

Cross-Reference: 2007-0006826

**FIRST AMENDMENT
TO THE DECLARATION OF COVENANTS AND RESTRICTIONS OF THE FALL
CREEK PLACE – PHASE IV DEVELOPMENT**

THIS FIRST AMENDMENT (hereinafter “Amendment”) is made by and between the Consolidated City of Indianapolis, Indiana by and through its Department of Metropolitan Development on behalf of the Metropolitan Development Commission of Marion County, Indiana, acting in its capacity as the redevelopment Commission of Marion County (hereinafter “Declarant”).

WHEREAS, a Declaration of Covenants and Restrictions of the Fall Creek Place Phase IV Development (hereinafter “Declaration”) was prepared on the date of November 17, 2006, and was recorded in the Office of the Marion County Recorder on January 12, 2007 as Instrument #2007-0006826; and

WHEREAS, Section 1, Article IV of the Declaration, “Amendment of Declaration,” states amendments to the Declaration shall be proposed and adopted by the Declarant until the Applicable Date; and

WHEREAS, the Applicable Date, as defined in Article I of the Declaration, has not yet been reached; and

WHEREAS, procedural difficulties for the Fall Creek Place Homeowners Association, Inc., resulting from the current language of the Declaration have been brought to the attention of Declarant; and

WHEREAS, Declarant desires to amend the Declaration in order to remedy these procedural difficulties.

THEREFORE, the Declaration is hereby amended as follows:

1. Fourth WHEREAS Clause – 1st Page of Declaration. The portion of the fourth “WHEREAS” clause on the first page of the Declaration which states, “after the Applicable Date” is hereby deleted and the following substituted therefor:

“upon sale from Developer or Declarant to Owner”

2. Article II “Restrictions, Covenants and Regulations”, Section 2(F). The title of Section 2(F), “Developer’s and an Owner’s Right to Perform Certain Maintenance” is hereby deleted in its entirety and the following substituted therefor:

“Right to Perform Certain Maintenance”

3. Article II “Restrictions, Covenants and Regulations”, Section 2(F). The first sentence of Section 2(F) is hereby deleted in its entirety and the following substituted therefor:

“In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these Restrictions and the provisions of the recorded plat of the Real Estate, the Developer, until sale from Developer or Declarant to Owner, and thereafter the Association, shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts, as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. ”

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4. Article III "Fall Creek Place Homeowners Association", Section 1. The portion of the second sentence which states, "After the Applicable Date," is hereby deleted and the following substituted therefor:

"Upon sale from Developer or Declarant to Owner,"

5. Article IV "Assessments", Section 1. The portion of the first sentence which states, "until the Applicable Date" is hereby deleted.

6. Article IV "Assessments", Section 1. The portion of the second sentence which states, "After the Applicable Date," is hereby deleted and the following substituted therefor:

"Upon sale from Developer or Declarant to Owner,"

7. Article VI "Benefit and Enforcement", Section 1. The second sentence of Article VI, Section 1, is hereby deleted in its entirety and the following substituted therefor:

"This Declaration may be enforced by Developer and, upon sale from Developer or Declarant to Owner, by any Owner or the Association."

8. Exhibit D of the Declaration "By-Laws". Exhibit D of the Declaration and any references to Exhibit D in the Declaration are hereby deleted in their entirety.

9. Article IV "Amendment of Declaration". "IV" of Article IV, "Amendment of Declaration" is deleted and hereby substituted by "V". "V" of Article V, "Acceptance and Ratification" is deleted and hereby substituted by "VI". "VI" of Article VI, "Benefit and Enforcement" is deleted and hereby substituted by "VII". "VII" of Article VII, "Miscellaneous" is deleted and hereby substituted by "VIII".

10. Effect of Amendment. Except as modified and amended herein, all the terms and provisions of the Declaration shall remain in full force and effect and shall not be limited, revised, or modified hereby. To the extent that any terms or provisions of the Declaration are contrary to, contradict, or are inconsistent with the terms or provisions set forth in this Amendment, the terms and provisions set forth in this Amendment shall control.

[REMAINDER LEFT INTENTIONALLY BLANK; SIGNATURES TO FOLLOW]

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IN WITNESS WHEREOF, the Declarant hereby amends the Declaration as set forth above.

“DECLARANT”

By: Maury Plambeck
Maury Plambeck, AICP, Director

Date: 8-22-12

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Maury Plambeck, the Director of City of Indianapolis, Department of Metropolitan Development, who, being first duly sworn, acknowledged the execution of the foregoing Amendment to Declaration, for and on behalf of said Department, as his voluntary act and deed and for the use and purposes contained therein.

Witness my hand and Notarial Seal this 22ND day of AUGUST, 2012.

My Commission Expires:

AUG. 15, 2014

Steven J. Schulmeyer
(Signature) Notary Public

My County of Residence:

MARION

STEVEN J. SCHULMEYER
(Printed)

Approved as to Adequacy of Legal Form:

By: Christopher T. Jolivet
Christopher T. Jolivet, Assistant Corporation Counsel

This Instrument prepared by Office of Corporation Counsel 200 E. Washington Street, Suite 1601, Indianapolis, IN 46204.

I affirm, under the penalties for perjury, that I, Christopher Jolivet, have taken reasonable care to redact each Social Security number in this document, unless required by law. Office of Corporation Counsel, 1601 City-County Building, 200 E. Washington Street, Indianapolis, IN 46204.

