Plat Cab H pg 60

2019062501
RECORDED: 12/03/2019 02:45:33 PM
ANITA MATHER
ALLEN COUNTY RECORDER
FORT WAYNE, IN

Secondary Plat of:

FOX HOLLOW, SECTION IV

A subdivision of part of the Southeast Quarter of Section 21, Township 32 North, Range 12 East, Allen County, Indiana.

Developer:
North Eastern Development Corp.
10808 La Cabreah Lane
Fort Wayne, IN 46845
Tel: 260/489-7095

Surveyor - Planner:
Sauer Land Surveying, Inc.
14033 Illinois Road, Suite C
Fort Wayne, IN 46814
Tel: 260/469-3300

NOTES:

1. All buried utilities shall allow for the proposed swale grades as shown on the approved engineering plans.
2. U. & S. D. E. indicates utility and surface drainage easement.
3. "Side B. L." indicates side building line on corner lots.
4. All right-of-way intersection radii are 20 feet.
5. [ ] Boxed elevation indicates minimum flood protection grade.
6. All common areas to be blanket utility and surface drainage easements.

PLAT LEGEND

- Plat Boundary Line
- Interior Street and Road Right-of-Way Line
- Interior Lot Line
- Building Set-back Line
- Easement Line
- Adjoining Plat Interior Lot Line
- NNNN Street Address Number
- NN Lot Number and Block Designation
- Street Centerline Curve Data
- Minimum Flood Protection Grade

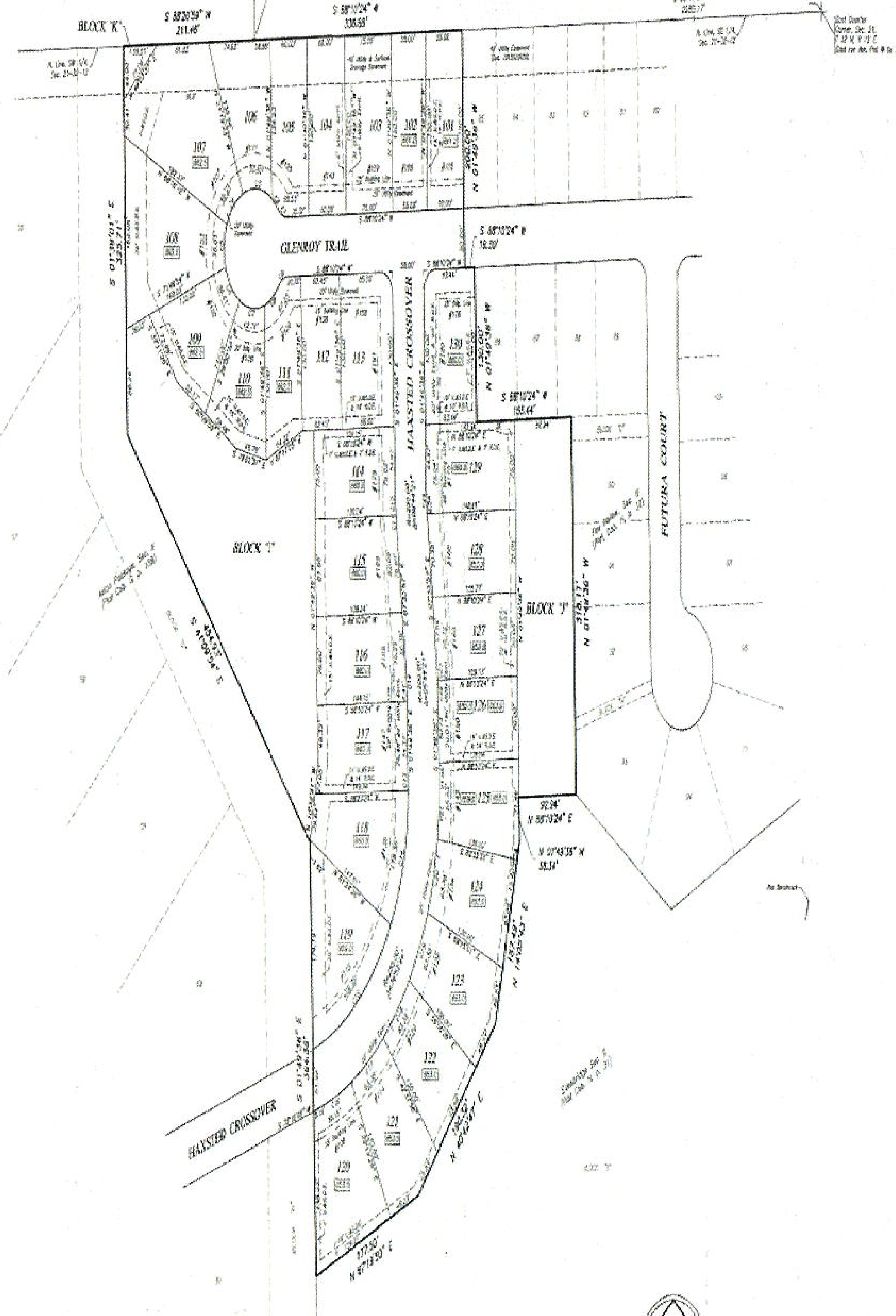
BENCHMARKS:

Beginning Benchmark:
INDOT CORS Base Station INCWOOR, located at INDOT Fort Wayne, 5333 Hatfield Road, Fort Wayne, IN

ELEVATION = 863.76 [NAVD '88]

Plat Benchmark:
Top of Bronze Disk installed in the North end of a concrete Grade Stone, situated in Block "D" of Edenbridge, Section II, with the elevation 852.92 feet 'stamped' in the disk.

ELEVATION = 852.92 [NAVD '88]



AREA TABLE

LOT #	Area (sq. ft.)
101	9000
102	8250
103	11250
104	9000
105	8805
106	9553
107	17725
108	16095
109	9352
110	8756
111	8653
112	8113
113	10664
114	9832
115	10656
116	10636
117	10405
118	11660
119	12835
120	23467
121	10817
122	10606
123	10617
124	10096
125	4877
126	8026
127	8260
128	8750
129	10788
130	10162

Entity	Area (sq. ft.)
Block I	81029
Block J	26567
Block K	1237
Street	60734

LOT CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	20.00'	17.45'	16.90'	S 56°49'45" E	49°59'41"
C2	50.00'	12.76'	12.73'	N 49°05'40" W	14°37'30"
C3	50.00'	50.52'	48.38'	S 65°23'24" E	57°51'58"
C4	50.00'	36.61'	35.79'	N 44°42'12" E	41°56'49"
C5	50.00'	36.61'	35.79'	S 02°45'23" W	41°56'49"
C6	50.00'	36.61'	35.79'	N 39°11'26" W	41°56'49"
C7	50.00'	42.18'	40.94'	S 84°19'48" E	48°19'55"
C8	50.00'	29.08'	28.67'	S 54°50'28" W	33°19'31"
C9	20.00'	17.45'	16.90'	N 63°10'33" E	49°59'41"
C10	225.00'	20.05'	20.05'	S 04°22'47" E	5°06'22"
C11	225.00'	2.49'	2.49'	N 07°14'57" W	0°37'59"
C12	175.00'	17.53'	17.52'	N 04°41'46" W	5°44'21"
C13	225.00'	1.11'	1.11'	S 07°41'08" E	0°16'57"
C14	225.00'	118.35'	116.99'	N 13°31'27" E	30°08'13"
C15	225.00'	166.80'	163.01'	N 49°49'49" E	42°28'31"
C16	275.00'	59.56'	59.84'	N 65°55'21" E	12°29'34"
C17	275.00'	63.88'	63.73'	S 54°01'18" W	13°18'32"
C18	275.00'	63.88'	63.73'	S 40°42'47" W	13°18'32"
C19	275.00'	63.88'	63.73'	S 27°24'15" W	13°18'32"
C20	275.00'	63.88'	63.73'	S 14°05'43" W	13°18'32"
C21	275.00'	44.45'	44.43'	S 02°46'25" W	9°15'03"
C22	225.00'	9.28'	9.28'	N 03°00'28" W	2°21'43"
C23	225.00'	13.26'	13.26'	S 05°51'38" E	3°22'35"
C24	175.00'	17.53'	17.52'	N 04°41'45" W	5°44'21"

REGULATED DRAINAGE EASEMENT NOTE:

Pursuant to the Indiana Drainage Code (IC 36-9-27) the undersigned owners have filed a petition with the Allen County Drainage Board (duplicated with the Allen County Surveyor) requesting that portions of the storm drainage system and easements for this development be accepted into the County's Regulated Drainage System. The portions of the storm drainage system and easements that have been accepted into the County's Regulated Drainage System are designated on this plat as Regulated Drainage Easements (RDE's). The Allen County Drainage Board has jurisdiction over the Regulated Drains within this development (IC 36-9-27-45) and may exercise its powers and powers as provided in the Indiana Drainage Code (IC 36-9-27) relative to these drains (e.g., levy an annual assessment per lot). The Regulated Drains provide for the collection and conveyance of stormwater. The RDE's are established for the installation, operation, maintenance, and reconstruction of the Regulated Drains in accordance with IC 36-9-27 and with the Allen County Stormwater Management Ordinance.

The Allen County Drainage Board assumes no responsibility for any stormwater easement and/or improvements within this development that have not been accepted into the County's Regulated Drainage System. Other parties (e.g. individual lot owners, or the homeowners' association) are responsible for the operation, maintenance, and reconstruction of those improvements.

DRAINAGE SYSTEM TABLE

Storm Sewer Drainage	1642.0 feet

Part of the Southeast and Southwest Quarters of Section 21, Township 32 North, Range 12 East, Allen County, Indiana, being more particularly described as follows, to-wit:

Commencing at the East Quarter corner of said Section 21, being marked by a cast iron monument; thence South 88 degrees 10 minutes 24 seconds West (GPS grid bearings used as the basis for all bearings in this description), on and along the North line of the Southeast Quarter of said Section 21, a distance of 2285.17 feet to a #5 rebar at the Northwest corner of Fox Hollow, Section III, as recorded in Plat Cabinet H, page 30, in the Office of the Recorder of Allen County, Indiana, this being the true point of beginning; thence South 88 degrees 10 minutes 24 seconds West, continuing on and along said North line, a distance of 336.58 feet to a wood post at the Center of said Section 21; thence South 88 degrees 20 minutes 59 seconds West, on and along the North line of the Southwest Quarter of said Section 21, a distance of 211.46 feet to a #5 rebar at the Northeast corner of Aslan Passage, Section II, as recorded in Plat Cabinet G, page 109, in the Office of said Recorder; thence South 01 degrees 59 minutes 01 seconds East, on and along an East line of said Aslan Passage, Section II, a distance of 325.71 feet to a #5 rebar; thence South 41 degrees 08 minutes 54 seconds East, continuing on and along said East line, a distance of 454.93 feet to a #5 rebar; thence South 01 degrees 49 minutes 36 seconds East, continuing on and along said East line, a distance of 564.38 feet to a #5 rebar at the Northwest corner of Edenbridge, Section II, as recorded in Plat Cabinet H, page 31, in the Office of said Recorder; thence North 67 degrees 19 minutes 30 seconds East, on and along a Northwest line of said Edenbridge, Section II, a distance of 177.50 feet to a #5 rebar; thence North 40 degrees 42 minutes 47 seconds East, continuing on and along said Northwest line, a distance of 190.32 feet to a #5 rebar; thence North 14 degrees 05 minutes 43 seconds East, on and along a West line of said Edenbridge, Section II, a distance of 157.69 feet to a #5 rebar; thence North 01 degrees 49 minutes 36 seconds West, continuing on and along said West line, a distance of 58.34 feet to a #5 rebar; thence North 88 degrees 10 minutes 24 seconds East, on and along a North line of said Edenbridge, Section II, a distance of 92.94 feet to a #5 rebar at a Southwest corner of said Fox Hollow, Section III; thence North 01 degrees 49 minutes 36 seconds West, on and along a West line of said Fox Hollow, Section III, a distance of 318.11 feet to a #5 rebar; thence South 88 degrees 10 minutes 24 seconds West, on and along a South line of said Fox Hollow, Section III, a distance of 155.44 feet to a #5 rebar; thence North 01 degrees 49 minutes 36 seconds West, on and along a West line of said Fox Hollow, Section III, a distance of 130.00 feet to a #5 rebar; thence South 88 degrees 10 minutes 24 seconds East, on and along a North line of said Fox Hollow, Section III, a distance of 16.30 feet to a #5 rebar; thence North 01 degrees 49 minutes 36 seconds West, on and along a West line of said Fox Hollow, Section III, a distance of 208.00 feet to the true point of beginning, containing 16.743 acres of land, and subject to all easements of record.

North Eastern Development Corp., f/k/a as NWM Corp., owner by virtue of that certain deeds shown in Document Number 2016038809 in the Office of the Recorder of Allen County, Indiana, of the real estate shown and described herein, does hereby lay off, plat, dedicate and subdivide, said real estate into lots, streets and easements in accordance with the information shown on the plat. Further, North Eastern Development Corp. hereby subjects and impresses all of said land in said addition with the limitations and easements attached hereto and made a part thereof by reference. This subdivision shall be known and designated as FOX HOLLOW, SECTION IV.

IN WITNESS WHEREOF, Joseph L. Zehr, President of North Eastern Development Corp., organized and existing under the laws of the State of Indiana, has hereunto, on behalf of said North Eastern Development Corp., set his hand and seal, this 26th day of November, 2019.

NORTH EASTERN DEVELOPMENT CORP.

By: ______________________
Joseph L. Zehr, President

Consent for permanent structures issued by the Allen County Drainage Board on September 26, 2019 in accordance with Indiana Code 36-9-27-72, on file at the Allen County Surveyor's Office as Drainage Board Rec. Doc. **#19-189** reference - **Fox Hollow, Section IV, Regulated Drain.**

This plat lies entirely within a Rule 12 - IAC 865 boundary survey certified by John C. Sauer, Indiana Professional Surveyor, and duly recorded under Document Number 2016012598 in the Office of the Recorder of Allen County, Indiana.

CERTIFICATE OF SURVEYOR

I, Joseph R. Herendeen, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; that based on my knowledge, experience and belief this plat and accompanying legal description accurately depicts a subdivision of real estate described in Document Number 2016038809 in the Office of the Recorder of Allen County, Indiana; that following the completion of construction and grading, all corners will be marked with 24 inch long #5 rebars bearing plastic caps imprinted "SLSI Firm 0848"; and that there has been no change from the matters of survey revealed by the survey referenced herein or any prior subdivision plats contained therein, on any lines that are common with this new subdivision.

I, Joseph R. Herendeen, certify the above statements to be correct to the best of my information, knowledge, and belief. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this Document, unless required by law.

______________________ Date: 11/26/2019
Joseph R. Herendeen, Indiana Professional Surveyor

JOSEPH R. HERENDEEN REGISTERED NO. 20900150 STATE OF INDIANA LAND SURVEYOR

APPROVALS

ALLEN COUNTY PLAN COMMISSION
DATE: 12-2-2019

____
SUSAN L. HOOT, PRESIDENT

____
DAVID BAILEY, VICE PRESIDENT

ALLEN COUNTY PLAN COMMISSION SEAL

AUDITOR'S OFFICE
Duly entered for taxation. Subject to final acceptance for transfer.

DEC -3 2019

AUDITOR OF ALLEN COUNTY

ALLEN COUNTY SURVEYOR
DATE: 12-2-2019

____
JEFFREY M. BANKS, ALLEN COUNTY SURVEYOR

ZONING ADMINISTRATOR
DATE: 12-2-2019

____
KIMBERLY BOWMAN, AICP, EXECUTIVE DIRECTOR

BOARD OF COMMISSIONERS
DATE: 12-2-19

____
F. NELSON PETERS, PRESIDENT

____
THERESE M. BROWN, VICE PRESIDENT

____
RICHARD E. BECK, JR., SECRETARY

ATTEST:

____
NICHOLAS D. JORDAN, CPA, AUDITOR

This instrument prepared by Joseph R. Herendeen, Indiana Professional Surveyor

Plat Cab H pg 60

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS AND APPROVALS APPENDED TO THE PLAT OF FOX HOLLOW, SECTION IV, SUBDIVISION IN PERRY TOWNSHIP, ALLEN COUNTY, INDIANA

North Eastern Development Corp., formally known as NWM Corp., an Indiana corporation, (the "Developer") by Joseph L. Zehr, President, declares that it is the owner of the real estate shown and legally described in this plat ("Real Estate"), and lays off, plats and subdivides the Real Estate in accordance with the information shown on the certified plat attached to and incorporated by reference in this document. The platted Subdivision shall be known and designated as Fox Hollow, Section IV, a Subdivision in Perry, Allen County, Indiana (the "Subdivision").

The Lots shall be subject to and impressed with the covenants, limitations, easements and restrictions hereinafter set forth (collectively the "Covenants"). The provisions herein contained shall run with the land and shall inure to the benefit of the Owners of the Lots and the land included therein, and their respective legal representatives, successors, grantees, heirs and assigns.

The Lots shown on the Plat are numbered from 101 through 130 inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are expressly dedicated to public use for their usual and intended purposes.

PREFACE

In addition to the recordation of the Plat and this document, there has been recorded Articles of Incorporation for an Indiana not-for-profit corporation known as Fox Hollow Community Association, Inc. (the "Association"), and each Owner of a Lot in the Subdivision of Fox Hollow shall become a member of the Association, and be bound by its Articles of Incorporation and By-Laws, upon acquisition of title to a Lot. Developer reserves the right to subdivide and plat, and to consent to allow third parties to subdivide and plat nearby and/or adjacent real estate as additional Sections of the Subdivision, and the lots in such additional Sections subsequently platted and subdivided may also be permitted or required to be members of the Association upon acquisition of title to a lot to such additional sections as may be more particularly provided in the recorded plats of such additional sections, if any.

Section 1. **DEFINITIONS.** The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

1.1 "Articles". The Articles of Incorporation of the Association approved by the Indiana Secretary of State, including any and all amendments to those Articles.

1.2 "Association". Fox Hollow Community Association, Inc., an Indiana nonprofit corporation, its successors and assigns.

1.3 "Benefitted Subdivisions". The Subdivisions platted and to be platted by Developer or its affiliated entities in the Fox Hollow and Edenbridge subdivisions (including any future Sections

and future Villa Sections, if any).

1.4 "Builder". An individual or entity who is licensed to build single-family residential dwellings in the county in which the subdivision is located and is the Owner of a Lot in the Subdivision.

1.5 "Board of Directors". The duly elected or appointed board of directors of the Association.

1.6 "By-Laws". The By-Laws adopted by the Association, including any and all amendments to those By-Laws.

1.7 "Committee". The Architectural Control Committee established under Section 6 of these Covenants.

1.8 "Common Area". Those areas designated on the Plat as Common Area, excluding however, the Common Area Detention Ponds and Entrance Area.

1.9 "Common Area Detention Ponds and Entrance Area". Those areas designated in any Section of Fox Hollow or Edenbridge (including future Sections and future Villa Sections) that either contain one (1) or more detention ponds or the common entrance for the Subdivision off of Coldwater Road.

1.10 "Covenants". This Declaration and the restrictions, limitations and covenants imposed under it and the Plat.

1.11 "Developer". North Eastern Development Corp., formally known as NWM Corp., an Indiana corporation, and any Successor Developer designated in a recorded instrument by the Developer.

1.12 "Lot", and in plural form, "Lots". Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which a residence may be or is erected in accordance with the Covenants, and any applicable zoning ordinance; provided, however, that no tract of land consisting of part of a Lot, or parts of more than one Lot, shall be considered a "Lot" under these Covenants unless the tract has a frontage of at least 50 feet in width at the established front building line as shown on the Plat and further meets the requirements of Section 7.4.

1.13 "Owner, and in the plural form, "Owners". The record owner(s) (whether one or more persons or entities) of fee simple title to a Lot or Lots, including land contract buyers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

1.14 "Zoning Authority". The applicable governmental Plan Commission and/or Zoning Authority, or its successor agency, then having zoning authority and jurisdiction over the Real Estate to issue improvement location permits, and to issue certificates of occupancy for residences constructed on Lots.

1.15 "Plat". This recorded secondary plat of Fox Hollow, Section IV.

1.16 "Subdivision". This Section of the Subdivision of Fox Hollow, as well as and including

all existing and future sections of the Fox Hollow and Edenbridge Subdivisions.

Section 2. PROPERTY RIGHTS.

2.1 Owners' Easements of Enjoyment. Each Owner shall have the right and an easement of enjoyment in the Common Area that is appurtenant to and passes with the title to every Lot, subject to the following rights which are granted to the Association and the Developer.

2.1.1 To charge reasonable admission and other fees for the use of any recreational facility located in the Common Area.

2.1.2 To impose reasonable restrictions, limitations, conditions, rules, and regulations regarding an Owner's use and enjoyment of the Common Area.

2.1.3 To suspend the voting rights and right to the use of the recreational facilities in the Common Area for any period during which any assessment against an Owner's Lot remains unpaid, or an Owner is in violation of the Covenants, the Articles, the By-Laws, or any rule or regulation of the Association.

2.1.4 To dedicate or transfer all or any part of the Common Area or any interest or easement therein to any public agency, authority or utility upon the vote and approval of at least two-thirds (2/3) of each class of Association members; provided, however, that Developer, without such vote and approval, may, prior to the time when fee simple title to all Lots have been conveyed by Developer, transfer, dedicate or convey such portions of the Common Area to adjoining Lot Owners as may necessary to allow such adjoining Lots to comply with the requirements of the Zoning Authority, permit requirements, or with provisions of Section 7, and the Developer may also grant and convey utility or drainage easements in, on and over any Common Area, before the Authority Transfer Date, but no such easement shall be granted over areas on which structures or buildings then exist. No such dedication or transfer, except those made by Developer as provided above, shall be effective unless an instrument signed by at least two-thirds (2/3) of each class of Association members agreeing to such dedication or transfer, is recorded.

2.2 Delegation of Use. An Owner may delegate, in accordance with the By-Laws, the Owner's right to use and enjoy the Common Area and any recreational facilities located thereon, to members of the Owner's family residing on the Owner's Lot, and tenants or land contract purchasers who reside on the Owner's Lot.

Section 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership of Owner. All Owners shall be members of the Association, and shall be subject to and bound by the Articles and By-Laws of the Association from the commencement of ownership to a Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

3.2 Association Classes of Membership. The Association shall have the following two classes of voting memberships:

3.2.1 **Class A.** Class A membership consists of all Owners, except Developer.

Class A members shall be entitled to one vote for each Lot owned after and only after the Authority Transfer Date (as defined in Section 4 hereof). Prior to the Authority Transfer Date, Class A Lot Owners shall have no voting rights in the Association. When more than one person holds an interest in a Lot, all such persons shall be members. The vote, when applicable and effective, for such Lot shall be exercised as its Owners among themselves determine; but in no event shall more than one vote be cast with respect to each Lot.

3.2.2 **Class B.** Class B membership consists of Developer. The Class B member shall be entitled to six hundred votes (600) votes less that number of votes which Class A members are entitled to exercise. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

3.3.2.1 When fee simple title to all Lots have been conveyed by Developer; or

3.3.2.2 on December 31, 2029; or

3.3.2.3 when Developer executes and records an irrevocable disclaimer of its Class B membership.

3.2.3 **Additional Sections.** The Developer reserves the right to subdivide and plat, and to consent to and allow third parties to subdivide and plat nearby and/or adjacent real estate as additional Sections of the Subdivision, and each Owner of a Lot in such additional Sections shall, pursuant to the terms of that recorded plat and covenants, also be members of the Association as provided therein, and provided further that Developer shall have Class B voting rights for its lots in such additional Sections in a ratio of not more than three (3) votes for each additional lot in any such additional Sections of the Subdivision.

Section 4. INITIAL MANAGEMENT AND CONTROL BY DEVELOPER

4.1 Definition of "Authority Transfer Date". The Authority Transfer Date is that date upon which Class A members of the Association shall have and hold voting rights for each Lot as set forth in Section 3.2 hereof. Such Date shall be the earlier of:

(a) When title to fifty percent (50%) of all of the Lots in the Subdivision have been conveyed by Developer to a third party. For purposes of Section 4.1(a), the term "Subdivision" includes any additional or future sections of the Subdivision which are shown on the final primary plat of the Subdivision as future sections or which additional sections are platted as additional sections of the Subdivision within ten (10) years from the first conveyance of a lot in the Subdivision by the Developer to a third party, or

(b) When Developer, in its sole and absolute discretion, so determines and provides sixty (60) days prior Notice to the Owners.

4.2 Prior to the Authority Transfer Date. Prior to the Authority Transfer Date as defined above, the Developer shall appoint all members of the Board of Directors of the Association, and the Class A members shall have no voting rights in the Association. Directors appointed by the Developer shall serve at the will of the Developer and shall be deemed to be Owners only for the purpose of serving on the Board. Meetings of the Board of Directors, prior to the Authority Transfer Date, shall not be required to be held open to Lot Owners, and notice of

such meetings to Owners shall not be required. In addition, prior to the Authority Transfer Date, the Board shall not be required to seek Owner approval of the budget or the Annual Assessment.

4.3 Assessment Limitations. Prior to the Authority Transfer Date, the Board may increase the annual assessment, but not by more than eight percent (8%) above the annual assessment for the previous year.

Section 5. COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner, except Developer and a Builder that has been temporarily exempted as provided hereinafter, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements and professional accounting, and legal fees of the Association; and (3) Administrative Fees. Such assessments shall be established and collected as provided in these Covenants and the By-Laws. The annual and special assessments and Administrative Fees, together with interest, costs and reasonable attorney fees, shall be a charge on a Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. Notwithstanding any other provision herein to the contrary, Developer shall have the absolute and unrestricted right from time to time to temporarily exempt a Builder as a Lot Owner from the obligation to pay any Assessments or any lien for any such Assessments. A temporary exemption, if so granted by Developer to a Builder shall terminate at the earlier of: (i) six (6) years from the date of acceptance of a deed from Developer; (ii) thirty (30) days after the Developer provides the Builder with written notice of the revocation of the temporary exemption; (iii) the date on which the Builder first conveys title to the Lot, to a successor-in-interest, but nothing contained herein shall prevent Developer from granting the successor-in-interest a temporary exemption if the successor-in-interest is a Builder; or is holding the Lot in inventory for sale; or (iv) the date on which a residence located on a Lot is occupied by residents living therein. A Lot Owner first acquiring title from a Builder that was granted a temporary exemption shall be obligated to pay the prorated remaining portion (based upon a per diem basis) of any Assessment at the time of and concurrently with the successor in interest's acquisition of title to the Lot from the Builder. The prorated remaining portion of the Assessment due from the Owner first acquiring title from a Builder shall be a lien against a Lot, and shall not be subordinate to the lien of any first mortgage.

5.2 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivisions, for the improvement of Common Areas in the Subdivisions, the proportionate cost of the maintenance of any Storm Water Detention Basins located in any Common Areas into which the Subdivision's storm waters drain and attendant water level control structures, for professional accounting and legal fees of the Association, and for solid waste disposal as provided in Section 8. The Assessment shall include a pro rata share of the Common Area Detention Ponds and Entrance Area as provided in Section 1.10.

5.3 Maximum Annual Assessments. Until January 1 of the year immediately following the first conveyance by Developer of a Lot in this Section of the Subdivision, the maximum annual assessment shall be Two Hundred Eighty and no/100 Dollars ($280.00) per Lot. From and after the Authority Transfer Date, subsequent assessments may be made by the

Board of Directors, as follows:

5.3.1 From and after the Authority Transfer Date, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than eight percent (8%) above the annual assessment for the previous year, without a vote of the membership.

5.3.2 From and after the Authority Transfer Date, the maximum annual assessment may be increased by a percentage in excess of eight percent (8%) only by the vote or written consent of a majority of each class of members of the Association.

5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Section 5.3, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement in the Common Area, including fixtures, related personal property and professional accounting and legal fees; provided that any such assessment shall require the written consent of at least seventy-five percent (75%) of each class of members of the Association in the Subdivision including the written consent of seventy-five percent (75%) of each class of members of the Association in any then platted additional Sections, if any, of the Subdivision.

5.5 Administrative Fees. The Association may assess Administrative Fees for Dues Statement Letters and Notice of Covenant Violation Letters as provided in Sections 5.5.1, 5.5.2 and 5.5.3.

5.5.1 The Association may assess against a Lot a reasonable charge for providing a letter (a "Dues Statement Letter") setting forth the status of any annual or special assessments due from any Lot Owner. From time to time, the Association is requested by sellers, buyers, mortgage lenders and real estate closing service providers on behalf of Lot Owners to set forth the current status of payment of annual and special assessments with respect to any Lot. The Association incurs time, cost and expense in providing such letters. The Dues Statement Letter administrative fee is initially fixed at Sixty-Five and no/100 Dollars ($65.00) per letter. The Board of Directors of the Association shall have the right to adjust/increase this administrative fee from time to time.

5.5.2 The Association may assess against a Lot a reasonable charge for providing letters notifying Lot Owners of any violations or breaches of the Covenants (a "Notice of Covenant Violation Letter"). The Association from time to time notifies Lot Owners of violations and breaches of the Covenants. The Association may incur administrative time and expense in receiving and reviewing complaints of any Covenants violations, reviewing the pertinent provisions of the Covenants, onsite inspections, consultation with third parties, mailing and other time, cost and expenses. After the Association has sent a Lot Owner a First Notice of Covenant Violation Letter, the Association may assess a reasonable administrative fee for sending a second and any subsequent Notice of Covenant Violation Letters sent to the Lot Owner for the same or substantially the same violation. The administrative fee for any second and subsequent Notice of Covenant Violation Letters is initially fixed at Sixty-Five and no/100 Dollars ($65.00) per letter. The Board of Directors of the Association shall have the right to adjust/increase this administrative fee from time to time. The second and any subsequent Notice of Covenant Violation Letters may not be sent more often than every twenty (20) days. The

assessment of this administrative fee shall be in addition to and not in lieu of any other remedies of the Association, including legal fees, costs and expenses.

5.5.3 The Administrative Fees for the Dues Statement Letter and the Notice of Covenant Violation Letter shall become delinquent and shall, together with interest, become a continuing lien on the applicable Lot and shall run with the Lot if not paid within thirty (30) days after the date of the issuance of the applicable letter. If the administrative fee for the Dues Statement Letter or the Notice of Covenant Violation Letter is not paid when due, notice of the lien may be recorded in the Recorder's Office and the Association shall have the right to recover the administrative fee against the Lot Owner personally and/or by foreclosing its lien, and pursuing any other remedy that is available to the Association for non-payment of any annual or special assessment, with the same force and effect as if the administrative fee for a Dues Statement Letter or a Notice of Covenant Violation Letter was a delinquent assessment as provided in the Covenants.

5.6 Notice and Quorum for Any Action Authorized Under Subsections 5.3 and 5.4. Any action authorized under Sections 5.3 and 5.5 shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite percentage of each class of members, members who were not present in person or by proxy may give their consent in writing, provided the same is obtained by an officer or agent of the Association within sixty (60) days of the date of such meeting.

5.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, including any additional Sections and may be collected on a monthly, quarterly, or yearly basis; provided, however, Lots owned by Developer upon which there is no residence constructed and Builders granted a temporary exemption pursuant to Section 5.1 shall not be subject to annual or special assessments.

5.8 Date of Commencement of Annual Assessments Due Dates. Annual assessments made under Section 5.3 shall commence as of the first day following the first conveyance of a Lot by Developer, excepting Lots owned by the Developer and Builders whose Lots are temporarily exempted. The first annual assessment shall be prorated to the date of closing. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by the Board of Directors. The Association may, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

5.9 Effect of Nonpayment of Assessments/Remedies of the Association.

5.9.1 Any assessment not paid within thirty (30) days after its due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or at the maximum legal rate permitted by the State of Indiana whichever is greater.

5.9.2 The Association may bring an action against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or otherwise escape liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be

foreclosed in the same manner as mortgages are foreclosed in Indiana. The Association shall also be entitled to recover the attorney fees, costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section 5.

5.10 Subordination of Assessment Lien to First Mortgage Liens. Except as otherwise provided in Article 5.1 hereof, the lien of the assessments made under the Covenants shall at all times be subordinate to the lien of any first mortgage. Any sale or transfer of any Lot shall not affect the assessment lien against it. No sale or transfer shall relieve an Owner or Lot from liability for any assessment subsequently becoming due, or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to assessments which become due prior to such sale or transfer.

5.11 Storm Water Drainage System Maintenance. The Association shall be obligated to maintain, repair and/or replace, if necessary, the Common Area Detention Ponds, including the storm water drainage system, all storm water quality amenities, and any current or future Storm Water Detention Basin located thereon, together with its outlet and water level control structures, as filed and approved by the Allen County Plan Commission and/or the Allen County Surveyor and/or the Allen County Drainage Board in conjunction with the approval of the Subdivision. The total cost of such maintenance, repair and replacement shall be assessed in accordance with Sections 1.10 and 5.2 hereof.

The Allen County Drainage Board, or its successor agency, shall have the right to order the Association to carry out its obligations to maintain, repair or replace the Storm Water Drainage System, all water quality amenities, and any current or future storm water detention system improvements as provided hereinabove. Assessments which have been collected by the Allen County Drainage Board from Lots in the Subdivision will be utilized by the Drainage Board and/or by the Allen County Surveyor for repair and maintenance of the regulated storm pipe system prior to the initiation of the Association's maintenance and repair obligations.

Section 6. ARCHITECTURAL CONTROL

6.1 Construction Approval. No structure or improvement, including but not limited to, building, residence, garage, fence, wall, in-ground swimming pool and spa, exterior lighting, swing set, play equipment, permanent basketball goals or other structures for sports and recreation, statues, lawn ornaments, or other non-living landscaping ornamentation device or any other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition (collectively, "structures"), change or alteration be made to a structure on a Lot unless and until the plans and specification showing the structure's nature, kind, shape, height, materials and location are submitted to and approved by the Architectural Control Committee in writing as to the structure's harmony of external design and location in relation to the surrounding structures and topography in the Subdivision. Above ground swimming pools are prohibited in on all Lots. The Developer shall serve as the Architectural Control Committee until residences are constructed on all Lots in the Subdivision at which time the Board of Directors of the Association shall serve as the Architectural Control Committee. Until the Association succeeds to the Architectural Control Committee's responsibilities pursuant to Section 6.3, the Developer may from time to time, in writing, appoint another entity, individual, or group of individuals to act as its representative for the Developer in some or all matters regarding its rights, duties, and responsibilities under Section 6. The burden of proof shall be upon the party submitting the plans and specifications (including any landscaping plans) to conclusively establish that the plans and

specifications were actually submitted for approval and that the structure is in harmony with respect to its external design and location in relation to the surrounding structures and topography in the Subdivision. The Developer shall have the right to temporarily exempt any Builder or Lot Owner from submitting landscaping plans. Such exemption may be revoked at any time by the Developer and the Lot Owner shall thereafter be required to submit for approval a landscaping plan and to install the approved landscaping pursuant to these covenants, including Article 6.7 hereof.

6.2 Dwelling Façade. Front Exteriors. The street/front facade of every residence constructed on any Lot shall have a portion of either brick, stone masonry, or such other materials as may be approved by the Architectural Control Committee.

6.3 Committee Authority. The Architectural Control Committee shall have the exclusive authority and responsibility to review plans for construction of all structures proposed to be constructed in the Subdivision. The Developer from time to time may delegate to its representative or to the Board of Directors (or such other entity designated in the Articles or By-Laws) of the Association the authority and responsibility to review plans for construction of fences; residential yard playground equipment and basketball poles in the Subdivisions. Such delegation shall be made in writing, signed by the Developer, and delivered or mailed to the Association's registered office.

6.4 Board of Directors Authority. After residences are constructed on all Lots in the Subdivision, the Board of Directors (or such other entity designated under its Articles or By-Laws) of the Association shall then succeed to the Architectural Control Committee's responsibilities of Developer under this Section 6 to review construction, modifications and additions of any and all improvements and structures in the Subdivision, including by way of illustration and not limitation, the improvements and structures described in Section 6.1 hereof.

6.5 Time Constraint. In the event the Architectural Control Committee (or Board of Directors of the Association or other representative acting under Sections 6.1, 6.2, 6.3 or 6.4) fails to act to approve, modify, or disapprove the design and location of a proposed improvement or structure within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and approval under this Section 6 will be deemed to have been given for the plans and specifications so submitted.

6.6 Landscaping/Construction Activity. Once construction of any structure is commenced on any Lot, there shall be no lapse of construction activity greater than sixty (60) consecutive days (excluding any days where construction is delayed or not possible due to adverse weather conditions). In addition to such other landscaping plan requirements of the Architectural Control Committee, each Lot shall be landscaped with at least twelve (12) well developed shrubs and one (1) well developed tree. All Owners, except Developer, shall landscape or cause to be landscaped the Owner's Lot in a manner as to maintain consistency with the integrity of the landscaping contained on other Lots in the Subdivision on which residences have been constructed. The burden of proof shall be upon the party submitting the landscaping plans and specifications to conclusively establish that the landscaping plans and specifications were actually submitted for approval and approved and that the landscaping was installed in compliance with these landscape covenants and the approved landscaping plans and specifications. Upon completion of a residence, all landscaping as approved in the plans and specifications shall be installed promptly, and in no event, later than one hundred eighty (180) days following the issuance of the certificate of occupancy for the residence constructed thereon

or fifteen (15) months from the initial commencement of construction, whichever is earlier. In the event landscaping plans were not submitted to the Architectural Control Committee for approval, or in the event landscaping plans were submitted and approved by the Architectural Control Committee but the landscaping installed was not in accordance with the approved landscaping plans and specifications, then and in either of such events, the Developer shall the right, upon thirty (30) days prior written notice to a Lot Owner, to require the Lot Owner to install the previously approved, or to submit landscaping plans and specifications for approval by the Architectural Control Committee and install such landscaping. In the event an Owner fails to submit landscaping plans and specifications or in the event the Architectural Control Committee denies approval of any submitted landscaping plans and specifications, the Architectural Control Committee shall have the right to determine and require that landscaping be installed consistent with the integrity of the landscaping contained on other Lots in the Subdivision on which residences have been constructed. The Developer shall have the right to file an action to enforce compliance and recover all its costs, expenses, and attorney fees as well as to require the Lot Owner to install landscaping pursuant to plans and specifications imposed by the Developer upon the Lot Owner, within thirty (30) days from the date of the Developer's written demand. In the event a Lot Owner fails to comply therewith, the Developer and any contractor or agent of the Developer shall be and is hereby granted a license to enter upon the Lot, to install the landscaping, to recover the costs thereof, together with interest and attorney fees from the Lot Owner, in the same manner and pursuant to the same procedures that assessments may be recovered and liens foreclosed against a Lot Owner pursuant to these Covenants.

6.7 Non-liability of Architectural Control Committee. Plans and specifications are not reviewed for engineering or structural design or quality of materials, or to assure that any improvements constructed pursuant thereto are located within recorded setbacks established by either the Plat, the Covenants, or applicable zoning ordinances, or designed or constructed pursuant to Covenants or building codes, and by approving such plans and specifications, neither the Architectural Control Committee, the Developer, its representative, nor the Association assumes liability or responsibility therefore for any defect in any structure constructed from such plans and specifications, nor for any actions of any Builder in connection therewith. Neither the Architectural Control Committee, the Developer, its representative, the Association, the Board of Directors, nor the officer, directors, members, employees, agents, or any appointed representative of any of them shall be liable by way of legal or equitable relief or in damages to anyone by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, modification, or disapproval of any such plans and specifications. Every Lot Owner, for himself and for all parties claimed by or through such Lot Owner, agrees not to bring any action or suit against Architectural Control Committee, the Developer, its representative, the Association, the Board of Directors, or the officers, directors, members, employees, agents, or appointed representatives of any of them to recover seeking legal or equitable relief or damages and hereby releases all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provide that a general release does not extend to claims, demands, and causes of actions not known at the time this release is given.

6.8 Fence and Landscaping Restrictions. No fence, tree, bush, shrubbery, earthen mound or other planting or sight obstruction shall be erected, planted or maintained in the rear yard of Lots 121, 122 and 123 that unreasonably obstructs the sight or view of lakes and ponds in the Subdivision unless approved by the Architectural Control Committee in its sole and absolute discretion. In exercising its discretion, the Architectural Control Committee may, in its discretion, approve reasonable sight or view obstructions of lakes and ponds in such rear yards in

the Subdivision, such as by way of illustration and not limitation, certain types of trees, or black wrought iron fences, and may deny approval of unreasonable sight or view obstruction, such as stockade or chain link fences, spruce trees or arborvitae plantings. The Architectural Control Committee, the Association (and any of their respective contractors and agents) shall have the right to come on or about Lots 86 through 88 and Lots 90 through 95 to remove any sight obstructions, including removing fences or trimming or removing trees, bushes, shrubbery and other plantings or erected sight obstruction located in such rear yards that obstruct the sight or view thereon at the Lot Owner's expense if the Lot Owner fails to promptly eliminate or reduce the sight or view obstruction after written request from the Architectural Control Committee. For purposes of this Section, the rear yard is defined as any portion of these Lots that is located between the rear of the exterior of the residence located on the Lot and the rear Lot line.

Section 7. GENERAL PROVISIONS

7.1 Use. Except as otherwise provided in this Section 7.1, Lots may not be used for any uses or purposes other than for single-family residential uses and purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family residence not to exceed two and one-half (2½) stories in height. Each residence shall include a garage attached as part of the residence, which garage shall have a floor area of not less than three hundred and seventy-five (375) square feet; to accommodate not less than two (2) cars which attached garage shall have one (1) or more overheard garage doors which have an aggregate width of not less than sixteen (16) feet for all such overhead garage doors; such overhead doors to be located on the exterior wall of the garage which is accessed by the driveway. No Lot shall be used for any purpose other than as a single-family residence, provided however, Developer shall have the sole authority to approve a Builder using the home on any Lot as a model for the purpose of selling homes in the Subdivision constructed or to be constructed by the Builder. Developer shall further have the sole authority to approve outdoor signage and/or flag poles in connection with the Builder's model home. A home occupation may be permitted so long as:

(i) the Owner has obtained any and all required governmental approvals necessary or required in order to conduct the home occupation on the Lot;

(ii) the Architectural Control Committee has been provided with written notice of the proposed home occupation at the earlier of forty-five (45) days prior to the commencement of the home occupation in the residence or forty-five (45) days prior to the date of filing of any required application with any applicable governmental agency, if required;

(iii) any such home occupation use shall be conducted entirely within the residence and such home occupation shall be clearly incidental and secondary to the use of the residence for single-family dwelling purposes and shall not change the single-family residential character thereof;

(iv) there shall be no sign attached to the exterior of the residence or free-standing sign or display that indicates from the exterior that the residence is being utilized in whole or in part for any purpose other than that of a single-family residence; and

(v) no person shall be employed in such home occupation other than a member of the immediate family who actually resides in the residence.

7.2 Dwelling Size. No residence shall be built on a Lot having a ground floor area upon the foundation, exclusive of any open porches, breezeways or garages, of less than one thousand two hundred (1,200) square feet for a one-story residence, or a total living area exclusive of open porches, breezeways and garages of less than one thousand five hundred (1,500) square feet for a residence that has more than one story.

7.3 Building Lines. No dwelling or structure shall be located on a Lot in violation of the front building setback line as shown on the Plat. No dwelling shall be located nearer than a distance of five (5) feet from any side yard Lot line. The aggregate width of both side yards for any dwelling or structure, other than a fence, shall be a minimum of ten (10) feet or the minimum specified in the applicable zoning ordinance (currently the Allen County Subdivision Control Ordinance), whichever is less. No dwelling or other structure shall be located nearer than twenty five (25) feet to the rear lot line of all of the Lots as shown on the Plat.

7.4 Minimum Lot Size. No residence shall be erected or placed on a Lot having a width of less than fifty (50) feet at the front Lot building setback line, nor shall any residence be erected or placed on any Lot having an area of less than six thousand five hundred (6,500) square feet.

7.5 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. No Owner shall erect on a Lot, or grant to any person, firm or corporation the right, license, or privilege to erect or use, or permit the use of, overhead wires, cable, poles or overhead facilities of any kind for any utility service or for electrical, telephone or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing contained in these Covenants shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any residence or other structure on a Lot connecting it to the electrical distribution system of any electric public utility shall be provided by the Owner of the Lot that constructs the residence or structure, and shall carry not less than three (3) wires and have a capacity of not less than two hundred (200) amperes. Any public utility charged with the maintenance of underground installations shall have access to all easements in which said installations are located for operation, maintenance and replacement of service connections.

7.5.1 Obstruction of Easements. All easements dedicated in the Plat or these Covenants shall be kept free of all permanent structures, and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the utilities and other entities for which such easements are intended to benefit, to install, repair, maintain or place any utilities, including but not limited to electrical, phone, water, storm drainage, and sewage utilities, and the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the easement or any obstruction thereon to its original form.

7.6 Surface Drainage Easements. Surface Drainage Easements, Storm Water Detention Basins, Water Quality Features, Lot Swales and Common Areas used for drainage purposes, as shown on the plat, are intended for periodic or occasional use as conductors for the flow of surface water runoff and shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed and proper working condition during and after construction and the County Surveyor or a proper public authority having

jurisdiction over storm drainage, shall have the right to determine if any obstruction exists and to repair and maintain or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed and operable. It shall be the responsibility of the builder and /or the homeowner to inspect rear and side swales for positive drainage conditions prior to closing on the lot. The homeowner's association is responsible for the maintenance of the storm water dentition basins. The developer shall be relieved of any responsibility for the repair of the swales on the lot following the closing of the lot to either the builder or the homeowner.

7.7 Nuisance. No nuisance, noxious or offensive activity shall be carried upon any Lot, nor shall anything be done there which may be or become an annoyance or nuisance to Owners in the Subdivision.

7.8 Structures Other Than Single-Family Residence. Except as specifically permitted hereinafter, no structure, whether temporary, permanent, or otherwise, shall be erected, maintained, or used on any Lot other than one single-family residence. Prohibited structures include, by way of illustration and not limitation, detached garage, shack, storage shed, portable basketball goals and above-ground pools. Notwithstanding the foregoing, the Architectural Control Committee may, subject to compliance with Section 6, permit to be erected and maintained in its sole and absolute discretion residential playground equipment such as swing sets, in-ground swimming pools, cabanas, and fences. In exercising such discretion, the Architectural Control Committee may establish, maintain, and revise from time to time guidelines for consideration and evaluation of such structures, and shall endeavor to act reasonably consistent in the application of its guidelines then in effect and in consideration and evaluation of any such requested approvals. The decision of the Architectural Control Committee shall not be subject to appeal or challenge.

7.9 Outside Storage. No boat, boat trailer, jet ski, snowmobile, recreational vehicle, motor home, truck, bus, camper, any motor vehicle not currently titled, registered, or having a current license plate, or any non-operable motor vehicle shall be permitted to be parked outside an enclosed garage on a Lot or on any public or private street in the Subdivision for periods in excess of forty-eight (48) hours, or for a period which is the aggregate is in excess of sixteen (16) days per calendar year. The term "truck" as used in this Section 7.9 is defined to mean any motor vehicle which has a gross vehicle weight in excess of eight thousand seven hundred (8,700) pounds or which is rated at a load carrying capacity of one-ton or more. In determining the 48-hour or sixteen-calendar day requirements of this Section, there shall be included any temporary removal or moving of such prohibited parking or storage where the primary purpose of such removal or moving is to avoid or evade the time requirements of this Section.

7.10 Free-Standing Poles. Except as provided in Section 7.1, no clotheslines or clothes poles, or any other free standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, with the exception of a flag pole displaying the United States federal or state flag, and with the exception of a permanent basketball pole, shall be constructed, erected, or located or used on a Lot, provided however, that the installation and location thereof must be approved by the Architectural Control Committee under Sections 6 and 7.8.

7.11 Signs. Except as provided in Section 7.1, no sign of any kind shall be displayed to the public view on a Lot except one professional sign of not more than five square feet, advertising a Lot for sale or rent, or signs used by a Builder to advertise a Lot during the construction and sales periods.

7.12 Antennas. No radio or television antenna with more than twenty-four (24) square feet of grid area, or that attains a height in excess of six (6) feet above the highest point of the roof of a residence, shall be attached to a residence on a Lot. No free-standing radio or television antenna shall be permitted on a Lot. No solar panels (attached, detached or free-standing) are permitted on a Lot. Satellite receiving disk or dish shall be permitted on a Lot, provided however, that the installation and location of a satellite dish must be approved by the Committee under Sections 6 and 7.9.

7.13 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on or in a Lot. No derrick or other structure designed for boring for oil or natural gas shall be erected, maintained or permitted on a Lot.

7.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on a 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. In case of a dispute or disagreement, the Architectural Control Committee is herewith granted the authority to conclusively determine whether an animal is or is not a permitted household pet.

7.15 Garbage/Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. No incinerators shall be kept or allowed on a Lot. Garbage cans shall not be placed at the street for collection and pick-up earlier than 4:00 p.m. on the day prior to the scheduled pickup. Garbage cans shall be located inside an enclosed garage except when placed at the street for trash pickup.

7.16 Workmanship and Maintenance of Lots and Dwelling Units. All structures on a Lot shall be constructed in a substantial, good and workmanlike manner and of new materials. No roof siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any structure on a Lot, and no roll roofing of any description or character shall be used on the roof of any residence or attached garage on a Lot. No Lot, lawn, landscaping or structure shall be permitted to become overgrown, unsightly or fall into disrepair. Should the Lot Owner fail to comply with the requirements as set forth within, the Architectural Control Committee shall have the right to make any necessary alterations, repairs or maintenance approved by the Architectural Control Committee to carry out the provision herein. The Association shall have the right to claim a lien upon the Lot, and to recover personally from the Lot Owner all costs and expenses incurred in making any such alterations, repairs and maintenance, as well as any and all attorney fees.

7.17 Driveways. All driveways on Lots from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width, provided however, in the event the driveway serves a side loading garage, then in that event, the driveway shall be poured concrete and not less than fourteen (14) feet in width at the street.

7.18 Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained or used on a Lot in the Subdivision except that an individual water system may be used for the purpose of a swimming pool or lawn irrigation.

7.19 Street Utility Easements. In addition to the utility easements designated in this document, easements in the streets, as shown on the Plat, are reserved and granted to all public utility companies, the Owners of the Real Estate and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove every type of

gas main, water main and sewer main (sanitary and storm), electric, telephone, or cable TV service, or any other public utility with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction over the maintenance and repair of said streets.

7.20 Storm Water Runoff. No rain and storm water runoff or natural precipitation, whether collected by roof, gutter, down spout, tile, surface drain, drainage tile, perimeter tile or sump pump, shall at any time be discharged or permitted to flow into any sanitary sewage system serving the Subdivision, which shall be a separate sewer system from any storm water and surface water runoff sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the Subdivision's storm and surface water runoff sewer system.

7.21 Completion of Infrastructure. Before any residence on a Lot shall be used and occupied as such, the Developer shall install all infrastructure improvements serving the Lot as shown on the approved plans and specifications for the Subdivision filed with the Zoning Authority and other governmental agencies having jurisdiction over the Subdivision. This covenant shall run with the land and be enforceable by the Zoning Authority or by any aggrieved Owner.

7.22 Certificate of Compliance. Before a Lot may be used or occupied, the Owner shall first obtain from the Zoning Authority the improvement location permit and certificate of occupancy or compliance then required by the Zoning Authority.

7.23 Enforcement. Except as otherwise provided in these Covenants, the Association, Developer and any Owner (individually or collectively) shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, Covenants, reservations, liens and charges now or subsequently imposed by the provisions of these Covenants or the Plat. Failure by the Association, Developer or an Owner to enforce any provisions in the Covenants shall in no event be deemed a waiver of the right to do so later.

7.24 Invalidation. Invalidation of any one of these Covenants by judgment or court order shall not affect the remaining provisions, and such provisions shall remain in full force and effect.

7.25 Duration of Covenants. These Covenants shall run with the land and be effective for a period of thirty (30) years from the date the Plat and these Covenants are recorded; after which time the Covenants shall thereafter automatically be renewed for consecutive periods of ten (10) years until terminated by operation of law or pursuant to Article 7.27 hereof.

7.26 Amendments. Any provision of these Covenants may be amended, but such amendment is subject to the following requirements and limitations:

7.26.1 Except as otherwise provided in Section 7.26.2, in order to amend any provisions of these Covenants, the amendment shall require the written consent of at least seventy-five percent (75%) of each class of members of the Association in the Subdivisions and the written consent of seventy-five percent (75%) of each class of members in any then platted additional Sections, if any, of the Subdivision. For purposes of this Section 7.26.1, the term "Owner" and "Lots" shall have the same meaning with respect to "Owners" and "Lots" in such future sections, as the term "Owner" and "Lots" is defined in Sections 1.10 and 1.11. Further, until single-family residences are constructed on all Lots in the Subdivision and certificates of

occupancy are issued for those residences, in order to amend these Covenants, the Developer, in addition to those persons whose signatures are required under this Section 7.26.1, also must approve and sign the amendment in order for the amendment to be valid and effective.

7.26.2 Notwithstanding the provisions of Section 7.26.1, Developer and its successors and assigns shall have the exclusive right for a period of four years from the date the Plat and these Covenants for this Section are recorded, to amend the Plat or any of the Covenant provisions; provided, however, that such amendment shall not serve to reduce the minimum size and other requirements contained in Section 7.2, without the written consent of at least seventy-five percent (75%) of the Owners.

7.27 Lot Size Alterations. No Lot or combination of Lots may be further subdivided until approval for such subdivision has been obtained from the Zoning Authority; except, however, the Developer and its successors in title shall have the absolute right to increase the size of any Lot by adding to such Lot a part of an adjoining Lot (thus decreasing the size of such adjoining Lot) so long as neither of the Lots from which land was added or deleted violates the limitations imposed under Section 1.10 and the requirements of Section 7.4.

Section 8. **MANDATORY SOLID WASTE DISPOSAL.** Unless weekly refuse/garbage pickup services are provided by a governmental entity having jurisdiction thereof, the Association shall be obligated to contract for disposal of garbage and other solid waste and may pay for the cost of such disposal through assessments established under Section 5. An Owner who privately arranges for solid waste disposal to service the Owner's Lot shall not be exempt from payment of any part of an assessment attributable to the cost of waste disposal for which the Association contracts under this Section 8.

Section 9. **ATTORNEY FEES AND RELATED EXPENSES.** In the event the Association, the Developer, an Owner, or the Zoning Authority is successful in any proceeding, whether at law or in equity, brought against an Owner to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the provisions of these Covenants, such successful party seeking enforcement thereof shall (except as limited hereafter) be entitled to recover from the party against whom the proceeding was brought, the reasonable attorney fees and related litigation costs and expenses incurred in such proceeding; provided, however, in no event shall the Developer or the Association or their respective officers, directors, agents, or employees ever be held liable for any attorney fees or litigation costs and expenses of any other party in any legal proceeding involving these Covenants.

Section 10. **SIDEWALKS.** Plans and specifications for the Subdivision approved by and on file with the Zoning Authority require the installation of concrete sidewalks within the street rights-of-way in front of Lots 78 through 89 and Lots 96 through 100 as the obligation of the Owner of the Lot (exclusive of Developer). The sidewalk to be located on a Lot shall be completed in accordance with such plans and specifications prior to the issuance of a certificate of occupancy for such Lot. This covenant is enforceable by the Zoning Authority, the Developer, the Association, or an Owner, by specific performance or other appropriate legal or equitable remedy. Should a certificate of occupancy be issued to Developer for a Lot on which a sidewalk is required to be constructed, Developer shall be considered as an Owner subject to enforcement of this Covenant but only with respect to that Lot.

Section 11. **FLOOD PROTECTION GRADES.** No Dwelling or other structure or improvement

shall be constructed or maintained in violation of the flood protection grades established on the recorded plat for each Lot so that the minimum elevation of the first floor, and the minimum sill elevation for any opening into the Dwelling equals or exceeds the minimum flood grade protection elevation. The flood grade protection levels have been approved by the Allen County Surveyor's office and are to minimize potential damage from flooding, surface water and rain events.

Section 12. **ZONING ORDINANCE REQUIREMENTS.** Notwithstanding any other provision herein to the contrary, in the event any applicable zoning ordinance (as modified by any variance that may have been granted with respect to any Lot or the Subdivision) in effect at the time of the recordation of these Covenants contains more stringent requirements than these Covenants, the more stringent zoning ordinance requirements (but as modified by any granted variance) in effect on the date of recordation of these Covenants shall apply; provided, however, nothing contained herein shall prohibit Developer or any Lot Owner in the Subdivision from applying for or from being granted a variance with respect to any current or future enacted zoning ordinance, but no variance may be granted which would establish less stringent requirements than the terms and provisions of these Covenants.

Section 13. **EQUINE/FARMING ACTIVITIES.** The Owners of Lots in the Subdivision and their successors-in-title hereby waive and release any and all rights, which they may have or hereafter have to remonstrate against or otherwise object to, interfere with, or oppose any pending or future farming or equine operations adjacent to the Subdivision.

IN WITNESS WHEREOF, North Eastern Development Corp., formally known as NWM Corp., an Indiana corporation, by its duly authorized President Joseph L. Zehr, Owner of the Real Estate, has signed these Covenants and Declaration document on this 2nd day December, 2019.

Developer:

North Eastern Development Corp.

By: Joseph L. Zehr, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, this 2nd day of December, 2019 personally appeared Joseph L. Zehr, known to me to be the duly authorized President of North Eastern Development Corp., formally known as NWM Corp. and acknowledged the execution of the above and foregoing as his voluntary act and deed and on behalf of said corporation for the purposes and uses set forth in this document.

Witness my hand and notarial seal.

My Commission Expires: _____
Resident of Allen County, Indiana

_____, Notary Public

This instrument prepared by Vincent J. Heiny, Attorney at Law, Carson LLP, Suite 200, 301 W. Jefferson Blvd., Fort Wayne, Indiana 46802, Telephone: (260) 423-9411.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. */s/ Vincent J. Heiny*

JULIE TOLIN
Notary Public, State of Indiana
Whitley County
Commission Number NP0651938
My Commission Expires
May 15, 2022