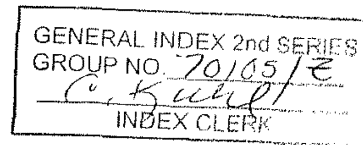


DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND  
RESERVATION OF EASEMENTS  
FOR  
DARLINGTON CREEK SUBDIVISION



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- "A" - Legal Description - Initial Development
- "B" - Articles of Incorporation
- "C" - By-Laws

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS

FOR

DARLINGTON CREEK SUBDIVISION

THIS DECLARATION, is made this 3<sup>rd</sup> day of October, 2005, by Darlington Creek Developers, L.L.C., a Kentucky limited liability company, hereinafter sometimes referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described in Exhibit "A" attached hereto and desires to create thereon a residential community consisting of various types of single-family residences with permanent common areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas; and to this end, desires to subject the real property described in Exhibit "A" attached hereto to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent Owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed "Darlington Creek Homeowners Association, Inc.", as a non-profit Kentucky corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the Properties described in Exhibit "A" attached hereto and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants; conditions,

restrictions, easements, charges and liens set forth in this Declaration, and any subdivision plat which includes the Property, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

The words in this Declaration which begin with capitalized letters, other than words which would be normally capitalized, unless the context otherwise requires, shall have the same meanings as the definitions of those words in this Article I.

1.1 "Articles" shall mean those Articles, filed with the Secretary of Kentucky, incorporating Darlington Creek Homeowners Association, Inc. as a corporation not for profit under the provisions of the Kentucky Revised Statutes, as the same may be amended from time to time. A true copy of the Articles as shown in Exhibit "B" is attached hereto and made a part hereof.

1.2 "Association" shall mean and refer to Darlington Creek Homeowners Association, Inc., its successors and assigns.

1.3 "Board" shall mean the Board of Trustees of Darlington Creek Homeowners Association, Inc., which shall also be known as the "Board of Trustees".

1.4 "Builder" shall mean and refer to any party who acquires one or more developed Lots from the Declarant for the purpose of resale to an Owner or for the purpose of constructing improvements thereon for resale to an Owner.

1.5 "By-Laws" shall mean the By-Laws of the Association, as the same may be amended from time to time. A true copy of the By-Laws as shown on Exhibit "C" is attached hereto and made a part hereof.

1.6 "Common Areas" shall mean and refer to subdivision entrance walls, signs, landscape mounds, fences, sewage treatment plant and landscaping constructed for the common use and enjoyment of the Owners, and such areas designated as "common areas" on the record plat or plats for the Property.

1.7 "Declarant" shall mean and refer to Darlington Creek Developers, L.L.C., a Kentucky limited liability company, its successors and assigns if such successors or assigns should acquire all unsold Lots and/or unplatted real property which adjoins any property already developed and which is intended to be developed into Lots.

1.8 "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of: (a) December 31, 2012, or (b) the day next following the day on which the Declarant owns no part of the Property.

1.9 "Living Unit" shall mean and refer to a single-family residence designated and intended for use and occupancy as a residence by a single family.

1.10 "Lot" shall mean and refer to any parcel of land upon any recorded subdivision plat of the Properties containing a Living Unit.

1.11 "Member" shall mean any one of those Owners who are Members of the Association as provided in Article IV hereof.

1.12 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.13 "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.14 "Trustee" and "Trustees" shall mean that person or those persons serving, at the time pertinent, as a Trustee or Trustees of the Association, and shall mean that same person or those persons serving in the capacity of a member of the Board of Trustees of the Association. Such individuals shall also be known as "Directors".

## ARTICLE II

### PROPERTY DEVELOPMENT - ANNEXATION

2.1 Property Subject to Declaration. The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject



to this Declaration is located in the County of Campbell, State of Kentucky, and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Planned Development. Declarant reserves the right to subject all or any part of the real estate described in Exhibit "D" to the provisions of this Declaration, so as to create a residential planned development consisting of various residential properties with permanent Common Areas for the benefit of said development. Such additional property shall be annexed to the real estate described in Exhibit "A" as provided in Section 2.3 hereof. Notwithstanding the above, nothing contained in this Declaration, in the By-Laws or in any map, picture, drawing, brochure or other representation of a scheme of development shall obligate the Declarant to annex any additional property to the property described in Exhibit "A" and the real estate described in Exhibit "D" shall remain wholly free from any covenant or restriction herein contained until so annexed as hereinafter provided.

2.3 Annexation of Additional Property. During the Development Period, additional property, not limited to the Property described in Exhibit "D", may be annexed to the above-described Property by the Declarant without the assent of the Members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one (51%) percent of each class of Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described Property. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on Exhibit "A" as hereinafter provided.

Any annexations made pursuant to this Article, or otherwise shall be made by recording a supplement to this Declaration with the Clerk of Campbell County, Kentucky, which supplementary Declaration shall extend the scheme of some or all of the within covenants and restrictions to such annexed property. Such supplementary Declaration may contain such additional covenants, conditions, restrictions, easements, assessments, charges and liens as the Declarant shall deem appropriate for the purpose of completing the development of the Property.

2.4 Additional Common Areas. Declarant shall have the right, from time to time during the Development Period, to convey to the Association for nominal or other appropriate consideration, and the Association shall accept conveyance of any property or interest in property owned by Declarant along with any structure, improvement, or other facility including related fixtures, equipment and furnishings located thereon. Upon conveyance of such property, the property shall constitute Common Areas.

Notwithstanding any other provision of this Declaration, Declarant does not warrant or represent that any recreational facilities will be constructed by or on behalf of Declarant.

ARTICLE III

PROPERTY RIGHTS

3.1 Owner's Right of Enjoyment. Every Owner and, in the case of rented Lots, such Owner's tenants, shall have a right to an easement for the enjoyment of, in, and to the Common Areas, and such right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas.

(b) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration.

(c) The rights of the Association and Owners of Lots to a perpetual easement over any Common Areas, and for necessary pedestrian and automotive ingress and egress to and from such Living Unit over said streets, driveways and walkways of said Common Areas and for gas, electric, telephone, water, sewer, drain, cable television connections, and other utility conduits with rights to repair, maintain, and replace same, as they may be established over, upon, and through the said Common Areas or other Lots, which rights are hereby expressly established, granted, and reserved for the benefit of the individual Lots.

(d) Easements and restrictions of record.

(e) The right of the Association or the Declarant to grant additional easements over the Common Areas as provided in Section 3.4.

3.2 Delegation of Use. Any Owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas to the members of his family, guests, and his tenants or contract purchasers who reside on the Property.

3.3 Title to Common Areas. The title to any portion of the Common Areas that is to be owned by the Association in fee simple shall be conveyed to the Association, prior to the expiration

of the Development Period, free and clear of all liens and encumbrances; provided, however, that the Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property for various easements and rights of way, together with the right to dedicate same where applicable and customary and the right of ingress and egress across the Common Areas in connection with the development of the Property. The Declarant's rights hereunder shall not unreasonably interfere with the Owner's easement of enjoyment.

3.4 Right to Grant Easements. Declarant hereby reserves the right, to grant, on behalf of the Association and/or the Owners and without the consent of the Association, or any Owner, easements, across, through or under the Common Areas. Such easements, which shall be exclusive or non-exclusive, shall be limited to utility easements (including cable television), green belt easements, sign easements, access easements or roadway easements. Declarant's rights under this Section shall terminate upon expiration of the Development Period.

The Association, without the consent of any Owner, shall have the right at any time to grant easements as set forth in this Section.

#### ARTICLE IV

#### MEMBERSHIP AND VOTING RIGHTS

4.1 Members. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.2 Classes of Members; Voting. The Association shall have two classes of voting membership:

4.2.1 Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

4.2.2 Class B Member shall be the Declarant and the Declarant shall be entitled to five (5) votes for each Lot owned, provided, however, that the Class B membership shall terminate after the Class A Members are entitled to elect all of the Board. At such time as Class B membership shall terminate, the Declarant, for any Lot owned,

shall be deemed a Class A Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member.

ARTICLE V

ASSESSMENTS

5.1 Covenant for Assessments. The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such property and Lot at the time when the assessment fell due.

5.2 Annual Assessments, Purposes. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development.

To carry out these purposes, an Annual General Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas, including, but not limited to, the payment of taxes, insurance and fidelity bonds, and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and including the maintenance, repair and landscaping of streets and right of ways, the maintenance and operation of street lights, if any, for the Subdivision, and, in the discretion of the Association, including any entrance roads or adjoining roads or areas, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association. The Annual General Assessment shall also be used for the purpose of maintaining the sewage treatment plant for the Property including those costs incurred pursuant to a Contract for Operation and Maintenance of the Treatment Plant between the Association and Sanitation District Number 1.

5.3 Annual General Assessments, Initial Amount. Until January 1, 2007, the maximum Annual Assessment for each Class A membership for general purposes provided in Section 5.2 shall not exceed \$135.00 per Living Unit.

5.4 Annual Maintenance Assessment.

(a) From and after January 1, 2006, the amount of the Annual Assessment shall be levied by the Board on such Lots in such amount as may be necessary, in the determination of the Board of Trustees, to carry out the purposes of the Annual Assessment.

(b) The assessment shall be fixed at a uniform rate based upon the number of Living Units situated on the Lots and may be billed in advance on a monthly, quarterly or annual basis. Annual Assessments and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association.

(c) Negligence or Willful Neglect. In the event that the need for the maintenance or repair of landscaping is caused through the willful or negligent act of the Owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs (including costs incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become a part of the assessment against the individual Lot upon which the maintenance or repairs are performed.

(d) Access to Lot. For the purpose solely of performing the maintenance and repair required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, without notice to the Owner, to enter upon any Lot at reasonable hours on any day.

5.5 Individual Assessments. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that to be provided by the Association under Section 5.2 above for which assessments are provided, then the Association, after approval by sixty-six and two-thirds (66-2/3%) vote of all Members of the Board shall have the right through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become part of the total assessment to which such Lot is subject.

5.6 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any assessment year Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, replacement or addition of a described capital improvement located upon the Common Areas, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of fifty-one (51%) percent of the total number of votes held by Class A Members and fifty-one (51%) percent of the total number of votes held by the Class B Members. Any Special Assessments levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly or annual basis.

5.7 Commencement of Assessments. The Annual Assessments shall commence on January 1, 2006, or at such other date as determined by the Association. The first assessment for any such membership may be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of the assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any Lot subject thereto. Annual Assessments subsequent to the first Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

5.8 Assessment of Declarant. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Declarant shall be required to pay an assessment for any recorded, unsettled Lot in which it has the interest otherwise required for Class A membership only in any amount equal to ten (10%) percent of the Annual Assessments and

Special Assessments which the Association levies for purposes set forth in Sections 5.2 and 5.6. The provisions of this Section 5.8 shall not apply to the assessment of any Lot and Living Unit held by the Declarant for rental purposes and which is or has been occupied as a Living Unit; in which event the Declarant shall be required to pay the full amount of the assessments levied thereon.

5.9 Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered.

5.10 Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner shall waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or abandonment of his Lot or Living Unit.

In addition to the ten percent (10%) per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the assessment which is delinquent by fifteen (15) days.

5.11 Subordination of Lien to Mortgage. The lien of the assessments 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, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or through foreclosure shall not be liable for more than six (6) months of the Lot's unpaid assessments or charges accrued before the acquisition of title to the Lot by the mortgagee.

5.12 Capital Contribution and Assessment at Closing. Upon closing or within thirty (30) days after the closing on the purchase of a Lot from a Builder, the purchaser of such Lot shall be required to pay the sum of Two Hundred Fifteen Dollars (\$215.00) as such purchaser's initial capital contribution to the working capital of the Association. This assessment shall be used by the Association for its operating expenses. Such assessment is not an advance payment of assessments, and it will not be held in any sort of trust or reserve account. Additionally, upon closing or within thirty (30) days after such closing with a Builder, each purchaser of a Lot shall be required to pay a pro-rata share of the Annual General Assessment, if applicable, for the balance of the current year to the extent that such assessment is not otherwise being collected by the Association. The Declarant and each Builder shall be exempt from the assessments collected pursuant to this Section.

## ARTICLE VI

### INSURANCE

6.1 Liability Insurance. The Association shall obtain and maintain a Comprehensive policy of public liability insurance covering all of the Common Areas, insuring the Association, Trustees, and Owners and members of their respective families, tenants and occupants in an amount of not less than One Million 00/100 Dollars (\$1,000,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

6.2 Other Insurance. In addition, the Association shall obtain and maintain contractual liability insurance, Trustees' and Officers' liability insurance and such other insurance as the Board may deem desirable from time to time.

6.3 Insufficient Insurance. In the event the improvements forming a part of the Common Areas shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which whose benefit the amount was so advanced, and such assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.



ARTICLE VII

ARCHITECTURAL CONTROL

7.1 General Requirements. The following requirements shall be applicable to all Living Units and the Lots upon which such Living Units are located:

7.1.1 General Conditions: Except for Lots designated as Common Areas or open-space lots, no building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family dwelling with a private garage suitable for parking not less than two (2) nor more than three (3) motor vehicles which is to be attached to the principal dwelling.

Except for improvements constructed by the Declarant in connection with the development of the Property, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas (including areas designated as "open-space/landscape easements", "open-space lots" or "natural buffer easements"). Additionally, no improvement constructed by the Declarant in connection with the development of the Property shall be removed from the Common Areas (including areas designated as "open-space/landscape easements", "open-space lots" or "natural buffer easements") without the prior written consent of the Declarant or the Association.

7.1.2 House Placement and Yard Grading: Residences and Lots shall conform to existing grade and drainage patterns as set forth on the grading plan for the Property filed with the appropriate Butler County governmental authorities. Existing grades at Lot lines shall not be altered more than one (1) foot without the written consent of the Declarant or the appropriate governmental authorities.

7.1.3 Underground Houses and Log Houses: Underground and log structures are prohibited.

7.1.4 Driveways: All driveways shall be surfaced with concrete, asphalt or similar substance, except all driveway approaches from the street to the back of the sidewalk shall be concrete.

7.1.5 Water Discharge: Storm water must be disposed of in accordance with drainage plans established by the Declarant, the Association, or the County of Campbell.

7.1.6 Radio and Television Antennas: No television, radio or other electrical towers, aerials, antennae, satellite dishes, or other device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 37 C.F.R. Part 1, Subpart 5, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae.

To the extent that the reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules adopted by the Association may be installed only if it is located within the residence located on the Lot, or: (i) is not located in the front yard of the Lot or attached to the front of the Living Unit; (ii) is not visible from any street (whether by location or screening); and (iii) is integrated with the Living Unit and surrounding landscape.

7.1.7 Air Conditioning and Heat Pump Equipment: Such equipment shall be located only in side or rear yards.

7.1.8 Awnings: No metal or plastic awnings for windows or doors may be erected or used. Canvas awnings may be used on any Lot subject to prior written approval of the Declarant or the Association.

7.1.9 Fences:

- (a) No fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose, excepting a retaining wall, shall be erected, placed or suffered to remain upon (i) any landscape easement, (ii) open-space easement, (iii) greenbelt easement, or (iv) upon any Lot nearer to any street than the rear building line of the residence located on the Lot. Unless otherwise approved by the Board, fences shall be limited to: (i) a three-rail, split rail fencing with or without black or nonreflective,

wire mesh; (ii) a three-rail board fence, with or without black or nonreflective, wire mesh; (iii) a picket fence; or (iv) a hedge or other growing plants used as a fence; and no such fence shall exceed four feet (4') in height. On a corner Lot, in addition to the restrictions set forth above, no fence or portion thereof shall be erected or placed or suffered to remain upon said corner Lot, closer to the side street than the building set back line for such residence. In order to comply with all applicable law, fences around swimming pools may be constructed of metal provided the specifications and location for such fences, as well as the location of the swimming pools, are approved by the Board.

- (b) Fence as used herein shall be liberally construed as to accomplish the purpose of these restrictions, and shall specifically include, but not be limited to, contrived barriers of any type including those of shrubs, hedges or walls. Side street as used herein, shall refer to any street contiguous to any Lot which does not face the front door of the residence.
- (c) This Section shall not apply to: (i) underground invisible dog-type fences; or (ii) decorative fences or retaining walls installed by a Declarant or a Builder in connection with the development of the Property or original construction of a Living Unit.

7.1.10 Exterior Carpeting: No exterior carpeting shall be allowed if it is visible from the street.

7.1.11 Lighting Exterior: Mercury vapor yard lights in excess of 50 watts are prohibited, except for street lights installed in a right-of-way by the Declarant or a utility company. This Section shall not apply to residences used by the Declarant or Builder as model homes or sales offices.

7.1.12 Completion: Construction of a residential building on any tract shall be completed within one (1) year from the date construction is started and the disturbed yard area must be sodded or seeded, provided, however, that the completion date shall be extended for stoppages caused by strike, lockout, labor disputes, fire, unusual delay in transportation, unavoidable casualty, weather and acts of God.

7.1.13 Roofs. All roofs on residences shall be asphalt shingle. A replacement roof shall be color matched to the original roof.

7.1.14 Mailboxes. Original mailboxes, as well as replacement mailboxes, shall comply with the specifications set forth in the attached Exhibit "E", or such other specifications as may be adopted by the Board.

7.1.15 Zoning: All improvements shall be constructed in accordance with and subject to all applicable zoning regulations and building codes.

7.2 Variations. In order to avoid unnecessary hardship and/or to overcome practical difficulties in the application of certain provisions of the Declaration, the Board shall have the authority to grant reasonable variations from the provisions of Section 7.1. Additionally, so long as Declarant owns one or more Lots on the Property, the Declarant, or its designee, may grant reasonable variations from the provisions of Section 7.1. No variance shall materially injure or materially adversely affect any other part of the Property or any other Owner or occupant. No variance granted pursuant to the authority of this Section 7.2 shall constitute a waiver of any provision of the Declaration as applied to any other party or other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law. All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

### ARTICLE VIII

#### USE RESTRICTIONS AND MAINTENANCE

8.1 Restrictions. All Living Units and the Lots upon which such Living Units are located shall be subject to the following restrictions:

8.1.1 Purpose of Property: Except for Lots designated as Common Areas or open-space lots, the Property shall be used only for residential purposes and common recreational purposes auxiliary thereto. Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g. family room, bedrooms, offices or recreational rooms). The Declarant or a Builder shall have the right to use unsold residences as model homes or sales offices.

8.1.2 Nuisance: No obnoxious or offensive activity of any kind shall be engaged in on any Lot nor shall any Owner or occupant thereof engage in any activities that interfere with the quiet enjoyment, comfort and health of the occupants of adjacent

neighboring Lots. This paragraph shall not apply to any Lots owned by the Declarant or a Builder and held for sale.

8.1.3 Animals and Pets: 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 (excluding pot-belly pigs) may be kept, provided that they do not exceed three (3) in number and they are not kept, bred or maintained for any commercial purpose. Notwithstanding the above, in the event such household pets have a litter, the Owner shall have a period of one hundred twenty (120) days from the date of such birth to dispose of such excess pets. Additionally, an Owner shall be permitted to keep fish in a private pond provided such fish are not kept, bred or maintained for any commercial purpose.

8.1.4 Signage: No sign of any kind shall be displayed to the public view on any Lot except: (a) one (1) professional sign of not more than two (2) square feet; or (b) one (1) sign of not more than nine (9) square feet advertising the property for sale. Additionally, no signs may be installed by an Owner on the Common Areas. This paragraph shall not apply to signs used by a Declarant or a Builder to advertise the Property during the construction or sale period.

8.1.5 Trash: No burning of any trash and no accumulation or storage of litter, new or used building materials or trash of any kind shall be permitted on any Lot. Trash and garbage shall be placed in sanitary containers and shall not be permitted to remain in the public view except on days of trash collection. This paragraph shall not apply to any Lots owned by the Declarant or a Builder and held for sale.

8.1.6 Prohibited Accessory Structures. No permanent or temporary accessory building, tent, storage shed, mobile home or free standing greenhouse shall be erected or permitted to remain upon a Lot. Decks are permitted provided they are located within the building set back area of the Lot and attached to the residence. Swimming Pools and related appurtenances are permitted on Lots provided they are in-ground type pools and they are not located within the prohibited rear or side yard setback areas. Hot tubs, spas and related appurtenances are also permitted on Lots.

Playsets shall be permitted on any Lot provided they are located in the rear yard area of the Lot and are not within the prohibited rear or side yard set back areas. Basketball goals shall be permitted on any Lot provided they are installed in compliance with the following criteria: (a) they are not attached to the residence on

the Lot; (b) they shall have a clear backboard; and (c) the supporting poles shall be black. Except as otherwise provided above, trampolines, soccer goals and related recreational equipment shall be permitted on any Lot provided they are located in the rear yard area of the Lot and are not within the prohibited rear or side yards setback areas. This paragraph shall not apply to the Common Areas or any Lots owned by a Declarant or a Builder and held for sale.

8.1.7 Maintenance and Landscaping. Each and every Lot and house thereon shall be maintained by the Owner thereof in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the Property. All landscaping on the Lots including any street trees shall be maintained in good condition. In the event any Owner fails to replace a street tree that dies or is damaged, within sixty (60) days after notice from the Association (subject to a reasonable extension for appropriate planting seasons), the Association shall have the right to replace such street tree and assess the cost thereof against such Owner's Lot. Any such replacement tree shall be of a minimum 2 ½" caliper. All Lots, including any areas designated as "open-space easements" on such Lots, shall be kept free of debris and clutter and shall be kept mowed. This paragraph shall not apply to any Lots owned by a Declarant or a Builder and held for sale.

8.1.8 Automobiles, Recreational Vehicles, Boats, Travel Trailers. No recreational vehicle, mobile home, boat or travel trailer shall be parked or stored on any Lot, for a period in excess of forty-eight (48) hours during any calendar month, unless the same is in the garage and completely out of view. Commercial vehicles and trucks exceeding a three-quarter (3/4) ton rating are prohibited, unless such commercial vehicles or trucks are kept in the garage and completely out of view.

No vehicle in inoperable condition or unlicensed condition shall be stored on any Lot for a period in excess of five (5) days unless the same is in the garage and completely out of view. This paragraph shall not apply to any Lots owned by a Declarant or a Builder and held for sale.

8.1.9 Garage and Yard Sales and Christmas Lights. There shall be no more than two (2) garage or yard sales held by the Owner or residents of any Lot during any twelve (12) month period.

Christmas lights and other holiday-type decorations may be erected no sooner than five (5) weeks prior to and removed not later than two (2) weeks after such holiday.

8.1.10 Obstruction of Easements and Drainage. No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement or the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels in the easement area. The easement area of each Lot and all improvements in the easement area shall be maintained by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

8.1.11 Lakes. All lakes, ponds and streams within the Property shall be aesthetic amenities only and no other use thereof, including without limitation, swimming, boating, fishing, playing or use of personal floatation devices shall be permitted except in accordance with rules and regulations established by a Declarant or the Association. Neither a Declarant, a Builder nor the Association shall be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the lakes, ponds or streams within the Property.

8.1.12 Irrigation Systems. No irrigation system outlets shall be located in the public right-of-way, except as may be approved by the appropriate governmental authorities. This paragraph does not apply to irrigation systems installed by the Declarant.

## ARTICLE IX

### EASEMENTS AND MAINTENANCE

9.1 Access Easements. All Lots shall be subject to an access easement in favor of the Declarant and the Association for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, replacing and otherwise dealing with the Common Areas, including all improvements thereon. Such access easement shall also permit the Declarant and the Association to enter upon any Lot for the purpose of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the Lot shall be restored with any pavement, grass or sod which shall have been removed. Notwithstanding any other provision of this Declaration, no one other than the Declarant, the Association, or their duly authorized representatives, shall be permitted to have access

to, or enter onto, a portion of the Common Areas containing the sewage treatment plant for the Property.

9.2 Private Drainage Easements. Except as otherwise set forth on the record plat or plats for the Property, all Lots are subject to private drainage easements in favor of the Declarant, the Builder and the Association. Such private drainage easements shall be ten feet (10') in width (five feet (5') on each Lot) and shall exist along all common Lot lines, with the common Lot line being the center line of said easement. In those cases where the rear Lot line is not a common Lot line, the private drainage easement shall be ten feet (10') in width along such rear Lot line. The Declarant and the Association shall have the right to enter upon a private drainage easement for the purpose of establishing or reestablishing drainage swales in order to control and direct storm water to collection facilities.

9.3 Right of Association to Remove or Correct Violations. The Association may, in the interest or the general welfare of all of the Owners, enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Trustees of the Association authorizing access to any Lot or property covered under this Section and any charges incurred by the Association in correcting the violation hereunder, (including court costs and reasonable attorney's fees) shall constitute a charge against the subject property and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of said lien amount, which lien shall be subordinate to first mortgages as provided in Article V, Section 5.11.

9.4 Handicap Accessibility. Notwithstanding the other provisions herein, an Owner of a Living Unit and Lot may, at his expense, have such reasonable modifications made to the interior and exterior of his Living Unit and Lot and the Common Areas as may be necessary to afford physically handicapped persons full enjoyment of his premises. Any modifications to be undertaken to the exterior of a Living Unit and Lot or the Common Areas shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board of Trustees. The approved contractor shall provide an adequate performance bond for the benefit of the Association.



Notwithstanding the other provisions herein, including those requiring approval of the Members of the Association, the Board of Trustees is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Living Unit and Lot, including the Common Areas.

9.5 Declarant's Reservation of Entry Rights. The Declarant for itself and any Builder reserves the right during the Development Period to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the Lot shall be restored with any pavement, grass or sod which shall have been removed.

9.6 Declarant's and Association's Right to Grant Easements. Notwithstanding any other provisions herein, as long as there exists Class B membership, the Declarant, and thereafter the Association is authorized without consent of the Members to grant across, through or under any Lot, Common Area or any utility easement, including a Television Cable easement, deemed by the granting party to be necessary or convenient in the development or enjoyment of the Properties, provided no easement shall be granted across, through or under any Living Unit or building which restricts ingress or egress to such Living Unit or building.

9.7 Arbitration. In the event of any dispute between Owners, other than the Declarant, regarding the application of these restrictions or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

## ARTICLE X

### GENERAL PROVISIONS

10.1 Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

10.3 Amendment. Except as otherwise provided in this Declaration, the covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than fifty-one percent (51%) of the Lot Owners. Any amendment must be recorded. No amendment to the covenants and restrictions of this Declaration shall be binding upon any Lot owned by the Declarant or upon any additional property annexed to the terms of this Declaration by the Declarant, or upon any Lot upon which a single-family dwelling has not yet been erected unless the Declarant or any such Lot Owner agrees to said amendment in a recorded writing.

10.4 Right to Amend Documents. Notwithstanding anything above to the contrary, this Declaration and the By-Laws may be amended at any time without the vote of Owners by a written instrument executed by the Declarant for the purpose of: eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; conforming to any requirements imposed or requested by any governmental agency, public authority or financial institution; provided, however, that no such amendment shall materially affect any Owner's interest in the Association. Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration and the By-Laws by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this paragraph.

10.5 Personal Liability. Nothing in this Declaration, the Articles or the regulations of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any member of the Board of Trustees or any officer of the Association acting in his capacity as such, for the use, maintenance, repair or replacement of any Living Unit or of any part of the Common Areas or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct and each person who becomes an Owner or Member hereby releases and discharges all liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings

against any such person or persons unless such said person is covered by insurance and in such event the amount of recovery shall be limited in the amount of insurance.

10.6 Non-Liability of Declarant. Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authorities granted or delegated to them by or pursuant to this Declaration or the By-Laws, whether or not such claims shall be asserted by an Owner, occupant, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property or any part thereof becoming out of repair or by reason of any act or neglect of any Owner, occupant, the Association and their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to furnish or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, cable television, etc.), except as provided by any written warranty provided by the Declarant to an Owner or the Association. Except as set forth in this Declaration, the Declarant and the Builder shall have no financial obligation to the Association.

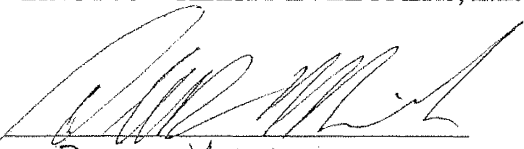
10.7 Professional Management Contracts and other Contracts. The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee on ninety (90) days or less written notice. The Association shall have the right to contract with other Homeowners Associations in the Darlington Creek Development for the purpose of providing for the maintenance, repair and landscaping of streets, right-of-ways and adjoining areas in the community.

10.8 Non-Discrimination. No Lot Owner (including the Declarant) and no employee, agent or representative of a Lot Owner shall discriminate on the basis of sex, race, color, creed or national origin in the sale or lease of any Lot or in the use of the Common Areas.

10.9 Articles of Incorporation and By-Laws. Copies of the Articles of Incorporation and By-Laws for the Association are attached hereto as Exhibits "B" and "C".

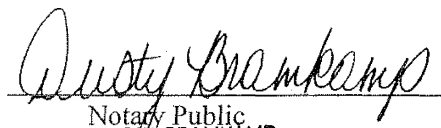
IN WITNESS WHEREOF, the undersigned Declarant, Darlington Creek Developers, L.L.C., a Kentucky limited liability company, has hereunto set its signature on the day and year first above written.

DARLINGTON CREEK DEVELOPERS, L.L.C.

By:   
Name: DONALD MISRACH  
Title: MEMBER

STATE OF Ohio :  
                                  :  
COUNTY OF Hamilton :           SS.

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of 2005, 2005 by Donald Misrach, the Incorporator of Darlington Creek Developers, L.L.C., a Kentucky limited liability company, on behalf of such company.

  
Notary Public  
**DUSTY BRAMKAMP**  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Expires 10/20/2009

THIS INSTRUMENT PREPARED BY:

  
Stephen R. Hunt, Esq.  
ARONOFF, ROSEN & HUNT  
2200 U.S. Bank Tower  
425 Walnut Street  
Cincinnati, Ohio 45202-3954  
(513) 241-0400


EXHIBIT "C"

BY-LAWS

OF

DARLINGTON CREEK HOMEOWNERS ASSOCIATION, INC.

I certify that the following By-Laws, consisting of ten pages, are the By-Laws adopted by the Board of Directors of Darlington Creek Homeowners Association, Inc., by unanimous written action of Directors dated OCTOBER 5<sup>th</sup>, 2005.

  
Name: Robert Krohngabel  
Title: President

BY-LAWS  
OF  
DARLINGTON CREEK HOMEOWNERS ASSOCIATION, INC.

Section 1. Meetings

1.1 Annual Meeting. The annual meeting of the members shall be held during the first quarter of the year at a time designated by the Board of Directors.

1.2 Special Meetings. Special meetings of the members may be called (a) at any time by the Board of Directors, or (b) by members holding in the aggregate twenty percent (20%) the voting power of all members. The secretary shall call a special meeting to be held at a time fixed by the secretary, but not less than ten (10) days nor more than thirty-five (35) days after the secretary shall have received (a) a written request from the Board of Directors, or (b) a petition signed by members holding in the aggregate twenty percent (20%) of the voting power of all members. If the secretary neglects or refuses to issue such call, then the call may be issued by (a) any Director, or (b) a member who signed the petition.

1.3 Place of Meetings. Meetings of the members shall be held at the registered office of the Corporation unless the Board of Directors by resolution designates a different place for the meeting, in which case the meeting shall be held at the place thus designated.

1.4 Notice of Meetings. The secretary shall cause written notice of the time and place of each annual meeting of the members to be delivered, either personally or by mail, to the members entitled to vote not less than ten (10) nor more than thirty-five (35) days before the date of the meeting.

1.5 Waiver of Notice. The attendance of any member at any meeting of members without protesting the lack of proper notice shall constitute a waiver of such notice.

1.6 Quorum. Except as provided in the Declaration, members holding ten percent (10%) of the votes entitled to be cast on the matter to be voted upon represented in person or by proxy shall constitute a quorum at a meeting of members.

1.7 Action without Meeting. Any action required or permitted to be taken at any meeting of the members entitled to vote may be taken without a meeting if a consent thereto in writing, setting forth the action so taken, is signed by all members entitled to vote and such written consent is filed with the minutes of proceedings of the members entitled to vote.

1.8 Suspension of Voting Privileges. No member shall be eligible to vote or to be elected to the Board of Directors who is shown on the books of the corporation to be more than sixty (60) days delinquent in the payment of any assessment due the corporation.

## Section 2. Board of Directors

2.1 Number and Term of Office. The affairs of the Corporation shall be managed by the Board of Directors. Until the second annual meeting, the initial Board shall consist of three (3) Directors appointed by the Class B Member who shall serve until their respective successors are appointed and qualified. Developer appointed Directors need not be Members of the Association.

Except as otherwise hereafter provided and except for the period during which the Developer shall control the Board, Directors shall be elected for three (3) year terms of office and shall serve until their respective successors are elected and qualified. Any vacancy which occurs in the initial or any subsequent Board, by reason of death, resignation, removal, or otherwise, may be filled at any meeting of the Board by affirmative vote of a majority of the remaining Directors representing the same class of Members who elected or appointed the Director whose position has become vacant. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position he or she was elected to fill.

At the second annual meeting, the Class B Members shall appoint two (2) Directors for a three (3) year term. Thereafter, at each tri-annual meeting the Class B Member, until such time as the Developer shall transfer control of the Board to the Class A Members, shall appoint two (2) Directors for a three (3) year term.

At the second annual meeting, the Class A Members shall elect one (1) Director for a three (3) year term. At the expiration of the term of such Director, until such time as the Developer shall transfer control of the Board to the Class A Members, the Class A Members shall, at the annual meeting, elect a successor Director for a three (3) year term. All elected Directors, and their successors, shall be Owners or residents.

The Developer shall transfer control of the Board to the Class A Members at the first annual meeting after the earlier of the following events: (i) Ninety-five percent (95%) of the total number of living units that may be constructed in all phases of the property have been sold and conveyed; or (ii)



December 31, 2012, or (iii) abandonment of the Property by Developer. The Property shall be deemed abandoned by Developer if no construction of a Living Unit has been commenced by it on at least one previously unimproved Lot for a period of Seven Hundred Thirty (730) consecutive days. At this meeting, all Developer appointed Directors shall be deemed removed from office, and the Class A Members, including the Developer if it is then an Owner, shall elect a Director to fill each vacancy on the Board. The terms of said elected Directors shall be from one (1) to three (3) years, as determined by the Board, so that in any one (1) year thereafter, the terms of no more than one (1) Director shall expire. At all times after this meeting, all Directors, and their successors, shall be elected by Class A Members and shall be elected for a three (3) year term.

Notwithstanding anything above to the contrary, the Class B Member may, by written notice to the Board, at or before any annual meeting, relinquish to the Class A Members, the Class B Members right to elect one or more Directors at such annual meeting pursuant to this section.

2.2 Meetings. A regular meeting of the Board of Directors shall be held immediately after the annual meeting of the members or any special meeting of members at which a Board of Directors is elected. Special meetings of the Board of Directors may be called by the President or by any two Directors.

2.3 Notice-Waiver. Notice of the time and place of each meeting of Directors shall be served upon or telephoned to each Director at least twenty-four (24) hours, or mailed to each Director at his address as shown by the books of the Corporation at least forty-eight (48) hours, prior to the time of the meeting. Notice of any meeting of Directors may be waived either before or after the meeting

by any Director. The attendance of any Director at any meeting of Directors without protesting the lack of proper notice shall be deemed to be a waiver of notice of that meeting.

2.4 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

2.5 Removal. Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the members of the Corporation.

2.6 Compensation. No Director shall receive compensation for any service he may render to the Corporation. However, any Director may be reimbursed for his actual out-of-pocket expenses incurred in the performance of his duties.

2.7 Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a consent thereto in writing, setting forth the action so taken, is signed by all members of the Board of Directors and such written consent is filed with the minutes of proceedings of the Board of Directors.

2.8 Duties. It shall be the duty of the Board of Directors to manage, operate and maintain certain real property owned or to be owned by the corporation, or constructed for the benefit of the corporation.

### Section 3. Nomination of Directors

3.1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The

Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Corporation. The Nominating Committee shall be appointed by the Board of Directors at least thirty (30) days prior to each annual meeting of the members, to serve from the time of appointment until the close of the next annual meeting, such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled by election.

#### **Section 4. Officers**

4.1 Officers. The Corporation may have one or more Vice Presidents and shall have a President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Corporation may also have such assistant officers as the Board of Directors may deem necessary, all of whom shall be elected by the Board of Directors or chosen by an officer or officers designated by it. Any two or more offices may be held by the same person except the office of President and Secretary.

4.2 Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation should not be necessary to make it effective. The vacancy of any office may be filled by appointment by the Board of Directors.

4.3 President. The President shall

- (a) Have general charge and authority over the business and affairs of the Corporation subject to the direction of the Board of Directors,
- (b) Have authority to preside at all meetings of the members and of the Board of Directors,
- (c) Have authority acting alone, except as otherwise directed by the Board of Directors, to sign and deliver any document on behalf of the Corporation, and
- (d) Have such other powers and duties as the Board of Directors may assign to him.

4.4 Vice President. The Vice President, or if there is more than one Vice President, the Vice Presidents in the order of their seniority by designation (or if not designated in the order of their seniority of election), shall perform the duties of the President in his absence. The Vice President shall have such other powers and duties as the Board of Directors or the President may assign to him.

4.5 Secretary. The Secretary shall

- (a) Issue notices of all meetings for which notice is required to be given,
- (b) Keep the minutes of all meetings and have charge of the corporate record books,  
and
- (c) Have such other duties and powers as the Board of Directors or the President may assign to him.

4.6 Treasurer. The Treasurer shall

- (a) Have the custody of all funds and securities of the Corporation,

(b) Keep adequate and current accounts of the Corporation's affairs and transactions,  
and

(c) Have such other duties and powers as the Board of Directors or the President  
may assign to him.

4.7 Other Officers. Other officers and agents of the Corporation shall have such authority  
and perform such duties in the management of the Corporation as the Board of Directors or the  
President may assign to them.

#### **Section 5. Committees**

5.1 Committees. The Board of Directors may appoint a Finance and Maintenance  
Committee as provided in the Declaration. The Board of Directors shall also appoint a Nominating  
Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other  
committees as deemed appropriate in carrying out its purposes.

#### **Section 6. Assessments**

6.1 Assessments. The Board of Directors shall annually assess each owner of a Lot (as  
defined in the corporation's Articles of Incorporation) in accordance with the provisions of the  
Declaration of Covenants, Conditions and Restrictions and Reservation of Easements recorded in the  
office of the Campbell County, Kentucky, Clerk, that affect any portion of the Darlington Creek  
subdivision.

**Section 7. Indemnification, Insurance and Litigation Provisions**

7.1 Indemnification. To the extent permitted by law, the Corporation shall indemnify any Director, officer, former Director and/or former officer against all expenses, including attorney fees, actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he/she is made a party by reason of being or having been such Director or officer, except in relation to matters as to which he/she shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his/her duties to the Corporation. The Corporation shall make said indemnification, so long as the Director or officer or former Director or former officer acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to a criminal action, suit or proceeding, so long as he/she had no reasonable cause to believe that his/her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, in itself, create a presumption that the person did not act in good faith and/or in a manner which he/she reasonably believed to be in or not opposed to the best interests of the Corporation and with respect to any criminal action, suit or proceeding, that he/she had reasonable cause to believe that his/her conduct was unlawful.

Any indemnification under this section, unless ordered by a court, shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer or former Director or former officer is proper in the circumstances because he/she has met the applicable standards of conduct set forth in this Section. Such determination shall be made by

(a) a majority vote of a quorum of the Directors who were not and are not parties to or threatened with any such action, suit or proceeding, or (b) if such quorum is not attainable or if a majority vote of a quorum of disinterested Directors so directs, in a written opinion by independent legal counsel who has been retained by the Corporation, or (c) by a court of competent jurisdiction, or (d) by the court in which such action, suit or proceeding was brought.

Expenses, including attorney fees, incurred in defending any action, suit or proceeding referred to in this section, may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon the receipt of an undertaking by or on behalf of the Director, officer or former Director or former officer, to repay such amount, unless it shall ultimately be determined that he/she is entitled to be indemnified by the Corporation as authorized in this Section.

The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law, under any insurance policy purchased by the Corporation or under any other agreement.

7.2 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, protecting said persons against any liability asserted against him/her and/or incurred by him/her in any such capacity or arising out of his/her status as such, whether or not the Corporation would have indemnified him/her against such liability under Section 7.1 of these By-laws.

7.3 Litigation. Notwithstanding any other provision of the By-Laws, the Declaration or the Articles, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Lot Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Declaration (including, without limitation, the enforcement of the restrictive covenants or the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article V of the Declaration, (c) proceedings involving challenges to ad valorem taxation, or (d) counter claims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant pursuant to Section 10.4 of the Declaration or is approved by the percentage vote, and pursuant to the procedures set forth in Section 10.3 of the Declaration.

#### **Section 8. Miscellaneous**

8.1 Books and Records. The books, records and papers of the corporation shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the corporation shall be available for inspection by any member at the principal office of the corporation, where copies may be purchased at a reasonable cost.

8.2 Conflict. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of conflict between the Declaration and these By-Laws, the Declaration shall control.

8.3 Amendments. The By-Laws of the Corporation may be amended from time to time by a two-thirds (2/3) vote of the Board of Directors.



**ARTICLES OF INCORPORATION**

**DARLINGTON CREEK HOMEOWNERS ASSOCIATION, INC.**

The undersigned, being over the age of twenty-one (21) years, do hereby voluntarily associate themselves for the purpose of forming a nonstock, nonprofit Kentucky corporation in accordance with the provisions of Kentucky Revised Statutes Chapter 273.

1. Name. The Corporation's name shall be Darlington Creek Homeowners Association, Inc.

2. Duration. The Corporation's duration shall be perpetual.

3. Definitions. As used in these Articles of Incorporation the following terms shall have the following meanings:

(a) "Declaration" shall mean any Declaration of Covenants, Conditions and Restrictions and Reservation of Easements as amended from time to time, affecting Darlington Creek subdivision in Campbell County, Kentucky.

(b) "Declarant" shall mean Darlington Creek Developers, L.L.C., a Kentucky limited liability company, and shall include any person, corporation or association to which it may expressly assign its rights, or any of them, from time to time, under these Articles of Incorporation.

(c) "Lot" shall mean each subdivided lot or similar property as set forth in the Declaration, the owner of which property is a member of the Corporation.

4. Purposes. The Corporation is organized under the Kentucky Nonprofit Corporation Act and the purposes and objects for which the Corporation is formed are as follows:

(a) To promote the social welfare and serve the common good and general welfare of the members of the Corporation and to construct, operate, maintain and repair any common area, whether owned by the Corporation or not, as contemplated by the Declaration.

(b) Notwithstanding the generality of the foregoing, the Corporation shall not (1) devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, or (2) directly or indirectly participate in, intervene in (including the publishing or distributing of statements), any political campaign on behalf or in opposition to any candidate for public office.

5. Powers. In addition to all other powers the Corporation may have pursuant to the Kentucky Nonprofit Corporation Act, the Corporation shall have the powers to:

(a) Exercise and enforce any right or privilege assigned to it under the Declaration; and

(b) Assess, levy and collect assessments against each Lot and against members of the Corporation as provided in any Declaration.

6. Internal Affairs. Provisions for the regulation of the internal affairs of the Corporation, including provisions for the distribution of assets on dissolution or final liquidation, are:

(a) The membership of the Corporation shall consist of the members designated from time to time in the Declaration, and such members shall be classified as follows:

(1) Class A membership shall consist of all Lot owners, with the exception of the Declarant.

(2) Class B membership shall consist of the Declarant. The Class B membership shall cease and be converted to Class A membership at the time the Class A members are entitled to elect all of the Board of Directors as provided in the Declaration and the Corporation's By-Laws.

(b) Each Class A member shall have one vote in respect of each Lot owned by such member, and the Class B member shall have five (5) votes in respect of each Lot owned by such member.

(c) Nothing in these Articles of Incorporation shall limit the right of the Developer to alter in any way its plans for the development of the Lots at any time and from time to time.

(d) No part of the Corporation's net earnings shall inure to the benefit of any individual or any shareholder of the Corporation, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered.

(e) Upon the dissolution or final liquidation of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation to one or more organizations designated by the Board of Directors at that time, to be used in such manner as in the judgment of the Board of Directors will best accomplish the general purposes of the Corporation. Any of such assets not so disposed of shall be disposed of by a court of competent jurisdiction in the county in which the principal office of the Corporation is then located, exclusively for such purposes or to such organization or organizations as said court shall determine, which are organized and operated exclusively for such purposes.

7. Office and Agent. The address of the Corporation shall be 500 Thomas More Pkwy Crestview Hills Ky. 41017. The name and address of the Corporation's initial Registered Agent shall be TOWNE Properties Northern Kentucky DISTRICT OFFICE 500 Thomas More Pkwy Crestview Hills KY. 41017-3454  
ATTN: GEORGE HOPE

8. Board of Directors. The number of directors constituting the Corporation's initial Board of Directors shall be three (3), and the names and addresses of the persons who are to serve as the initial directors are:

<u>NAME</u>	<u>ADDRESS</u>
Robert D. Krohngold	2880 Losantiville Avenue Cincinnati, Ohio 45213
James R. Daffin	4010 North Bend Road, Suite 304 Cincinnati, Ohio 45211
Donald R. Misrach	8619 Calumet Way Cincinnati, Ohio 45249

9. Amendment. These Articles of Incorporation may be amended in the manner now or hereafter provided by Kentucky Statute for the amendment hereof, but only with the assent of seventy-five percent (75%) of the total number of votes held by the entire membership of the corporation.

10. Incorporators. The names and addresses of the incorporators are Robert D. Krohngold, James R. Daffin and Donald R. Misrach.

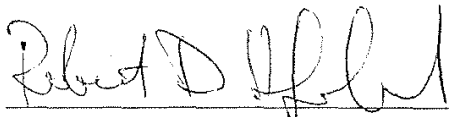
11. Elimination of Personal Liability of Directors. No director of the Corporation shall be personally liable for monetary damages for breach of his/her duties as a director, provided, however, that this provision shall not eliminate or limit the liability of any director for:

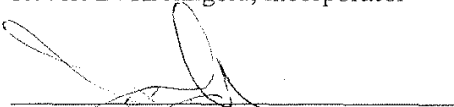
(a) Any transaction in which the director's personal financial interest is in conflict with the financial interests of the Corporation.

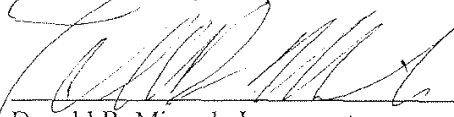
(b) Acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be in violation of law.

(c) Any transaction from which the director derived an improper personal benefit.

IN WITNESS WHEREOF, the incorporators have signed triplicate originals of these Articles of Incorporation on 10/14, 2005.

  
\_\_\_\_\_  
Robert D. Krohngold, Incorporator

  
\_\_\_\_\_  
James R. Daffin, Incorporator

  
\_\_\_\_\_  
Donald R. Misrach, Incorporator

OHIO  
STATE OF ~~KENTUCKY~~ :  
: SS:  
COUNTY OF HAMILTON :

The foregoing instrument was acknowledged before me by Robert D. Krohngold, James R. Daffin and Donald R. Misrach, on the 5<sup>th</sup> day of OCTOBER, 2005.

Dusty Bramkamp  
Notary Public  
My Commission Expires: 10/20/2009

DUSTY BRAMKAMP  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Expires 10/20/2009

This instrument prepared by:

Steph R. Hunt  
Stephen R. Hunt, Esq.  
Aronoff, Rosen & Hunt  
2200 U.S. Bank Tower  
425 Walnut Street  
Cincinnati, Ohio 45202  
(513) 241-0400

Parcel I:  
GROUP NO. 70105/Z (ALEX)

PIDN: #999-99-30-086.00

Situated in the Commonwealth of Kentucky, County of Campbell and being more particularly described as follows:

BEGINNING at a point in the westerly right of way of US 27 being 250 feet (more or less) southeast of the intersection of US 27, Herringer Road, and KY 154 East;

THENCE leaving said right of way and with the easterly line of Fairlane Baptist Church (D.B. 126, Page 202), passing a found iron pin at 4.99 feet, South 25° 34' 28" West for a distance of 374.01 feet to a found brass plug set in concrete;

THENCE with the southwesterly line of Fairlane Baptist Church North 32° 21' 55" West for a distance of 376.40 feet to a found brass plug set in concrete;

THENCE leaving said line of said church and with the easterly line of Aubrey and Ruby Renchen (D.B. 224, Page 506) South 46° 03' 55" West for a distance of 96.38 feet to a found iron pin;

THENCE with the southwesterly line of Renchen North 25° 45' 53" West for a distance of 209.28 feet to a found iron pin;

THENCE leaving the lines of Renchen and with the southerly line of Eastern Kentucky Rural Electric Cooperative Corporation (D.B. 132, Page 180) North 68° 22' 08" West for a distance of 217.12 feet to a fence post having a witness pin set by Charles Cleveland, KY PLS #3479 of Cahill Surveyors Inc.;

THENCE leaving said line and with the southerly since of Harry W. and Dorothy Darlington (D.B. 123, page 167) North 61° 37' 46" West for a distance of 276.87 feet to an iron pin set by Charles Cleveland, KY PLS #3479 of Cahill Surveyors Inc.;

THENCE leaving the line of Darlington and with the lines of Ernest and Christa Jordan (D.B. 139, Page 405) for two calls:

South 48° 39' 59" West for a distance of 884.75 feet to an iron pin set by Charles Cleveland, KY PLS #3479 of Cahill Surveyors Inc.;

South 39° 59' 32" East for a distance of 1861.08 feet to a 14" Walnut tree;

THENCE leaving the lines of Jordan and with the lines of Richard L. Vater (D.B. 186, Page 475) and Victor and Mary Vater (D.B. 101, Page 464) North 50° 00' 00" East for a distance of 1155.56 feet to a found iron pin;

THENCE with the southwesterly lines of George Kees, Jr. (D.B. 155, page 206), Charlie and Anna Stidham (D.B. 170, Page 231), Torry and Dolores Haralson (D.B. 128, Page 422), and Charles and Rejeanna Fischer (D.B. 195, page 442) North 37° 27' 03" West for a distance of 389.03 feet to an iron pin set by Charles Cleveland, KY PLS #3479 of Cahill Surveyors Inc.;

THENCE with the westerly line of Fischer North 52° 32' 15" East for a distance of 225.00 feet to an iron pin set by Charles Cleveland, KY PLS #3479 of Cahill Surveyors Inc.; said point also lying on the westerly right of way of US 27; THENCE with the westerly right of way of US 27 North 37° 32' 29" West for a distance of 635.55 feet to the point of beginning.

Containing 50.4174 acres.

Subject to 100' right of way easement to East Kentucky Rural Electric Cooperative Corporation dated April 20, 1956 and recorded in Miscellaneous Book 11, Page 89.

Also subject to easement to Postal Telegraph Cable Company dated November 28, 1932 and recorded in Miscellaneous Book 3, Page 458.

Subject to all conditions, restrictions and easements of record.

Parcel II:

GROUP NO. 70105/Z (ALEX)

PIDN: #999-99-30-087.00

Situated in Campbell County, Kentucky and lying along the southwest side of the Old State Road Turnpike, a county roadway which leads from U.S. Highway No. 27, near junction of Ky. Highway No. 154 and bounded and described as follows:

Beginning at Point No. 1, a spike in the center of the Old State Road Turnpike, a county roadway which leads from U.S. Highway No. 27, near junction of Ky. Highway No. 154, and being a corner to Gerald Vater; thence with the center of said road, S. 62° 00' E., 212.0' to Point No. 2, a spike in the center of said road at the northwest corner of the Owen County Rural Electric Cooperative property; thence leaving said road with the line of said Electric Company, S. 26° 45' W., 210.7' to Point No. 3, a stake at the southwest corner of said electric company; thence N. 63° 15' W., 237.0' to Point No. 4, a stake in the southeast boundary of Gerald Vater; thence with said line in part, N. 34° 15' E. 214.0' to the point of beginning containing 1.08 acres more or less.

EXCEPTION ONE: EXCEPTING THEREFROM the sell-out of 1.061 acres conveyed to East Kentucky Power Cooperative, Inc. by deed from Harry W. Darlington and Dorothy L. Darlington, husband and wife, dated March 7, 1997 and recorded in Deed Book No. 226, Page 88 of the Campbell County Clerk's records at Alexandria, Kentucky.

EXCEPTION TWO: EXCEPTING THEREFROM the sell-out of Tract A-3,756.1 square meters (40,431 square feet), Tract B-876.3 square meters (9,433 square feet), Tract C-1,790.0 square meters (19,267 square feet) and Tract D-747.2 square meters (8,042 square feet) conveyed to Transportation Cabinet, Department of Highways, by deed from Delbert K. Perry and Mary Beth Perry, husband and wife, dated March 17, 2003 and recorded in Deed Book No. 261, Page 221 of the Campbell County Clerk's records at Alexandria, Kentucky.

EXCEPTION THREE: EXCEPTING THEREFROM the 2.5841 acres being retained by the grantors herein and more particularly described as follows:

Situated in Campbell County, Kentucky, and lying along Southwest right-of-way line of U.S. Highway No. 27, South of Grants Lick, and being more particularly described as follows;

Beginning at a set 1/2" iron pin and cap stamped "B.R.COX KY 3381" and being the Northwest corner of Delbert K. Perry (D.B. 262 Pg. 656), in the Southwest right-of-way line of U.S. Highway No. 27;

Thence with Perry's line South  $56^{\circ}44'45''$  West for a distance of 143.32' feet to a set 1/2" iron pin and cap;

Thence South  $33^{\circ}15'15''$  East for a distance of 389.03' feet to a set 1/2" iron pin and cap a common corner with George Kees Jr. (D.B. 183 Pg. 523);

Thence South  $54^{\circ}06'32''$  West for a distance of 147.65' feet to a set 1/2" iron pin and cap;

Thence with a new division line through the property of Delbert K. Perry (D.B. 257 Pg. 29) the following six (6) calls:

North  $35^{\circ}27'41''$  West for a distance of 201.12' feet to a set 1/2" iron pin and cap;

North  $80^{\circ}31'09''$  West for a distance of 153.18' feet to a set 1/2" iron pin and cap;

North  $00^{\circ}48'00''$  West for a distance of 160.45' feet to a set 1/2" iron pin and cap;

North  $49^{\circ}58'17''$  East for a distance of 118.79' feet to a set 1/2" iron pin and cap;

North  $03^{\circ}40'14''$  West for a distance of 137.97' feet to a set 1/2" iron pin and cap;

North  $56^{\circ}26'55''$  East for a distance of 135.92' feet to a set 1/2" iron pin and cap in the Southwest right-of-way of U.S. Highway No. 27;



Thence with said right-of-way South 32°38'07" East for a distance of 162.12' feet to a set 1/2" iron pin and cap;

Thence South 48°43'14" East for a distance of 17.72' feet to the POINT OF BEGINNING, containing 2.5841 Acres. This description is based on an actual field survey performed by Cardinal Engineering under the direct supervision of Brian R. Cox, P.L.S. on August 14, 2003.

Subject to all conditions, restrictions and easements of record.

Being the same property, less exceptions Two and Three, conveyed to Delbert K. Perry, one of the grantors herein, by deed from Harry W. Darlington and Dorothy L. Darlington, husband and wife, dated August 29, 2002 and recorded in Deed Book No. 257 at Page 29 of the Campbell County Clerk's records at Alexandria, Kentucky.

FIRST AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR DARLINGTON CREEK SUBDIVISION

This First Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision (the "Amendment") is made this 17<sup>th</sup> day of May, 2006 by Darlington Creek Developers, L.L.C., a Kentucky limited liability company, (the "Declarant") under the following circumstances:

WHEREAS, on October 3, 2005, the Declarant executed the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision (the "Declaration") as recorded in Official Record Book 222, Page 842 of the Campbell County Clerk's Records at Alexandria, Kentucky; and

WHEREAS, in accordance with Section 10.4 of the Declaration, the Declarant desires to amend the Declaration in order to make certain nominal changes to the Declaration.

NOW THEREFORE, the Declarant hereby declares that:

1. That Article V of the Declaration is hereby deleted and the following is inserted in its place:

"ARTICLE V  
ASSESSMENTS

GENERAL INDEX 2nd SERIES  
GROUP NO. 70105/B1, B6  
*C. Kuehl* 7/18/06  
INDEX CLERK

5.1 Covenant for Assessments. The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereinafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made.

**LEGAL DESCRIPTION  
DARLINGTON CREEK SUBDIVISION  
SECTION 1**

Being all of Lot(s) Number 36, 101, 104, 105 and 116 of Darlington Creek Subdivision, Section 1, as recorded in Plat Slides E-388-B, E-389-A, E-389-B and E-390-A of the Campbell County Clerk's Records at Alexandria, Kentucky.

Lot 36  
Lots 101, 104, 105  
Lot 116

Group #70105-B1 999-99-30-086.26  
Group #70105-B6  
Group #70105-B9 999-99-30-086.22

Lot 101 - 999.99 - 30 - 086.05  
Lot 104 - 999.99 - 30 - 086.10  
Lot 105 - 999.96 - 30 - 086.11

Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such property and Lot at the time when the assessment fell due.

5.2 Annual Assessments, Purposes. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development. The Annual Assessments shall consist of the Annual General Assessment and the Annual Sewer Assessment.

5.2.1 Annual General Assessment. To carry out these purposes, an Annual General Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas, including, but not limited to, the payment of taxes, insurance and fidelity bonds, and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and including the maintenance, repair and landscaping of streets and right of ways, and, in the discretion of the Association, including any entrance roads or adjoining roads or areas, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association.

5.2.2 Annual Sewer Assessment. To carry out these purposes, an Annual Sewer Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the purpose of maintaining the sewage treatment plant for the Property including those costs incurred pursuant to a Contract for Operation and Maintenance of the Treatment Plant between the Association and Sanitation District Number One.

5.3 Annual Assessments, Initial Amount. Until January 1, 2007, the maximum Annual General Assessment for each Class A membership for general purposes provided in Section 5.2.1 shall not exceed One Hundred Eighty Four and 00/100 Dollars (\$184.00) per Living Unit. The Annual General Assessment shall be paid on a semi-annual basis.

Until January 1, 2007, the maximum Annual Sewer Assessment for each Class A Membership for the general purposes provided in Section 5.2.2 shall not exceed Four Hundred Eighty and 00/100 Dollars (\$480.00) per Living Unit. The Annual Sewer Assessment shall be paid on a quarterly basis.

5.4 Annual Assessment; Increase.

(a) From and after the date of the commencement of the Annual General Assessment, the amount of the maximum Annual General Assessment, set out in Section 5.3 above,

for all Membership shall increase automatically ten percent (10%) per year in addition to the maximum sum allowed for the previous year (whether charged or not), unless prior to the levying of such new assessment year, the Board of Trustees vote to reduce the assessment below that allowed to be charged in such year. As used herein, the term "allowed to be charged" shall mean the sum set out in Section 5.3 above, increased and compounded ten percent (10%) per year, beginning with the year immediately following the date of the commencement of the Annual General Assessment.

(b) From and after the date of the commencement of the Annual General Assessment, the maximum Annual General Assessment for all Membership may be increased above that established by the preceding paragraph, by a vote of Members as hereinafter provided for the next succeeding year and at the end of such year for each succeeding year. Any change made pursuant to this paragraph shall have the assent of fifty-one percent (51%) of the total number of votes held by Class A Members and fifty-one percent (51%) of the total number of votes held by Class B Members.

(c) From and after January 1, 2007, the amount of the Annual Sewer Assessment shall be levied by the Board on such Lots in such amount as may be necessary, in the determination of the Board of Trustees, to carry out the purposes of the Annual Sewer Assessment.

(d) All assessment shall be fixed at a uniform rate based upon the number of Living Units situated on the Lots. Annual Assessments and any income derived therefrom shall be held as separate funds and shall be accounted for separately from the other assets coming under the control of the Association.

(e) In the event that the need for the maintenance or repair of landscaping is caused through the willful or negligent act of the Owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs (including costs incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become a part of the assessment against the individual Lot upon which the maintenance or repairs are performed.

(f) For the purpose solely of performing the maintenance and repair required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, without notice to the Owner, to enter upon any Lot at reasonable hours on any day.

5.5 Individual Assessments. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that to be provided by the Association under Section 5.2 above for which assessments are provided, then the Association, after approval by sixty-six and two-thirds (66-2/3%) vote of all Members of the Board shall have the right through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and

repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become part of the total assessment to which such Lot is subject.

5.6 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any assessment year Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, replacement or addition of a described capital improvement located upon the Common Areas, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of fifty-one (51%) percent of the total number of votes held by Class A Members and fifty-one (51%) percent of the total number of votes held by the Class B Members. Any Special Assessments levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly or annual basis.

5.7 Commencement of Assessments. The Annual Assessments shall commence on January 1, 2007, or at such other date as determined by the Association. The first assessment for any such membership may be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of the assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at the time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any Lot subject thereto. Annual Assessments subsequent to the first Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

5.8 Assessment of Declarant and Builders. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Declarant shall be required to pay an Annual General Assessment for any recorded, unsettled Lot in which it has the interest otherwise required for Class A membership only in any amount equal to ten (10%) percent of the Annual General Assessments and Special Assessments which the Association levies for purposes

set forth in Sections 5.2 and 5.6. The provisions of this Section 5.8 shall not apply to the assessment of any Lot and Living Unit held by the Declarant for rental purposes and which is or has been occupied as a Living Unit; in which event the Declarant shall be required to pay the full amount of the assessments levied thereon. The Declarant shall be exempt from the requirement to pay the Annual Sewer Assessment for any Lot and Living Unit.

Any provision of this Declaration or the Articles of Incorporation or By-Laws of the Association notwithstanding, the Builder shall be required to pay an Annual General Assessment for any recorded Lot owned by it in the amount of a one time payment of One Hundred and 00/100 Dollars (\$100.00) per Lot. The Builder shall be exempt from the requirement to pay the Annual Sewer Assessment for any Lot and Living Unit unless such Living Unit is connected to the sewer system for the subdivision; in which event the Builder shall be required to pay the full amount of the Annual Sewer Assessment levied thereon.

5.9 Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered.

5.10 Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner shall waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or abandonment of his Lot or Living Unit.

In addition to the ten percent (10%) per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the assessment which is delinquent by fifteen (15) days.

5.11 Subordination of Lien to Mortgage. The lien of the assessments 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, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or through foreclosure shall not be liable for more than six (6) months of the Lot's unpaid assessments or charges accrued before the acquisition of title to the Lot by the mortgagee.

5.12 Capital Contribution and Assessment at Closing. Upon closing or within thirty (30) days after the closing on the purchase of a Lot from a Builder, the purchaser of such Lot shall be required to pay the sum of Two Hundred and 00/100 Dollars (\$200.00) as such purchaser's initial capital contribution to the working capital of the Association. This assessment shall be used by the Association for its operating expenses. Such assessment is not an advance payment of assessments, and it will not be held in any sort of trust or reserve account. Additionally, upon closing or within thirty (30) days after such closing with a Builder, each purchaser of a Lot shall be required to pay a pro-rata share of the Annual Assessments, for the balance of the current year to the extent that such assessments are not otherwise being collected by the Association. The Declarant and each Builder shall be exempt from the assessments collected pursuant to this Section.”

2. The above described real property shall be held, sold and conveyed subject to the covenants, conditions and restrictions and reservation of easements contained in the Declaration which shall run with said real property and shall be binding on all parties having any right, title or interest in such real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

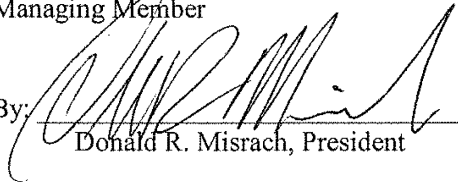
3. This Amendment is made pursuant to the authority granted to Declarant by Section 10.4 of the Declaration providing for the amendment of the Declaration. Except as set forth above, no changes or revisions are affected in the Declaration referred to above and said Declaration as now amended, is hereby reaffirmed by the incorporation herein by reference of each and every page thereof.



IN WITNESS WHEREOF, the Declarant has hereunto executed this Amendment on the date and year first above written.


DARLINGTON CREEK DEVELOPERS, L.L.C

By: Cobblestone Development Company,  
Managing Member


By:   
Donald R. Misrach, President

STATE OF OHIO :  
: SS.  
COUNTY OF HAMILTON :

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of May, 2006 by Donald R. Misrach, President of Cobblestone Development Company, Managing Member of Darlington Creek Developers, L.L.C., a Kentucky limited liability company, on behalf of the company.

  
Notary Public

This instrument prepared by:

  
Stephen R. Hunt, Esq.  
Aronoff Rosen & Hunt  
2200 U.S. Bank Tower  
425 Walnut Street  
Cincinnati, Ohio 45202  
513-241-0400

**CONSENT OF PROPERTY OWNER**

The undersigned, SMI New Home Solutions, LLC, a Kentucky limited liability company, as owner of the real property described in the attached Exhibit "A", hereby subjects such real property to the terms and conditions of the First Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision and agrees that all such properties shall be held, sold and conveyed subject to such documents.

IN WITNESS WHEREOF, SMI New Home Solutions, LLC, a Kentucky limited liability company, has hereunto set its signature on this 22nd day of May, 2006.

SMI NEW HOME SOLUTIONS, LLC,  
a Kentucky limited liability company

By: Mark Wheatley  
Name: Mark Wheatley  
Title: Managing Member

STATE OF Kentucky :  
                                  : SS.  
COUNTY OF Boone  :

The foregoing instrument was acknowledged before me this 22nd day of May, 2006 by Mark Wheatley, managing member of SMI New Home Solutions, LLC, a Kentucky limited liability company, on behalf of said company.

Pamela Schierberg  
NOTARY PUBLIC



Recorded : JACK SNODGRASS  
ALEXANDRIA CAMPBELL COUNTY CLERK  
Document type : AMENDMENT  
Book / Page : 227 / 883 3 pgs  
Document No : 06 06 05 019 00034  
Dt/Tm Recorded: 06/05/2006 09:38:10  
Total Fees : 25.00 0.00  
Clerk Name : TRACY S GASKINS

**SECOND AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR DARLINGTON CREEK SUBDIVISION**

This Second Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision (the "Amendment") is made this 27th day of May, 2010 by Darlington Creek Developers, L.L.C., a Kentucky limited liability company, (the "Declarant") under the following circumstances:

**WHEREAS**, on October 3, 2005, the Declarant executed the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision (the "Declaration") as recorded in Official Record Book 222, Page 842 of the Campbell County Clerk's Records at Alexandria, Kentucky; and

**WHEREAS**, on the 5th day of June, 2006, a First Amendment to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Darlington Creek Subdivision ("Amendment No. 1") as recorded in Official Record Book 227, Page 803 of the Campbell County Clerk's Records at Alexandria, Kentucky; and

**WHEREAS**, in accordance with Section 10.4 of the Declaration, the Declarant desires to amend the Declaration in order to make certain nominal changes to the Declaration.

**NOW THEREFORE**, the Declarant hereby declares that:

1. Article VII of the Declaration is hereby amended by adding the new Section 7.3.14

Storage Sheds as follows:

7.3.14 Storage Sheds. Storage sheds shall be permitted on any Lot provided that plans and specifications, including location of the shed on the Lot, are approved in accordance with Section 7.1 of the Declaration. All sheds shall be a minimum of 10 feet off of the rear

1

GENERAL INDEX 2nd SERIES  
GROUP NO. 70105/B1  
*C. Kump*  
INDEX CLERK

thru B10

property line and a minimum of 5 feet off the side property line. Sheds shall not be any closer to the street than the rear setback line of the Living Unit situated on a Lot. In addition, any shed placed on a Lot shall compliment in color the Living Unit situated thereon.”


2. The real property described in Exhibit A shall be held, sold and conveyed subject to the covenants, conditions and restrictions and reservation of easements contained in the Declaration which shall run with said real property and shall be binding on all parties having any right, title or interest in such real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

3. This Amendment is made pursuant to the authority granted to Declarant by Section 10.4 of the Declaration providing for the amendment of the Declaration. Except as set forth above, no changes or revisions are affected in the Declaration referred to above and said Declaration as now amended, is hereby reaffirmed by the incorporation herein by reference of each and every page thereof.

IN WITNESS WHEREOF, the Declarant has hereunto executed this Amendment on the date and year first above written.

DARLINGTON CREEK DEVELOPERS, L.L.C

By: Cobblestone Development Company,  
Managing Member

By:   
Donald R. Misrach, President

STATE OF OHIO :  
: SS.  
COUNTY OF HAMILTON :

BOOK 263 PAGE 29

The foregoing instrument was acknowledged before me this 27th day of May, 2010 by Donald R. Misrach, President of Cobblestone Development Company, Managing Member of Darlington Creek Developers, L.L.C., a Kentucky limited liability company, on behalf of the company.

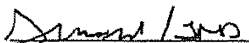


Notary Public



Kathleen Merrick  
Notary Public, State of Ohio  
My Commission Expires 06-18-2013

This instrument prepared by:



Stephen R. Hunt, Esq.  
Aronoff Rosen & Hunt  
2200 U.S. Bank Tower  
425 Walnut Street  
Cincinnati, Ohio 45202  
513-241-0400

5/27/2010\nc:\Letters\TMD\Darlington Creek\amendment 2.doc

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Recorded : JACK SNODGRASS  
ALEXANDRIA CAMPBELL COUNTY CLERK  
Document Type : AMENDMENT  
Book / Page : 263 / 25 5 pgs  
Document No : 10 06 24 019 00200  
Dt/tm Recorded: 06/24/2010 14:20:14  
Total Fees : 103.00 0.00  
Clerk Name : ANNETTA MCCLAREN

KPSC 2021-00265  
App Exhibit A

LEGAL DESCRIPTION  
DARLINGTON CREEK SUBDIVISION  
SECTION 1

Being all of Lot Numbers 34 thru 50 inclusive, 57 thru 63 inclusive, 101 thru 117 inclusive, Parcels A, B and right-of-way, of Darlington Creek Subdivision, Section 1, as recorded in Plat Slides E-388-B, E-389-A, E-389-B and E-390-A of the Campbell County Clerk's Records at Alexandria, Kentucky.

Group Nos.

70105-B1	Lots 34 thru 38	70105-B6	Lots 101 thru 105
70105-B2	Lots 39 thru 43	70105-B7	Lots 106 thru 110
70105-B3	Lots 44 thru 48	70105-B8	Lots 111 thru 115
70105-B4	Lots 49, 50, 57, 58	70105-B9	Lots 116, 117
70105-B5	Lots 59 thru 63	70105-B10	Parcels A, B & right-of-way

Dated Recorded: December 16, 2005

Declaration of Covenants  
for Community Association Book 222, Page 842  
November 28, 2005

DARLINGTON CREEK SUBDIVISION  
SECTION 1

PIDNs			
PIDN	Lot	Loc Num	Street
999-99-30-086.03	Open Space A	n/a	Darlington Creek Drive
999-99-30-086.04	Open Space B	n/a	Darlington Creek Drive
999-99-30-086.05	101	976	Darlington Creek Drive
999-99-30-086.06	57	974	Darlington Creek Drive
999-99-30-086.07	58	970	Darlington Creek Drive
999-99-30-086.08	102	969	Darlington Creek Drive
999-99-30-086.09	103	973	Darlington Creek Drive
999-99-30-086.10	104	12804	Walnut Creek Drive
999-99-30-086.11	105	12808	Walnut Creek Drive
999-99-30-086.12	106	12810	Walnut Creek Drive
999-99-30-086.13	107	12814	Walnut Creek Drive
999-99-30-086.14	108	12816	Walnut Creek Drive
999-99-30-086.15	109	12819	Walnut Creek Drive
999-99-30-086.16	110	12817	Walnut Creek Drive
999-99-30-086.17	111	12813	Walnut Creek Drive
999-99-30-086.18	112	12809	Walnut Creek Drive
999-99-30-086.19	113	12805	Walnut Creek Drive
999-99-30-086.20	114	977	Darlington Creek Drive
999-99-30-086.21	115	981	Darlington Creek Drive
999-99-30-086.22	116	985	Darlington Creek Drive
999-99-30-086.23	117	989	Darlington Creek Drive
999-99-30-086.24	34	12837	Sycamore Creek Drive
999-99-30-086.25	35	12833	Sycamore Creek Drive
999-99-30-086.26	36	12829	Sycamore Creek Drive
999-99-30-086.27	37	12825	Sycamore Creek Drive
999-99-30-086.28	38	12821	Sycamore Creek Drive
999-99-30-086.29	39	12817	Sycamore Creek Drive
999-99-30-086.30	40	12813	Sycamore Creek Drive
999-99-30-086.31	41	12809	Sycamore Creek Drive
999-99-30-086.32	42	12805	Sycamore Creek Drive
999-99-30-086.33	43	961	Darlington Creek Drive
999-99-30-086.34	44	965	Darlington Creek Drive
999-99-30-086.35	45	953	Darlington Creek Drive
999-99-30-086.36	46	12806	Sycamore Creek Drive
999-99-30-086.37	47	12810	Sycamore Creek Drive
999-99-30-086.38	48	12814	Sycamore Creek Drive
999-99-30-086.39	49	12822	Sycamore Creek Drive
999-99-30-086.40	50	12830	Sycamore Creek Drive
999-99-30-086.41	59	966	Darlington Creek Drive
999-99-30-086.42	60	962	Darlington Creek Drive
999-99-30-086.43	61	958	Darlington Creek Drive
999-99-30-086.44	62	954	Darlington Creek Drive
999-99-30-086.45	63	950	Darlington Creek Drive

# Darlington Creek

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November 20, 2020

Dear Darlington Creek Owner:

The 2021 Budget for Darlington Creek Homeowners' Association and for the Darlington Creek Sewer District have been completed. This was done with a thorough review of our financial statements, past expenses, vendor contracts, and anticipated increases. If you would like a copy of the final budget for 2021, please contact Pam Schweiss at 859-291-5858.

Your 2021 fees for Darlington Creek HOA will not increase. The fees remain at:

- \$269.50 per year - \$134.75 due January 1, 2021 and \$134.75 due July 1, 2021

Your 2021 Sewer District fees also will not increase and will remain at \$540.00 per year to accommodate the costs of maintaining the sewer plant. The payments will continue to be due monthly.

- \$45.00 per month due January 1, 2021 & the 1<sup>st</sup> of each month thereafter

***Important Changes – Payment Information: Please see the enclosed payment options inside your coupon booklet.***

Your current Board members are Donald R. Misrach, James R. Daffin, and homeowners Deron Jump and Randy Smith. Your Board appreciates the comments of all residents of Darlington Creek and their interest in the community. On behalf of the Board of Directors and Towne Properties, *We Wish You a Safe & Happy Holiday Season!*

For the Darlington Creek HOA,

***Pam S. Schweiss***

Pam Schierer Schweiss, *CMCA, CAM*  
Senior Association Manager  
*Managing Agent for Darlington Creek HOA*

PS\jdr  
Enclosures

Ref:darlington creek2021budget\budget letter





MATTHEW G. BEVIN  
GOVERNOR



CHARLES G. SNAVELY  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

ANTHONY R. HATTON  
COMMISSIONER

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601

May 13, 2019

Ms. Pam Schweiss  
C/O Towne Properties  
500 Thomas More Parkway  
Crestview Hills, KY 41017

Re: KPDES Final Permit Issuance  
KPDES No.: KY0105325  
Darlington Creek HOA Subdivision  
AI ID: 44397  
Campbell County, Kentucky

Dear Ms. Schweiss:

Enclosed is the Kentucky Pollutant Discharge Elimination System (KPDES) permit for the above-referenced facility. This action constitutes a final permit issuance under 401 KAR 5:075, pursuant to KRS 224.16-050.

This permit will become effective on the date indicated in the attached permit provided that no request for adjudication is granted. All provisions of the permit will be effective and enforceable in accordance with 401 KAR 5:075.

Any demand for a hearing on the permit shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470 and any regulations promulgated thereto. Any person aggrieved by the issuance of a permit final decision may demand a hearing, pursuant to KRS 224.10-420(2), within thirty (30) days from the date of the issuance of this letter. Two (2) copies of request for hearing should be submitted in writing to the Energy and Environment Cabinet, Office of Administrative Hearings, 211 Sower Boulevard, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Water, 300 Sower Boulevard, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.

If you have any questions regarding the KPDES decision, please contact the Surface Water Permits Branch by phone at (502) 564-3410 or via email at [SWPBSupport@ky.gov](mailto:SWPBSupport@ky.gov). Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Office of Administrative Hearings at (502) 564-7312.

Sincerely,

A handwritten signature in black ink that reads "Peter T. Goodman".

**Peter T. Goodman, Director**  
Division of Water

PTG: JMH: asw  
Enclosure

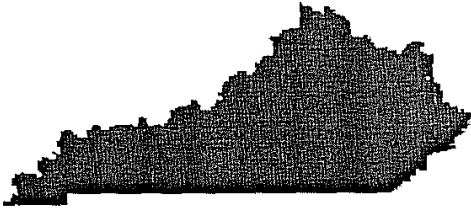


[KentuckyUnbridledSpirit.com](http://KentuckyUnbridledSpirit.com)

An Equal Opportunity Employer M/F/D

KPSC 2021-00265  
App Exhibit D

KPDES



KENTUCKY POLLUTANT  
DISCHARGE ELIMINATION  
SYSTEM

PERMIT

AUTHORIZATION TO DISCHARGE UNDER THE  
KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

PERMIT NO.: KY0105325

AGENCY INTEREST NO.: 44397

**Pursuant to Authority in KRS 224,**

Darlington Creek Homeowners Association, INC (C/O Towne Properties)  
500 Thomas More Parkway  
Crestview Hills, KY 41017

**is authorized to discharge from a facility located at**

Darlington Creek Subdivision  
US 27 & Highway 154  
Alexandria, Campbell County, Kentucky

**to receiving waters named**

UT to Phillips Creek

**in accordance with effluent limitations, monitoring requirements and other conditions set forth in this permit.**

This permit shall become effective on July 1, 2019.

This permit and the authorization to discharge shall expire at midnight, June 30, 2024.

May 13, 2019

Date Signed

Peter T. Goodmann, Director  
Division of Water

DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
Division of Water, 300 Sower Blvd, Frankfort, Kentucky 40601

Printed on Recycled Paper

KPSC 2021-00265  
App Exhibit D

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ANDY BESHEAR  
GOVERNOR

REBECCA W. GOODMAN  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET**  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER  
8020 VETERANS MEMORIAL DRIVE SUITE 110  
FLORENCE KY 41042

ANTHONY R. HATTON  
COMMISSIONER

July 24, 2020


Ms. Pam Schweiss  
Darlington Creek HOA  
C/o Town Properties  
500 Thomas Moore Parkway  
Crestview Hills, Kentucky 41017

Re: Notice of Violation  
AI ID: 44397  
AI Name: Darlington Creek HOA  
Activity ID: ENV20200001  
Permit No. KY0105325  
Campbell County, KY

Ms. Schweiss:

On June 24, 2020, the Division of Water issued Darlington Creek HOA a Notice of Violation (NOV). The Florence Regional Office appreciates Darlington Creek HOA efforts to address the compliance issues raised by the NOV. The actions taken by Darlington Creek HOA in response to the NOV are considered sufficient at this time with regard to the violations listed in the NOV. The Cabinet reserves its rights under KRS Chapter 224 and its administrative regulations to undertake such enforcement action hereafter as it deems appropriate, which may include consideration of the compliance issues addressed by the NOV. If you have any questions, please feel free to contact me at (859) 525-4923.

Sincerely,

 Recoverable Signature

---

Mr. Jeffrey R. Malsi  
Environmental Inspector  
Florence Regional Office  
Division of Water

JRM  
Enclosure:

KPSC 2021-00265  
App Exhibit E



Energy and Environment Cabinet  
Department for Environmental Protection  
Division of Water  
Wastewater Inspection Report

6/15/20

**AI ID:** 44397

**AI Type:** RESIDENCE- Subdivision (nec)

**AI Name:** Darlington Creek HOA Subd

**AI Address:** US 27 S & KY 154

**City:** Alexandria **State:** Kentucky **Zip:** 41001

**County:** Campbell

**Regional Office:** Florence Regional Office

**Latitude:** 38.853333 **Longitude:** -84.386667

**Site Contact:** Carl Crone

**Title:** Operator

**Inspection Type:** WW CEI-Minor Non-Municipal

**Activity #:** CIN20200002

**Inspection Start Date:** June 10, 2020 **Time:** 11:05 AM **End Date:** June 10, 2020 **Time:** 11:20 AM

**Site/Permit ID:** KY0105325

**Lead DEP Investigator:** Jeff Malsi

**Persons Interviewed:** Carl Crone

**General Comments:** Treatment facility consists of two treatment plants. The facility was designed to treat the wastewater flow at complete build out of the subdivision. One of the treatment plants has not been placed in operation. A new section of the subdivision has been built and is adding additional flows to the treatment facility. The overall rating of this inspection is Out of Compliance - Notice of Violation Issued. This is due to the facility not being properly operated and sludge observed in the stream.

**Overall Compliance Status: Out of Compliance- NOV**

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**Investigation Results**

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**SI:** AIOO44397

**SI Description:**

**Inspector Comment:**

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KPSC 2021-00265  
App Exhibit E

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**Requirement:** Does the facility hold the proper KPDES permit?. [401 KAR 5:055 Section 2]

**Compliance Status:** C-No Violations observed

**Comment:** Facility holds a permit that became effective on July 1, 2019.

---

**Requirement:** Have all required permits been obtained from the Division of Water prior to the construction or modification of the facility? [401 KAR 5:005 Section 1]

**Compliance Status:** N-Not Applicable

**Comment:** No construction at or modification of the treatment plant has occurred for several years.

---

**Requirement:** Is the facility being operated under the supervision of a properly certified operator? [401 KAR 5:010 Section 1]

**Compliance Status:** C-No Violations observed

**Comment:** Facility is operated under the supervision of Carl Crone, a properly certified operator.

---

**Requirement:** Is the collection system under the primary responsibility of an individual who holds an active collection system certification at the level appropriate for the size of the treatment facility receiving the waste? [401 KAR 5:010 Section 2]

**Compliance Status:** C-No Violations observed

**Comment:** Collection system in under the primary responsibility of Carl Crone, who holds an active collection system certification at the appropriate level.

---

**Requirement:** Does the permittee retain records of all monitoring information including: the date, exact place, and time of sampling or measurements; the name of the individual who performed the sampling or measurements; the dates and times analyses were performed; the name of the individual who performed the analyses; the analytical techniques or methods used; the results of the analyses; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by this permit; and records of all data used to complete the application for this permit, for the period required by the cabinet and at a minimum of at least three (3) years from the date of the sample, measurement, report, or application? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** E-Not Evaluated

**Comment:** Due to the COVID 19 pandemic a records review could not be conducted.

---

**Requirement:** Is the facility required to prepare and implement a groundwater protection plan (GPP) as specified in regulation 401 KAR 5:037? If yes, does the facility have a GPP?. [401 KAR 5:037]

**Compliance Status:** E-Not Evaluated

**Comment:** Due to the COVID 19 pandemic a records review could not be conducted.

---

Waste water treatment plants are required to have a GPP.

---

**Requirement:** Is the permittee reporting monitoring results to the cabinet at the intervals specified in the permit? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** C-No Violations observed

**Comment:** The facility's permit that became effective on July 1, 2019 requires DMR submission quarterly.

---

The first quarter 2020 DMR was reviewed as part of this inspection and was submitted at the proper interval.

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**Requirement:** Are the monitoring results reported to the cabinet on a Discharge Monitoring Report (DMR)? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** C-No Violations observed

**Comment:** The facility has migrated to the federal EPA's Net DMR data base for the submission of DMRs.

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**Requirement:** If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, are the results of this monitoring included in the calculation and reporting of the data submitted in the DMR? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** C-No Violations observed

**Comment:** All DMRs reviewed indicate only one sampling per period. No additional test data should exist that would need to be included.

---

**Requirement:** Are the calculations for all limitations which require averaging of measurements utilizing an arithmetic mean unless otherwise specified by the Cabinet in the permit? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** C-No Violations observed

**Comment:** All DMRs reviewed indicate only one sampling per period. No additional test data should exist that would need to be averaged.

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**Requirement:** Is the permittee in compliance for the reporting of spills, bypasses, and non-compliance according to 401 KAR 5:065 Section 2(1). [401 KAR 5:065 Section 2(1)]. [401 KAR 5:065 Section 2(1)]

**Compliance Status:** V-Out of Compliance-NOV

**Comment:** The facility has failed to report spills, bypasses and/or non-compliance as required by 401 KAR 5:065 Section 2(1).

A delta of waste water treatment sludge, containing sludge worms, was observed in the stream at the outfall. This indicates a bypass or multiple bypasses and non-compliance of permit conditions that have not been reported.

---

**Requirement:** Is the permittee in compliance with immediate reporting requirements for emergency or accidental releases to the environment according to 401 KAR 5:065 Section 3(5)? [401 KAR 5:065 Section 3(5)]

**Compliance Status:** V-Out of Compliance-NOV

**Comment:** The permittee has failed to immediately report a spill or multiple spills causing releases of pollutants or contaminants, bypass, upset, or other event of non compliance that may present an imminent or substantial danger to the environment or the public health or welfare as required by 401 KAR 5:065 Section 3(5).

A delta of waste water treatment sludge, containing sludge worms, was observed in the stream at the outfall.

This indicates a single or multiple emergency and / or accidental releases to the environment have occurred. These releases have not been reported.

---

**Requirement:** Is the facility being properly operated and maintained as specified in regulation 5:065? This includes:

(a) proper operation and maintenance of all facilities, systems of treatment and control, and related appurtenances which are installed or used by the permittee to achieve compliance with permit conditions;

(b) proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures;

(c) this provision also requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. [401 KAR 5:065 Section 2(1)]

**Compliance Status:** V-Out of Compliance-NOV

**Comment:** The facility is not being properly operated and maintained as required.

This facility was designed to treat sanitary waste from a subdivision at complete build out. This facility has two treatment plants back to back. One of the treatment plants is not in use.

Waste water sludge, with sludge worm colonies, was observed in the stream at the outfall.

A new section of the subdivision has recently been constructed and the additional homes have increased the wastewater flow to the treatment facility. After the previous inspection on February 10, 2020, the certified operator advised the inspector that the additional flow from the new homes required the activation of the second plant. When he attempted to start the other treatment plant, the aeration blower tripped the circuit breakers.

The aeration basin of the active treatment plant was covered in a thick tan foam. The certified operator believes the additional flow is causing an imbalance in the biomass of the plant and generating the foam.

These observations indicate that the treatment facility has not been properly operated often enough to meet permit conditions and that the other treatment plant may also need to be placed into service to properly treat the wastewater influent flow.

---

**Requirement:** Are the disinfection unit(s) maintained and operated properly to allow for compliance with permit conditions? [401 KAR 5:005 Section 11]

**Compliance Status:** V-Out of Compliance-NOV

**Comment:** The facility has failed to properly maintain and / or operate the disinfection unit.

Wastewater sludge was observed in the stream at the plant outfall. This sludge as it passed through the disinfection unit caused an increased chlorine demand and would prevent the waste water from being properly disinfected.

---

**Requirement:** Does the flow measuring device measure all flow received at the WWTP? For large wastewater facilities (average daily design capacity >50, 000 gpd), is flow measured by an indicating, recording, and totalizing flow measuring device? [401 KAR 5:005 Section 12]

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**Compliance Status:** N-Not Applicable

**Comment:** The average daily design capacity of this treatment facility is 0.0495 MGD. This places the facility in the intermediate class. The facility is not required to have an indicating, recording and totalizing flow measuring device.

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**Requirement:** Is a source of water provided for cleanup? If potable water is used, is a backflow preventor installed to protect the water supply? [401 KAR 5:005 Section 10(6)]

**Compliance Status:** C-No Violations observed

**Comment:** A frost proof yard hydrant exists at the plant on its own water meter. Backflow prevention is provided by the backflow preventer in the meter setter box.

---

**Requirement:** Has fencing with a lockable gate been installed around the wastewater treatment plant? [401 KAR 5:005 Section 10(7)]

**Compliance Status:** C-No Violations observed

**Comment:** Facility is surrounded by a fence with a lockable gate.

---

**Requirement:** Has an all-weather access road been installed to allow access to the wastewater treatment plant? Is the road adequately maintained to allow access to the facility for operation and maintenance activity? [401 KAR 5:005 Section 10(8)]

**Compliance Status:** C-No Violations observed

**Comment:** An all weather access road is in place.

---

**Requirement:** Sewage sludge. Did the facility meet the requirements governing the disposal of sewage sludge from publicly owned treatment works, in accordance with 40 CFR Part 503? [401 KAR 5:065 Section 2(4)]

**Compliance Status:** C-No Violations observed

**Comment:** When needed, a sewage pump truck is used to remove solids.

---

**Requirement:** Is the effluent in compliance with KPDES permit limitations? Do the Discharge Monitoring Reports indicate KPDES permit violations? [401 KAR 5:065 Section 2(1)]. [401 KAR 5:065 Section 2(1)]

**Compliance Status:** C-No Violations observed

**Comment:** The first quarter 2020 DMR was reviewed as part of this inspection.

---

No permit exceedances were reported.

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**Requirement:** Are samples taken in compliance with the monitoring requirements and taken at the following location(s): nearest accessible point after final treatment, but prior to actual discharge or mixing with receiving waters? Are the samples representative of plant flow? Are flow proportioned samples obtained when required by the KPDES permit? Are grab samples collected according to the KPDES permit requirements? Are composite samples collected and analyzed according to the KPDES permit conditions? Are samples collected according to KPDES permit requirements? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** E-Not Evaluated

**Comment:** Inspector was not present during sampling.

---

**Requirement:** Are the facility sample collection procedures adequate? Are the samples collected in proper containers, preserved, and refrigerated properly? Are all samples analyzed within the allowed holding times? [401 KAR 5:065 Section 2(1)]

**Compliance Status:** E-Not Evaluated

**Comment:** Inspector was not present during sampling.

---

**Requirement:** Have samples been analyzed by a lab that has been certified according to 401 KAR 5:320? Are all field parameters collected by a lab or individual that holds a Field Only certification according to 401 KAR 5:320? [401 KAR 5:320]

**Compliance Status:** C-No Violations observed

**Comment:** Samples have been collected and analyzed by Pace Analytical a properly certified lab and who has field testing certification.

---

**Requirement:** Have pollutants entered the waters of the Commonwealth? [KRS 224.70-110]

**Compliance Status:** V-Out of Compliance-NOV

**Comment:** Pollutants have entered and contributed to the pollution of the waters of the Commonwealth.

---

Wastewater sludge, with sludge worm colonies, was observed in the stream at the outfall. This indicates pollutants are entering the waters of the Commonwealth.

---

**Requirement:** Have surface waters been aesthetically or otherwise degraded? [401 KAR 10:031 Section 2]

**Compliance Status:** V-Out of Compliance-NOV

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**Comment:** The waters of the Commonwealth have been degraded.

Waste water sludge, with sludge worm colonies, was observed in the stream at the outfall. This is causing the surface waters to be degraded.

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**Documentation**

- |                                                                             |                                                                    |
|-----------------------------------------------------------------------------|--------------------------------------------------------------------|
| <input checked="" type="checkbox"/> <b>Photos taken</b>                     | <input type="checkbox"/> Record of visual determination of opacity |
| <input checked="" type="checkbox"/> <b>Documents obtained from facility</b> | <input type="checkbox"/> <b>Samples taken by DEP</b>               |
| <input type="checkbox"/> <b>Samples taken by outside source</b>             | <input type="checkbox"/> Regional office instrument readings taken |
| <input type="checkbox"/> <b>Request for Submission of Documents</b>         | <input type="checkbox"/> <b>Other documentation</b>                |

**Inspector:**

Recoverable Signature



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**Date:** 6/15/2020

**Delivery Method:** Email

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## AGREEMENT FOR SALE OF UTILITY SYSTEM

**THIS AGREEMENT** ("Agreement"), is made and entered into this 7th day of October, 2020, by and between CENTRAL STATES WATER RESOURCES, INC., a Missouri corporation, or its affiliate ("Buyer"), and DARLINGTON CREEK HOMEOWNERS ASSOCIATION, INC., a Kentucky non-profit corporation ("Seller"), collectively ("Parties").

**WITNESSETH:**

**WHEREAS**, Seller is the owner and operates sewer facilities, in the area more particularly described and depicted in the documents attached hereto as *Exhibit "A"*, situated in Campbell County, Kentucky (hereinafter the "System"); and

**WHEREAS**, Buyer is a corporation, organized and existing under the constitution and the laws of the State of Missouri, with all the requisite power necessary to enter into the transaction described hereinafter; and

**WHEREAS**, Seller is a non-profit corporation, organized and existing under the constitution and the laws of the Commonwealth of Kentucky, with all the requisite power necessary to enter into the transaction described hereinafter; and

**WHEREAS**, Seller desires to sell, and Buyer desires to purchase, all the assets, property and real estate connected with the System including, but not limited to, all associated improvements owned by Seller for the conveyance of sewer to each of the customers connected to the service area (defined further below as "Assets"); and

**WHEREAS**, the parties have reached an understanding with respect to the sale by Seller and the purchase by Buyer of all of the Assets (as hereinafter defined) of the System.

**NOW, THEREFORE**, it is mutually agreed that:

1. **SALE OF ASSETS.**

For and in consideration of the receipt of the Purchase Price, as set forth below, and the covenants and promises hereinafter set forth, Seller agrees that on the date of the Closing (as hereinafter defined), Seller shall sell, transfer, assign and deliver to Buyer, or Buyer's designated affiliate, all of Seller's then existing assets pertaining to the provision of sewer service in the System located in Campbell County, in the Commonwealth of Kentucky, and related properties, including, without limitation, the following:

A. The land, improvements thereon, easements, rights of way, permits and leases

related to the System area depicted in *Exhibit "A"* and/or generally described in *Exhibit "B"*, attached hereto;

B. All of Seller's sewer service facilities, equipment, lines, plant, pipes, manholes and appurtenances;

C. Any machinery and equipment such as meters, tools, devices, mobile work equipment, and all furniture, fixtures, machinery, supplies and other tangible items, if any, located in Campbell County, Kentucky, and used or held for use in connection with the System as generally described in *Exhibit "C"*, attached hereto;

D. All of Seller's rights, title and interest in and to any franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, bonds or other financial assurances or guaranties, and customer deposits, if any, pertaining to, allocable to or arising out of the provision of sewer service in Campbell County, Kentucky as generally described in *Exhibit "D"*, attached hereto;

E. All of Seller's inventory, merchandise, contract rights, supplies, goodwill, and general intangibles including accounts receivable pertaining to the sewer service, except accounts receivable accrued prior to the Closing; and

F. All assets not described which are located in Campbell County, Kentucky, and used or useful to operate the System.

The assets to be sold and delivered, as above described, are hereinafter collectively described as the "Assets" and, except for the representations and warranties of Seller set forth herein, are being purchased in "AS IS" condition. All cash, cash equivalents, cash reserves and banking deposits in existence prior to the Closing are hereby excluded from the definition of Assets.

## 2. CONVEYANCES OF REAL ESTATE.

The real estate to be conveyed by Seller will include all facilities described herein and all interest of Seller in any sewer and other utility easements. The real estate will be conveyed by special warranty deed, in a form satisfactory to Buyer, and will vest marketable title in fact in the Buyer. Easements shall be assigned by written assignment or other means, in a form satisfactory to Buyer.

At Buyer's expense, Buyer shall obtain, at least thirty (30) calendar days prior to the Closing, a Commitment to issue an Owner's Policy of Title Insurance to Buyer in the amount of

the Purchase Price issued by a company authorized to issue title insurance in the Commonwealth of Kentucky, which policy shall insure the owner's title to be marketable as the same is described and defined in the American Land Title Association ("ALTA") title examination standards ("Title Standards"). After delivery of said title insurance commitment and Buyer's completion of the examination and/or review of the commitment and other relevant title information, Buyer shall notify Seller, in writing, of any objections thereto (the Parties agreeing that any objection falling within the said Title Standards shall not constitute a valid objection so long as Seller furnishes affidavits or other papers as described in such standards in order for the title company to delete the same). If there shall be no such notice of objection, then any exceptions in such Commitment or deficiencies in the title to the property noted on such Commitment shall be deemed waived and delivery of a deed in compliance with the terms of the Commitment shall be deemed compliance with the terms of this Agreement. If notice of any objections to defects in the title, as defined above, shall be delivered to Seller, then Seller shall have five (5) business days to correct the title and the Closing shall be postponed until such time, if necessary. If Seller elects not to, or cannot, correct such defects, then Buyer, at Buyer's option, may waive such defects and proceed to close or may cancel the contract and all obligations hereunder shall be null and void.

3. **REGULATORY APPROVAL.**

Buyer and Seller shall act diligently and cooperate with each other to obtain any regulatory approvals required from the Kentucky Public Service Commission ("PSC"), Kentucky Pollutant Discharge Elimination System ("KPDES"), or any other regulatory agency in the State of Kentucky, as determined by Buyer in its sole discretion, and to obtain transfer of Seller's permits, if any.

4. **PURCHASE PRICE.** Buyer agrees to pay to Seller at the Closing [REDACTED], for purchase of the Assets ("Purchase Price").

5. **CLOSING.**

The Closing of the sale shall take place at a mutually agreeable location no later than forty-five (45) days after the effective date of any necessary regulatory authority approval, satisfaction of Seller's Representations and Warranties and Conditions Precedent set forth herein, and Buyer having obtained financing under terms acceptable to Buyer in Buyer's sole discretion, or at such other time as the parties hereto may mutually agree (the "Closing"). At the Closing, Seller shall have delivered to Buyer such deeds, bills of sale, endorsements, assignments and other sufficient

instruments of transfer and conveyance as shall be effective to vest in Buyer such title to the Assets to be sold as provided in this Agreement and as set forth in Section 6.D, and Buyer will deliver to Seller the Purchase Price. From time to time, at Buyer's request and expense, whether at or after the Closing and without further consideration, Seller shall execute and deliver such other instruments of conveyance and transfer and take such other action as Buyer reasonably may require to more effectively convey and transfer to Buyer any of the Assets to be sold hereunder, and will assist Buyer in the collection or reduction to possession of such Assets. Buyer will pay all sales, transfer and documentary taxes, if any, payable in connection with the sale, transfers and deliveries to be made to Buyer hereunder. All ad valorem real estate taxes and assessments levied or assessed against the Assets for the calendar year 2020 shall be paid by Seller and not prorated as of the Closing. Buyer shall be responsible for any real estate taxes and assessments for the calendar year 2021 and thereafter. Monthly fees charged by the Seller to the homeowners utilizing the System shall not be prorated for the month of the Closing. Buyer shall pay the costs of recording all instruments required for the Closing to occur, the fees charged by the title company, and Buyer's attorneys' fees. Seller shall pay for all attorneys' fees incurred by Seller.

On the date of the Closing, Buyer shall accept and assume ownership and title to the Assets to be conveyed hereunder and Buyer shall assume liability, and become responsible, for all obligations in connection with the Assets going forward, excepting responsibility for any liabilities and/or obligations of Seller in connection with the Assets that existed prior to the date of the Closing.

6. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

The Seller represents and warrants as follows:

A. **Organization and Standing of Seller.**

Seller is a non-profit corporation organized and existing under the constitution and laws of the Commonwealth of Kentucky in good standing with the Kentucky Secretary of State.

B. **Liabilities.**

All liabilities or obligations of Seller, whether accrued, absolute, contingent or otherwise pertaining to or arising out from the Assets are liabilities and obligations of the Seller and shall remain the obligations of Seller after the date of the Closing.

C. **Absence of Certain Changes.**

After Buyer's inspection and acceptance of the Assets, there shall not be:

- i. Any material change in the use of the Assets in connection with the business or operations of the System;
- ii. Any damage, destruction or loss whether or not covered by insurance, materially and adversely affecting the Assets.

D. **Title to Properties.**

Within twenty (20) days prior to the Closing and with Buyer's assistance, Seller shall have obtained legal right to transfer all of the Assets. To the best of Seller's knowledge, unless Seller has disclosed any information in writing to the Buyer to the contrary, Seller owns the Assets to be sold under this Agreement, in all cases, free and clear of all liens, mortgages, pledges, leases, options, rights of first refusal, conditional sales agreements, encumbrances or other charges, except liens for taxes not yet due or payable, easements or right of ways, streets, railways, pipelines, electric transmission and distribution lines, telephone lines, drainage rights and other similar rights or restrictions of record which do not, either individually or in the aggregate have a materially adverse effect on the value or utility of the Assets to be sold hereunder.

Notwithstanding, but not in limitation of, the foregoing, Seller agrees to work with Buyer's surveyor prior to closing to establish, at Buyer's expense, the property boundaries and easement locations and to create a written plat of the distribution and collection lines showing the location of said lines with respect to lot lines, platted utility easements, if any, to the extent the same can be shown with reference to such lot lines and platted utility easements. Additionally, Buyer has furnished Seller with a letter, attached hereto as *Exhibit "E"*, outlining the process of approval by the Kentucky Public Service Commission for the acquisition of a wastewater system.

Within twenty (20) days prior to the Closing and with Buyer's assistance, Seller agrees to have identified any and all interests in land (including easements or license agreements) it has obtained in connection with its operation and maintenance of the System and will provide Buyer or Buyer's representatives copies of the same or a reference to the book and page number of the records of the Campbell County Recorder's Office where such easements are recorded. The cost of such identification and any related search being the sole responsibility of the Buyer.



Buyer shall have until twenty (20) calendar days prior to the Closing to determine: 1) if Seller lacks an easement or other interest necessary for operation of the System or 2) an easement is defective in title or interest conveyed. If it appears that Seller lacks a valid easement for any portion of the System, or any easement identified suffers from a defect in title or interest conveyed, Buyer at its option and in its sole discretion may: 1) cancel this Agreement, 2) independently negotiate with the owner of the affected property toward acquisition of the treatment plant and collection lines easements or other easements, 3) notify Seller that Buyer will cancel the Agreement unless a necessary easement is acquired or a defect satisfactorily cured or remedied, and 4) undertake any action, which in Buyer's sole and absolute discretion, would correct an easement or remedy the situation caused by a lack of an easement or proper land interest. Buyer's failure to cancel this Agreement, however, shall not relieve Seller from any of its duties of indemnification set forth in subsequent paragraphs herein, nor shall such failure be construed as Buyer's waiver of any such provisions.

**E. Authority to Operate.**

The Assets, as described at Section 1 of this Agreement, constitute all of the assets presently owned by the Seller pertaining to the System. To the best of Seller's knowledge, the System is being conducted, and as of the date of the Closing, will be conducted in full compliance with requirements of all regulatory bodies exercising jurisdiction with regard to rates and conditions of service, and with local building and zoning codes. Seller agrees that from the Effective Date until either the termination of this Agreement or until after the Closing that Seller will not file any notices, requests, compliance documents, pleadings, or any other documents with any governmental or quasi-governmental authority that has jurisdiction over Seller in the operation, regulation or oversight of the System or any other endeavors of Seller (whether related to the System or not) without first providing at least ten (10) days prior notice to the Buyer for review and comment on such filing.

**F. Litigation.**

There is no litigation or proceeding pending, or to the knowledge of Seller threatened, against or relating to Seller, in connection with the Assets, or the System, nor does Seller know, or have reasonable grounds to know, of any basis for any such action, or of any governmental investigation relative to Seller, the Assets, or the System, except as

otherwise disclosed to Buyer.

**G. No Violation or Breach.**

To the knowledge of Seller, the performance of this Agreement by Seller, including any preconditions or surviving warranties or representations, is not in violation of any laws, statutes, local ordinances, state or federal regulations, court orders or administrative order or ruling, nor is such performance in violation of any loan documents, conditions or restrictions in effect for financing, whether secured or unsecured.

**7. BUYER'S REPRESENTATIONS AND WARRANTIES.**

Buyer represents and warrants as follows:

**A. Organization and Standing of Buyer.**

Buyer is a corporation, organized and existing under the constitution and laws of the State of Missouri in good standing, and has the requisite power to purchase the Assets which are to be sold pursuant to the terms of this Agreement.

**B. Authority.**

The execution and delivery of this Agreement by Buyer and the purchase of the Assets as contemplated hereby have been duly authorized by Buyer, and all necessary action on the part of Buyer has been taken to authorize the execution and delivery of this Agreement and to consummate the sale contemplated hereby.

**8. CONDITIONS PRECEDENT FOR BUYER TO CLOSE.**

All obligations of Buyer under this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions:

**A. Regulatory Approval.**

Both Parties shall diligently pursue the required approvals and authorizations contemplated herein. In the event the Parties are unable to obtain the required regulatory approval or authorization to complete the transactions contemplated herein, Buyer may terminate this Agreement by providing written notice to Seller at Buyer's sole and absolute discretion.

**B. Representations and Warranties True at Closing.**

Seller's representations and warranties contained in this Agreement shall be true at the time of the Closing as though such representations and warranties were made at such



time.

C. **Performance.**

Seller shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Seller prior to or at the Closing, including the payment of all taxes and assessments, or portions thereof, attributable to the calendar year prior to the Closing, to include PSC assessments.

D. **Feasibility.**

Completion of Buyer's examination, testing and inspection of the Assets, the securing of any and all licenses, permits or governmental approvals Buyer deems necessary for Buyer's proposed uses of the Assets, and any other due diligence determined by the Buyer as necessary in order to determine the feasibility of this acquisition, the results of any of the foregoing to be satisfactory to Buyer, in its sole and absolute discretion. For purposes of this Agreement, the period from the date this Agreement is fully executed by both parties to the date that is twenty (20) days prior to the Closing, shall be referred to herein as the "Inspection Period." During the Inspection Period, Buyer, its employees, agents and contractors, shall have the right to enter onto any property owned by Seller that is related to the operation of the System, as it deems necessary or desirable, on reasonable prior notice to Seller to perform and complete architectural, environmental, engineering and/or other surveys, studies, inspections and tests on the Assets; to review zoning laws and applicable building codes; to obtain all necessary city, county, and state zoning approval, site plan or subdivision approvals, licenses and permits to authorize the uses of the Assets as intended by Buyer. Buyer shall indemnify Seller from any claims asserted against Seller or the Assets in connection with Buyer's inspection of the Assets.

E. **No Casualty.**

The Assets shall not have been adversely affected in any material way as a result of any strike, lockout, accident or other casualty or act of God or the public enemy, or any judicial, administrative or governmental proceeding.

F. **Buyer's Right to Terminate.** If Buyer determines, in its sole and absolute discretion, that any of the aforementioned conditions have not been met, Buyer shall have the right to terminate this Agreement at any time prior to the Closing upon written notice

to Seller.

9. **CONDITIONS PRECEDENT FOR SELLER TO CLOSE**

All obligations of Seller under this Agreement are subject to the fulfillment, prior to or at the Closing, of each of the following conditions:

A. **Representations and Warranties True at Closing.**

Buyer's representations and warranties contained in this Agreement shall be true at the time of the Closing as though such representations and warranties were made at such time.

B. **Performance.**

Buyer shall have performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by Buyer prior to or at the Closing.

10. **INDEMNIFICATION.**

Seller shall, and hereby does agree to indemnify and hold harmless Buyer, at any time after the Closing against and in respect of:

A. All liabilities or obligations of Seller with respect to the Assets, whether accrued, absolute, contingent or otherwise, and including all liabilities or obligations arising out of the transactions entered into, or any state of facts existing, prior to the date of the Closing, including, without limitation, such liabilities or obligations as are described in paragraph B of Section 6 hereof;

B. Any claim, damage or deficiency resulting from any misrepresentation, untrue warranty, breach of warranty, or nonfulfillment of any agreement on the part of Seller under this Agreement or from any misrepresentation in or omission from any certificate or other instrument furnished or to be furnished to Buyer under this Agreement;

C. Any claim, liability, damage or obligation arising out of or attributable to, directly or indirectly, the storage or disposal of hazardous waste or materials prior to the date of the Closing;

D. All actions, suits, proceedings, demands, assessments, judgments, costs (including attorney's fees) and expenses incident to any of the foregoing.

Seller shall reimburse Buyer, on demand, for any payment involuntarily made, required by

law to be made, or with the consent of Seller made by Buyer at any time after the date of the Closing in respect of any liability, obligation or claim to which the indemnity and hold harmless by Seller contained in this section relates.

11. **FEES AND COMMISSIONS.**

Each Party represents that it has not retained any broker or finder and is not paying, and is not obligated to pay, any finder's fee, commission or other transactional fee in connection with the transactions contemplated by this Agreement. Each Party shall pay its own fees for attorneys, accountants, appraisers or others engaged by it in the course of negotiating or executing this Agreement and in closing and completing the transactions hereunder provided. Fees for professional advisors retained jointly by the Parties for their mutual benefit shall be equally divided.

12. **HAZARD INSURANCE & CASUALTY LOSS.**

Seller shall maintain current hazard insurance in force on the Assets until the Closing. The risk of loss to the Assets shall pass to Buyer upon delivery of possession of the Assets to Buyer. If an event of casualty occurs to the Assets prior to the Closing, the Buyer may elect to either move to the Closing and accept any insurance proceeds as full satisfaction for the damage to the Assets or the Buyer may terminate this Agreement. Buyer shall notify Seller as to which option it elects within five (5) days prior to the Closing.

13. **BENEFIT.**

All of the terms of this Agreement shall be binding upon, and inure to the benefit of, and be enforceable by, the respective legal representatives of Seller, its successors and assigns, and the successors and assigns of Buyer.

14. **GOVERNING LAW.**

This Agreement shall be construed and enforced in accordance with the laws of the State of Kentucky.

15. **COUNTERPARTS.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement shall not be binding until executed by all Parties.

16. **NO THIRD PARTY BENEFICIARIES.**

This Agreement shall not confer any rights or remedies upon any Person other than the

Parties and their respective members, successors and permitted assigns.

17. **ENTIRE AGREEMENT.**

This Agreement (including the documents referred to herein) constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements or representations by or among the Parties, written or oral, to the extent they have related in any way to the subject matter hereof.

18. **SUCCESSION AND ASSIGNMENT.**

This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Buyer shall be permitted to assign its rights in this Agreement to an affiliated entity that the Buyer controls without need of consent by the Seller by providing written notice to the Seller of such assignment. Other than the foregoing permitted assignment, no Party may assign either this Agreement or any of its rights, interests or obligations hereunder without the prior written approval of Buyer and Seller, said approval not to be unreasonably withheld.

19. **HEADINGS.**

The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

20. **NOTICES.**

All notices, demands, consents, requests or other communications required to or permitted to be given pursuant to this Agreement shall be in writing, shall be given only in accordance with the provisions of this Section 20, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that, notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile if sent between the hours of 8:00 a.m. and 5:00 p.m. (the recipient's time) on a business day to the number set forth below with written confirmation of a successful transmission by the sender's facsimile machine; (c) when sent by electronic mail if (1) identified in the subject line as a notice under this Agreement, (2) sent between the hours of 8:00 a.m. and 5:00 p.m. on a business day to the email address set forth below, and (3) acknowledged as received by the recipient, by reply or separate email, (d) upon the

day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that, the sender has in its possession the return receipt to prove actual delivery); or (e) one (1) business day after the notice has been deposited with FedEx, United Parcel Service or other reliable overnight courier to be delivered by overnight delivery (provided that, the sending party receives a confirmation of actual delivery from the courier). The addresses of the parties to receive notices are as follows:

If to Buyer:

Josiah Cox, President  
Central States Water Resources, Inc.  
1650 Des Peres Road, Suite 303  
St. Louis, MO 63131  
Facsimile: (314) 238-7201  
Email: jcox@cswrgroup.com

With a Copy to:

James A. Beckemeier  
The Beckemeier Law Firm, LC  
13421 Manchester Road, Suite 103  
St. Louis, MO 63131  
Facsimile: (314) 965-0127  
Email: jim@beckemeierlaw.com

If to Seller:

Donald R. Misrach, President/Trustee  
Darlington Creek Homeowners Association, Inc.  
9497 Fox Creek Lane  
Mason, Ohio 45040  
Phone: (513) 532-7166 (cell)  
(513) 701-9340 (office)  
Facsimile: \_\_\_\_\_  
Email: donm@isoc.net

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

21. **AMENDMENTS AND WAIVERS.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by Buyer and Seller. No waiver by any party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

22. **SEVERABILITY.**

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

23. **EXPENSES.**

Buyer and Seller shall each bear its own costs and expenses (including legal and accounting fees and expenses) incurred in connection with the preparation of this Agreement and activities necessary for the Closing.

24. **CONSTRUCTION.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

25. **INCORPORATION OF EXHIBITS.**

The Exhibits identified in this Agreement are incorporated herein by reference and made a part hereof.

26. INTENTIONALLY DELETED.

27. **AUTHORITY TO EXECUTE.** Each person whose signature appears hereon represents, warrants and guarantees that he or she has been duly authorized and has full authority to execute this Agreement on behalf of the party on whose behalf this Agreement is executed.

28. **MOWING.** Following Closing, Buyer agrees to work in good faith with Seller

to coordinate the mowing of real property owned by Buyer at the same time as other common areas maintained by Seller.

29. **TAP FEES.** Buyer shall not be entitled to receive tap fees for twenty-eight (28) additional homes to be built within the System and such tap fees shall be paid directly to the developer of the Darlington Creek Subdivision.

**IN WITNESS WHEREOF**, the Parties have duly executed this Agreement as of the day and year first above written.


**SELLER:**

DARLINGTON CREEK HOMEOWNERS  
ASSOCIATION, INC.

By:   
Donald R. Misrach, President/Trustee

**BUYER:**

CENTRAL STATES WATER  
RESOURCES, INC.

By:   
Josiah Cox (Oct 7, 2020 11:55 CDT)  
Josiah Cox, President

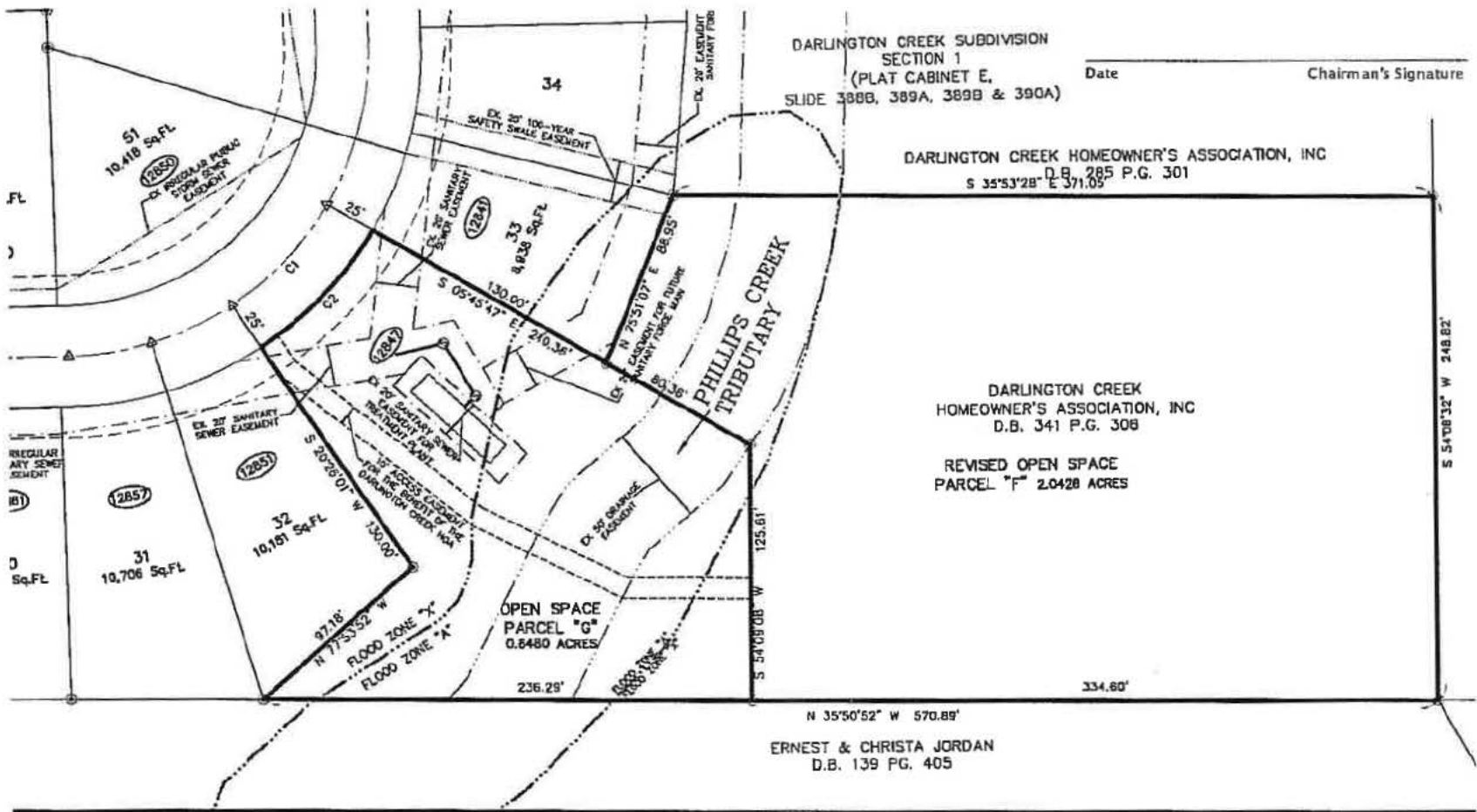
P:\KBuglione\_Letters\SRHMisrach, Don\Darlington Creek Homeowners Assn\Agreement for Sale of Utility System (Darlington Creek)  
(VIR).docx

**EXHIBIT "A"**

**Service Area Description**

[Service Area Map & Legal Description to be inserted prior to Closing]





DARLINGTON CREEK SUBDIVISION  
SECTION 1  
(PLAT CABINET E,  
SLIDE 388B, 389A, 389B & 390A)

Date \_\_\_\_\_ Chairman's Signature \_\_\_\_\_

DARLINGTON CREEK HOMEOWNER'S ASSOCIATION, INC  
D.B. 285 P.G. 301  
S 35°53'28" E 371.05'

DARLINGTON CREEK  
HOMEOWNER'S ASSOCIATION, INC  
D.B. 341 P.G. 308  
REVISED OPEN SPACE  
PARCEL "F" 2.0428 ACRES

N 35°50'52" W 570.89'  
ERNEST & CHRISTA JORDAN  
D.B. 139 P.G. 405

EXHIBIT "A"

**EXHIBIT "B"**

Description of Land, Improvements thereon, Easements, Rights of Way, Permits and Leases  
(The legal description(s) of the Land, Improvements thereon, Easements, Rights of Way shall be determined by  
survey and title commitments, which shall be inserted prior to the Closing).

**EXHIBIT "C"**

**Personal Property and Equipment**

(meters, tools, devices, mobile work equipment, furniture, fixtures, machinery, supplies, and other tangible items)

<b>Description</b>	<b>Balance of Associated Debt &amp; Lender Information</b>
Purestream ES Treatment Plant	
Specs & Drawings	

**EXHIBIT "D"**

**Rights Via Agreements, Contracts, Misc.**

(franchise agreements, franchise rights, warranties, contracts, supply contracts, agreements, bonds and/or other financial assurances and customer deposits)



October 5, 2020

Mr. Donald R. Misrach, President/Trustee  
Darlington Creek Homeowners Association, Inc.  
9497 Fox Creek Lane  
Mason, Ohio 45040  
Email: [donm@isoc.net](mailto:donm@isoc.net)

This email describes the process the Kentucky Public Service Commission (Commission) follows when asked to approve an acquisition of water or wastewater systems that will be operated as a regulated public utility after closing.

Following execution of a purchase agreement and completion of preliminary due diligence, the seller and buyer must jointly file a formal application seeking the Commission's authorization to consummate the transaction. Unless and until the Commission approves the sale, utility assets cannot lawfully be transferred by the seller and the buyer cannot commence operations as a public utility.

Once an application is filed, Kentucky law requires the Commission to complete its review within sixty (60) days, although the review period can be extended for an additional sixty (60) days upon a showing of good cause. As part of its review, the Commission's staff (and any intervenors who have requested and been granted permission to participate) almost always ask the applicants for additional information to clarify and amplify statements made in the application. This additional information helps the Commission reach a conclusion regarding whether the transaction is in the public interest. At the end of its review, the Commission must issue an order approving or denying the application, which may include conditions the applicants must accept before their transaction can be closed.

When it requests authority to acquire a water or wastewater system, Central States Water Resources (CSWR) routinely asks for authority to adopt the seller's existing tariff, which allows current service rates to remain in effect after closing. If CSWR wants to change rates in the future, it must first file a case asking the Commission's permission to do so because regulated utility cannot change a tariffed rate without the Commission's prior review and approval. The Commission's rules allow affected customers to make their views known about a proposed increase by formally intervening in the case or by submitting written comments.

KPSC 2021-00265  
App Exhibit F (redacted)



In addition to regulatory oversight provided by the Commission, water and wastewater systems in Kentucky also are regulated by the Energy and Environmental Cabinet (EEC), which is responsible for enforcement of public health and environmental safety regulations. Prior to closing, CSWR generally is obligated to obtain EEC authorization to transfer existing permits or secure new permits required to operate a wastewater system in Kentucky.

I hope the information provided above helps you better understand the process for obtaining required governmental approvals for the purchase transaction we are proposing. But if you have additional questions, I will be happy to discuss them with you and obtain any additional information you require.

Sandy Neal  
Regional Director of Utility Acquisitions

KPSC 2021-00265  
App Exhibit F (redacted)






# Darlington Treatment Signed Agreement

Final Audit Report

2020-10-07

Created:	2020-10-07
By:	Kimberly Faulkner (kfaulkner@cswrgroup.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAABAKI9TdSioskgKv9cgDtEaN8m77RGVskAk

## "Darlington Treatment Signed Agreement" History

-  Document created by Kimberly Faulkner (kfaulkner@cswrgroup.com)  
2020-10-07 - 4:37:17 PM GMT- IP address: 68.228.249.34
-  Document emailed to Josiah Cox (jcox@cswrgroup.com) for signature  
2020-10-07 - 4:37:50 PM GMT
-  Email viewed by Josiah Cox (jcox@cswrgroup.com)  
2020-10-07 - 4:54:44 PM GMT- IP address: 107.77.206.12
-  Document e-signed by Josiah Cox (jcox@cswrgroup.com)  
Signature Date: 2020-10-07 - 4:55:02 PM GMT - Time Source: server- IP address: 107.77.206.12
-  Agreement completed.  
2020-10-07 - 4:55:02 PM GMT

KPSC 2021-00265  
App Exhibit F (redacted)

Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection

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Darlington Creek Homeowners Association, Inc. – Darlington Creek  
WWTP KY0105325  
Alexandria, Kentucky  
Engineering Memorandum  
Date: September 15, 2021

#### Introduction



#### Existing Flows and Loadings and Projections



#### Permit Limitations and Historical Compliance Performance





Civil Engineering

GIS Mapping

Potable Water

Wastewater Treatment



Civil Site Design

Construction Support

Transportation

Wastewater Collection

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Wastewater Treatment Facility Existing Conditions



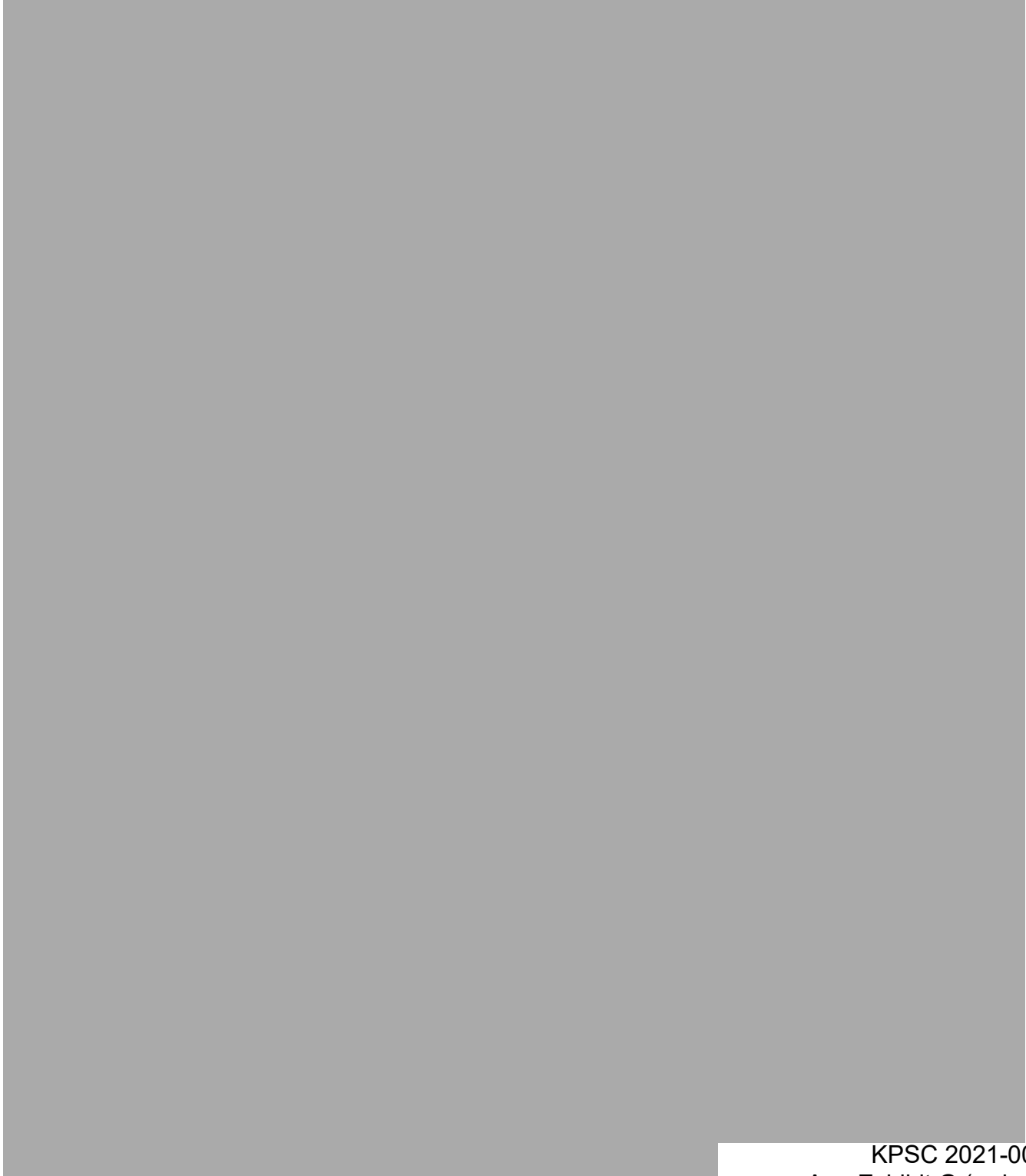
Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection

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Functionality of the Existing System



Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection



Wastewater Collection System Understanding



Wastewater Collection System Recommended Improvements



Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection

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Total Project Cost Estimate



Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection

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APPENDIX



Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



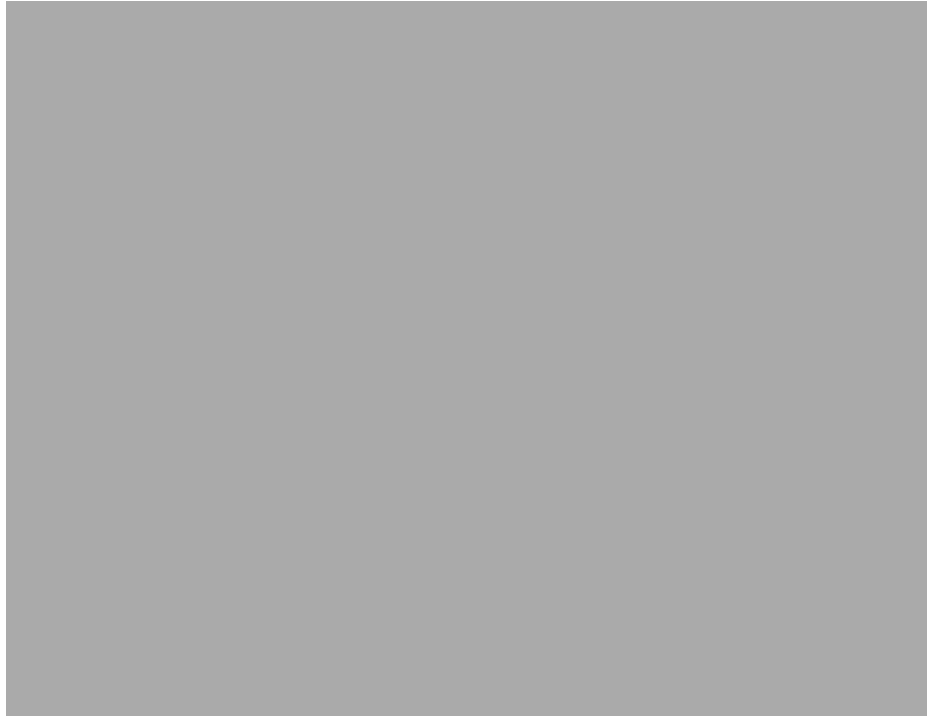
Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection



Civil Engineering  
GIS Mapping  
Potable Water  
Wastewater Treatment



Civil Site Design  
Construction Support  
Transportation  
Wastewater Collection



**Bluegrass**

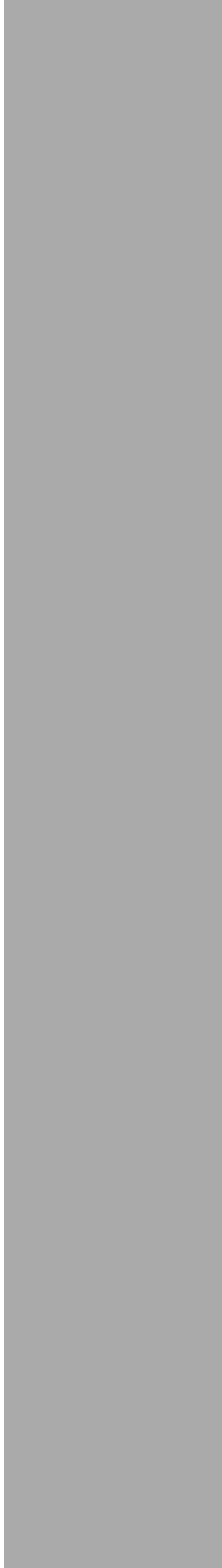
July 31, 2021 *\*Unaudited*

**Consolidated Balance Sheets**

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31-Jul-21

Current Assets	
Cash	
Accounts Receivable	
Other Current Assets	
Total Current Assets	
Property, Plant & Equipment, Net	
Misc Long-Term Assets	
Preliminary Survey & Investigation	
Investment in Associated Companies	
Unamortized Debt Expense	
Receivable from Associated Company	
Goodwill	
Intangible Assets	
Other Long-Term Assets	
Total Misc Long-Term Assets	
Deferred Debits	
<b>Total Assets</b>	
Current Liabilities	
Accounts Payable	
Notes Payable-Current Portion	
Other Current Liabilities	
Total Current Liabilities	
Long-Term Liabilities	
Notes Payable	
Payable to Associated Companies	
Contributions in Aid of Construction	
Other Long-Term Liabilities	
Total Long-Term Liabilities	
Deferred Income Tax Liability	
Capitalization	
Paid-In Capital	
Retained Earnings	
Net Income	
Total Capitalization	
<b>Total Liabilities and Capitalization</b>	





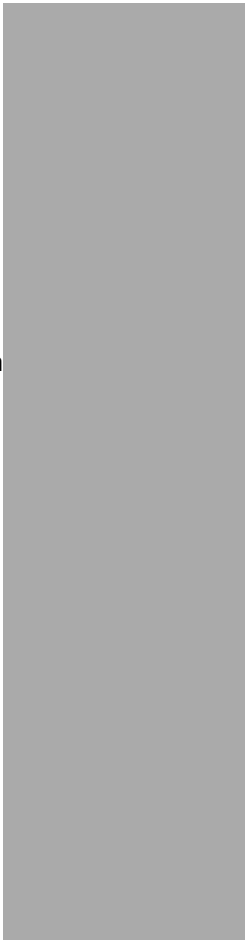
**Bluegrass**

July 31, 2021 *\*Unaudited*

**Consolidated Statements of Operations**

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**YTD**

Operating Revenue	
Operating Revenue	
Total Revenue	
Expense	
Operations & Maintenance	
General & Administrative	
Depreciation & Amortization	
Total Expense	
<b>Operating Income (Loss)</b>	
<b>Other Income (Expense)</b>	
Other Revenue	
Interest	
Income Tax	
<b>Net Income(Loss)</b>	