tops of any trees along such highway should grow so as to interfere with the operation of said transmission line, then The Columbus Railway, Power & Light Company shall have the right and privilege to remove such interference by proper trimming of such trees, and the said The Columbus Railway, Power & Light Company shall have the right and privilege of doing any and all things necessary, proper or appropriate to the successful maintenance and operation of said transmission line.

Said The Columbus Railway, Power & Light Company shall have the right of ingress and egress to said transmission line for all necessary purposes and shall locate its poles supporting the same so as not to interfere with the ingress and egress to said property and to the highway upon which said line is located.

Witness our names this 3rd day of December, 1926.

In the presence of:
Clark Ranney

J.R. Miller,
Estella Miller,

STATE OF OHIO
SS
FRANKLIN COUNTY

BE IT REMEMBERED, that on the 3rd day of December, 1926, personally appeared before me, a Notary Public, in and for said County, the above named J.R. Miller, Estella Miller, who acknowledged that they did sign the within instrument and that the same is their free act and deed.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal on the day and year last above written.

(SEAL) W.M. Schaeffer, Notary Public.

Transfer Not Necessary Mar. 17, 1927
Filed Mar. 17, 1927 at 1:00 P.M.
Recorded Mar. 19, 1927
FEE \$.00

E.J. Williams, Recorder.

By Harold Michaels Deputy

Clayton McKinney

~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~
~~Between Sta. _____ and Sta. _____ ft. on _____ side of road~~

~~Said Stations being the station numbers as stipulated in the above mentioned survey, and as shown by plans on file in the office of the Department of Highways, Columbus, Ohio.~~

TO HAVE AND TO HOLD said easement and right of way unto the Grantee, its successors and assigns forever.

And the said Grantor, for himself and his heirs, executors and administrators, hereby covenant with the said Grantee, its successors and assigns that he is the true and lawful owner of said premises, and is lawfully seized of the same in fee simple, and has good right and full power to grant, bargain, sell, convey and release the same in manner aforesaid, and that the same are free and clear from all liens and encumbrances whatsoever, and that he will warrant and defend the same against all claims of all persons whomsoever.

And for the consideration aforesaid Estella Miller, his wife,

hereby relinquish as to said Grantee, its successors and assigns, all right and expectancy of Dower in the above described premises.

IN WITNESS WHEREOF John R. Miller and Estella his wife,

have hereunto set their hands, the 29 day of May in the year of our Lord one thousand nine hundred and twenty-eight

Signed and sealed in the presence of
 Dorothy Miller
 Robert F. Werner

John R. Miller,
 Estella Miller.

STATE OF OHIO, Franklin COUNTY, ss:

Before me, a Notary Public, in and for said County and State, personally appeared the above named John R. Miller and Estella his wife,

who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at New Albany this 29 day of May, A. D. 1928

Robert F. Werner (Seal)

Transferred June 6, 1928 Not Necessary
 Received July 3, 1928 at 2.40 o'clock A. M.
 Recorded July 10, 1928
 Fee \$1.00

C. H. Weber, Recorder.
 By Nathan [Signature] Deputy