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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
AVERITT MEADOWS SUBDIVISION,
A SINGLE FAMILY ZERO LOT LINE RESIDENTIAL DEVELOPMENT
IN GREENWOOD, INDIANA

The undersigned, Equicor Development (sometimes referred to herein as "Manager"), for Averitt Meadows, LLC, Owner and Developer of the real property described in Exhibit "A" attached, to be known as Averitt Meadows Subdivision, and for the benefit of all present and future owners of any lot or lots in, or occupants of Averitt Meadows Subdivision, does hereby impose and within described Covenants, Conditions and Restrictions on the land described in said Exhibit "A".

Article 1. Use Restrictions

All lots in this subdivision and all present and future owners or occupants thereof shall be subject to the following development standards, conditions and restrictions, which shall run with the land:

- 1.01 The lots located within Averitt Meadows Subdivision shall be used for detached single family dwellings in accordance with the present zoning of Averitt Meadows Subdivision by the City of Greenwood. No lot shall be used for any purpose not presently permitted by the zoning of the City of Greenwood without approval of the Averitt Meadows Subdivision Homeowners Association, a not-for-profit corporation, hereinafter more specifically defined and established. This provision is intended to, and shall prohibit, a change of presently permitted use by change of zoning without approval of said Corporation.
- 1.02 Single story dwellings shall have a minimum of 1,000 square feet of living area exclusive of open porches, garages and other unheated areas. Each dwelling shall have an attached two-car garage. All driveways and vehicle parking areas shall be hard-surfaced. No gravel or stone driveways shall be permitted on any lot.
- 1.03 No building, basement, swimming pool, tennis court, fence, wall, hedge, or other enclosure, or any utility meter, mailbox, or other structure of any sort shall be erected, placed or maintained on any lot in said subdivision, nor shall any change, addition to or alteration thereof affecting the outward appearance thereof be made unless the same shall be in accordance with detailed plans and specifications therefore showing the size, location, type architectural design, quality, use and material of construction thereof, the color scheme, therefore, the grading plan of the lot, and the finished grade elevation thereof, which detailed plans and specifications have first been approved in writing by the corporation. All mailboxes used for the single-family dwelling shall be approved by the corporation.

- 1.04 The exterior of any and all structures in the Averitt Meadows Subdivision will be uniformed, using earhtone colors only and shall have a minimum masonry requirement on the front elevation, excluding windows, doors, openings and trim of 25%. All front yards shall have sod installed to the front two corners of each home. Each home will be constructed with a yard light subject to approval by the corporation.
- 1.05 No structure or any part thereof, other than a fence, hedge, wall, or other enclosure which shall first have been approved as provided in paragraph 1.03 above, shall be erected, placed or maintained on any lot nearer to the front or street line or lines than the building setback line or lines shown on the recorded plat. No structure of any sort shall be erected, placed or maintained on any lot nearer to any side lot line or rear lot line than is permitted by the City of Greenwood Common Council, Ordinance No. 89-46: also known as Article 6, Section 18, Zero Lot Line or Near-Zero Lot Line Single Family Dwellings, and the appropriate zoning and building requirements of the City of Greenwood.
- 1.06 No portion of any residential lot or structure thereon shall be used or permitted to be used for any business purpose whatsoever; provided, however, the foregoing shall not apply to the various activities, or the construction and maintenance of buildings, if any, of Owner, its agents or assigns, during the construction and sale period. In addition, no noxious, offensive, or unreasonable disturbing activity shall be carried on upon any part of said subdivision, nor shall anything be done thereon which may be or become an annoyance or nuisance in said subdivision.
- 1.07 No trailer, tent, shack, garage, barn, car, or other temporary shelter or housing device shall be maintained or used as a residence, temporarily or permanently, in said subdivision.
- 1.08 No clotheslines shall be located on any lot.
- 1.09 Any truck, motorcycle, boat, bus, tent, car, camper, trailer or other similar housing or recreational device, if stored on any said lot, shall be housed within a garage building.
- 1.10 No portion of any residential lot, except the interior of the residential dwelling located thereon and appurtenant garage, shall be used for the storage of automobiles, trailers, motorcycles or other vehicles, whether operative or not, scrap, scrap iron, water, paper, or glass, or any reclamation products, parts or materials, except that during the period an improvement is being erected upon any such lot, building materials to be used in the construction of such

improvement may be stored thereon; provided, however, any building material not incorporated in said improvement within ninety (90) days after its delivery to such lot shall be removed therefrom. All improvements must be completed by an owner within one (1) year from the date of the beginning of the construction thereof. No sod, dirt or gravel other than incidental to construction of approved improvements, shall be removed from said lots without the written approval of the corporation or its successors and assigns.

- 1.11 No portion of any lot nearer to any street than the building setback line or lines shown upon the recorded plat of said subdivision shall be used for any purpose other than that of a lawn; provided, however, this covenant shall not be construed to prevent the use of such portion of said lot for walks, drives, trees, shrubbery, flowers, flower beds, ornamental plants, fence, hedge, wall or other enclosure which shall first have been approved as provided in paragraph 1.03 above for the purpose of beautifying said lot, but shall be construed to prohibit the planting or maintaining of vegetables and grains thereon except upon terms and conditions acceptable to and approved by the Averitt Meadows Subdivision Homeowners Association.
- 1.12 No weeds, underbrush, or other unsightly growths or objects of any kind shall be placed, be permitted to grow, or suffered to remain on any part of said premises. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed not less than is needed to maintain the lawn equal to or better in appearance than the surrounding neighborhood in general.
- 1.13 Television antennas shall be no higher than 5' above the peak of the roof. No towers of any kind including, but not limited to, radio and/or microwave towers, or dish-type antennas, shall be erected, placed or maintained on any lot in said subdivision. Small satellite dish-type antennas may be placed on lots in said subdivision with written approval from the Averitt Meadows Homeowners Association.
- 1.14 Any tanks for the storage of propane gas or fuel oil or for construction operations shall not be permitted.
- 1.15 No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, that they are limited in number so as not to become a nuisance or disturbance to others, and that they are not permitted to run loose.

- 1.16 No sign or billboard of any kind shall be erected or maintained on any lot except (i) signs approved by the corporation; and (ii) signs used by Owner, its successors and/or assigns, to advertise lots in residences for sale during the construction and initial sales period and during the resale of residences.
- 1.17 No lot owner shall alter, impair or change any easement without first obtaining the written consents of the corporation and the lot owner or owners for whose benefit such easement exists.
- 1.18 All rubbish and debris, combustible and non-combustible, and all garbage shall be stored and maintained in containers entirely within the garage or basement. Additional regulations for the storage, maintenance and disposal of rubbish, debris, leaves and garbage may from time to time be established by the corporation or their successors and assigns.
- 1.19 No well for the production of gas, water, oil or otherwise, whether intended for temporary or permanent purposes, shall be drilled or maintained on any lot, nor shall such premises be otherwise used in any way which may endanger the health or unreasonably disturb the peaceable use of adjoining premises.
- 1.20 No individual water supply system or sewage disposal system shall be permitted on any lot without prior written approval by the corporation and the City of Greenwood and, if approved, will be located and constructed in accordance with requirements, standards, and recommendations of the Indiana State Board of Health. No geothermal system shall be installed without prior approval by all applicable agencies. Solar heating systems of any nature must be approved by the corporation as to design and aesthetic quality prior to construction. Lot owners are hereby advised that solar heating systems will not be approved unless their design blends aesthetically with the structure and adjacent properties.
- 1.21 Drainage swales (ditches) or drainage retention areas along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the City of Greenwood, Indiana. Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other

approved structures have been permitted by the City of Greenwood, Indiana. Any property owner altering, changing, or damaging these drainage swales or ditches will be held responsible for such action!

Article 2. Detention Pond & Common Area Covenants and Restrictions.

- 2.01 The areas marked "Drainage Easement" and "Common Area", as shown on the plat drawings of Averitt Meadows Subdivision are protected areas and include storm water detention areas designed so as to detain water. Any such storm water detention areas may extend into areas of the Averitt Meadows Subdivision.
- 2.02 No owner of any lot in Averitt Meadows Subdivision shall do or permit to be done any action or activity which could result in the pollution of the detention areas, diversion of water, change in elevation of the water level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage, or dry detention pond management, or otherwise impair or interfere with the use of the detention ponds for drainage and related purposes for the benefit of Averitt Meadows Subdivision.
- 2.03 The Corporation may from time to time establish rules regarding the use of the detention ponds and related drainage easement areas and Common Areas, provided such rules are not in conflict with the rules contained herein, are reasonably established to protect the safety and welfare of the residents of Averitt Meadows Subdivision and their guests as well as any other person or property in the vicinity of the detention ponds and the Common Areas and/or the related drainage easement areas are established to assure the continued service of the area for the purpose for which it was designed.
- 2.04 The Corporation or the City of Greenwood, Indiana shall have the authority to institute an action for injunction to abate any activity in violation of these plat restrictions and covenants or any rules and regulations regarding the use and maintenance of the detention ponds and the Common Areas and related drainage easement areas that have been established pursuant to the provisions hereof, or to seek mandatory relief for the correction of any damage caused to the detention ponds, the Common Areas, or interference with the drainage system, together with any damages incurred, and upon recovery of judgment shall be entitled to costs of the action together with reasonable attorney's fees.

Article 3. Homeowners Association

A not-for-profit corporation to be known as Averitt Meadows Homeowners Association, Inc., shall be established to carry out the functions set forth for it in these Plat Restrictions and Covenants.

- 3.01 The Averitt Meadows Homeowners Association, Inc., shall be guided by three (3) directors who initially shall be appointed by the undersigned at incorporation. Each lot owner of a lot in Averitt Meadows Subdivision shall become a shareholder of said Corporation upon purchase of said lot.
- 3.02 The directors of said Corporation shall serve until their successors are elected. Upon the incapacity, resignation or death of a director of the Corporation, his successor shall be appointed by the remaining directors of the Corporation within six (6) months of the incapacity, death or resignation of a director. In the event of the incapacity, resignation or death of a director of the Corporation, and his successor is not appointed within six (6) months thereafter, the successor director shall be elected by the owners of a majority of the lots in said subdivision.
- 3.03 The Corporation and the City of Greenwood shall have the sole and exclusive right to establish grades and slopes on all lots in said subdivision and to fix the grade at which any residence shall hereafter be erected or placed thereon so that the same may conform to the general plan of development. All such grades and slopes shall be established on the engineering plans submitted to and approved by the Corporation and the City of Greenwood.
- 3.04 In requiring the submission of detailed plans and specifications as herein set forth, the parties hereto have in mind the development of said subdivision as an architecturally harmonious, artistic and desirable residential subdivision, and in approving or withholding its approval of any detailed plans and specifications so submitted, the Corporation, or its successors and assigns, may consider the appropriateness of the improvement contemplated with relation to improvements on contiguous or adjacent lots, its artistic and architectural merits, its adaptability to the lot on which it is proposed to be made, and such other matters as may be deemed to be in the interest and benefit of the owners of the lots in said subdivision as a whole.
- 3.05 All plans and specifications submitted to the Corporation for consideration must be prepared by a registered architect or civil engineer, or by an experienced draftsman in form generally

used by architects and engineers, except that proposals for exterior changes that generally would be made without the need for detailed plans and specifications, such as repainting a building with a different color plan or replacing a mailbox and post may be made without the submission of professionally prepared plans and specifications provided, however, that the Corporation reserves the right to require the proposer to provide the opinion of a professional architect, surveyor or engineer in support of any proposal before giving its approval.

- 3.06 The corporate approval or disapproval as required in these Covenants shall be in writing, and any determination made by the Corporation in good faith shall be binding on all parties in interest. If the Corporation shall fail to approve or disapprove, or request additional information with respect to any proposed plans and specifications within thirty (30) days after the same shall have been submitted to it for approval, such plans and specifications shall be deemed to have received the approval of said Corporation.
- 3.07 Notwithstanding compliance with the foregoing minimum living area requirements, the City of Greenwood, Indiana shall not issue an Improvement Location permit for any dwelling upon any lot in this development.
- 3.08 The Corporation, in addition to those remedies granted to it by law, such as the pursuit of court-ordered injunctions and other judicial relief, shall have the right in the event of any action or condition which the Corporation or their successors and assigns determine to be in violation of these restrictions, to enter the property upon which violation is deemed by it to be in violation hereof, and said Corporation or their successors and assigns shall not by reason thereof be guilty in any manner of trespass for such entry, abatement or removal, or liable for damages by reason thereof, to any person whomsoever. Any failure to enforce these restrictions shall not be deemed a waiver thereof or any acquiescence in, or consent to, any continuing, further or succeeding violation hereof. If, in the opinion of the Corporation, by reason of the shape, dimensions or topography of a particular lot in the subdivision, enforcement of these restrictions with respect to size of structure would constitute a hardship, the Corporation and appropriate board of zoning appeals may permit a variation which will, in its judgment, be in keeping with the maintenance of this subdivision as a desirable subdivision.

3.09 Averitt Meadows Subdivision may contain certain open space lying within the plat and certain landscaped areas lying within the adjacent public right-of-way. In addition, landscape easement areas may be imposed on a portion of certain lots. The Corporation shall have the right to enter onto such open space, public rights-of-way and landscape easement areas from time to time as it deems necessary for purposes of maintaining all open space, landscaped areas and landscape easement areas described above which are located in Averitt Meadows Subdivision and may participate in the reasonable and proper maintenance of all other open spaces, landscaped areas and landscape easement areas located in Averitt Meadows Subdivision. In addition, the Corporation shall provide weekly trash collection service if same is not provided by the municipality and, upon the approval of a majority of the lot owners in Averitt Meadows Subdivision may provide other services such as snow removal if they are not adequately provided by the appropriate municipal government.

The plat drawing of Averitt Meadows Subdivision contains areas marked "Drainage Easement" and "Common Area". The Corporation and the City of Greenwood shall have the right to enter onto any Drainage Easement and/or Common Area as it deems necessary or desirable for the purpose of maintaining same or otherwise clearing obstructions that impede or might impede the designed flow of storm water across such areas.

In order to provide the funds necessary to pay for the services described in this paragraph, as well as other provisions of these Restrictions and Covenants, the Corporation shall be empowered to levy, assess and collect from each and every lot owner in said Averitt Meadows Subdivision such sums as may be approved by a vote of not less than 75% of the owner occupants of residences in Averitt Meadows Subdivision. Any amount so assessed or levied shall become a lien on each lot. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Corporation may cause to be filed with the Johnson County Recorder a Notice of Lien describing the lot and the amount due and executed in accordance with the formalities then required to record a lien against real estate. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to the payments which became

due prior to such sale or transfer period. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

- 3.10 The Corporation has the power to expense its money on the reasonable care and proper maintenance of the common areas, landscaped areas and easement areas, including drainage, utility and sewer easement areas in any section of the Averitt Meadows Subdivision and such other community services approved by a majority of the lot owners in Averitt Meadows Subdivision. The Corporation herein established shall act as the Homeowners Association for Averitt Meadows Subdivision for purposes of establishing a budget for the maintenance of common areas, landscaped areas and easement areas and the provision of other approved services as described above, and divide the cost of same among the lot owners in Averitt Meadows Subdivision.
- 3.11 Any and all of the rights, powers, duties and obligations which, in this instrument are assumed by, reserved to or given to the Corporation may be assigned or transferred to any one or more corporations or associations which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights, powers, duties and obligations, which instrument shall be recorded and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by said Corporation. In the event of such assignment or transfer, the assignor or transferor and its successors and assigns of said Corporation, shall thereupon be released from all the rights, powers, duties and obligations in this instrument reserved to or given to and assumed by said Corporation. The right of assignment hereby reserved to the Corporation is so reserved to the end that the rights, powers, duties and obligations reserved or given to it may be assigned to an association or Corporation formed by the owners of lots in said subdivision or in said subdivision together with contiguous subdivisions, for the purpose of accepting said assignment; and such assignment may be made at such time as the Corporation may determine. Whenever in this instrument reference shall be deemed to include the successors and assigns of said Corporation.

Article 4. Other Conditions

- 4.01 These covenants and restrictions shall be taken to be real covenants running with the land and shall be binding upon all parties, persons and corporations owning or acquiring land in said subdivision, and their heirs, executors, administrative successors and assigns until December 31, 2005, and these restrictions shall be automatically extended in their entirety for successive periods of ten (10) years unless by appropriate instrument and writing, and consenting to their termination in whole or in part, shall be filed for record, executed and acknowledged by the owners of not less than a majority of the lots.
- 4.02 Any violation or attempt to violate any of the covenants or restrictions herein while the same are in force shall be sufficient reason for any other person or persons owning any lot in said subdivision to initiate proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and to prevent him or them from so doing, or to cause the removal of any violation and to recover damages or other dues for such violation or attempted violation.
- 4.03 All transfers and conveyances of each and every lot of said subdivision shall be made subject to these covenants and restrictions.
- 4.04 It is expressly agreed that if any covenant or condition or restriction hereinabove contained, or any portion thereof, is invalid or void, such invalidity or voidness shall in no way affect any other covenant, condition or restriction.
- 4.05 All costs of litigation and attorney's fees resulting from violation of these Covenants shall be the financial responsibility of the lot owner or owners found to be in violation.
- 4.06 Any corporation or association which may be the transferee or assignee as provided in paragraph 3.11 hereof shall have the same power to levy, assess and collect funds from lot owners and to expense such funds as are set forth in paragraphs 3.09 and 3.10 hereof for the Averitt Meadows Homeowners Association.

In addition, any transferee or assignee that is a non-profit association in which the owners of lots in Averitt Meadows Subdivision have the right to elect the directors of the Association on a one-vote-per-lot basis shall have the right to levy, assess and collect an amount not to exceed One Hundred Fifty Dollars (\$150.00) per year from each and every lot owner in said Averitt Meadows Subdivision for purposes of carrying out its responsibility to

