

**THE LINDENS**

**DECLARATIONS AND BY LAWS**

**THE LINDENS**  
**DECLARATION BINDER**

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1. Declaration for The Lindens, recorded with the Kane County Recorder of Deeds on September 5, 2001 as Document No. 2001K091775;
2. Sewer Easement Agreement recorded with the Kane County Recorder of Deeds on November 30, 2001 as Document No. 2001K126174;
3. Amendment No. 1 to Sewer Easement Agreement recorded with the Kane County Recorder of Deeds on July 19, 2002 as Document No. 2002K089109.
4. Dedication Agreement Re: Lot 348 in The Lindens Unit 3.
5. Supplement No. 1 to Declaration for the Lindens, recorded with the Kane County Recorder of Deeds on January 31, 2002 as Document No. 2002K016468
6. Special Amendment No. 1 to Declaration for The Lindens, recorded with the Kane County Recorder of Deeds on May 1, 2002 as Document No. 2002K057184.

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

*KA42908*  
Brian Melzer  
MELTZER, PURTILL & STELLE  
1515 East Woodfield Road  
Suite 250  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

FILED FOR RECORD  
KANE COUNTY, ILL.

2001K091775

2001 SEP -5 PM 1:30

*Sandy Wagnleitner*  
RECORDER

ABOVE SPACE FOR RECORDER'S USE ONLY

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08/31/01

## DECLARATION FOR THE LINDENS

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FIRST AMERICAN TITLE INSURANCE  
COMPANY  
ONE N. CONSTITUTION DR. SUITE 2  
AURORA, IL 60506

2001K091775

*Chop 43-80*

LINDEN-2

LINDEN-1

NE 25/38/7  
NW

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## DECLARATION FOR THE LINDENS

This Declaration is made by The Lindens Venture, L.L.C., an Illinois limited liability company ("Declarant").

### RECITALS

Declarant is the record title holder of a portion of the Development Area which is legally described in Exhibit A hereto. Some or all of the Development Area shall be the subject of a phase development called "The Lindens" (the "Development").

Initially, the Declarant shall subject the real estate which is legally described in Exhibit B hereto to the provisions of this Declaration as the Premises. From time to time the Declarant may subject additional portions of the Development Area to the provisions of this Declaration as Added Premises, as more fully described in Article Twelve. Nothing in this Declaration shall be construed to require the Declarant to subject additional portions of the Development Area to the provisions of this Declaration. Those portions of the Development Area which are not made subject to the provisions of this Declaration as Premises may be used for any purposes not prohibited by law.

Certain portions of the Premises are designated as Lots and other portions are designated as Community Area. The Declarant has formed (or will form) the Association under the Illinois General Not-For-Profit Corporation Act. The Association shall have the responsibility for administering and maintaining the Community Area and shall set budgets and fix assessments to pay the expenses incurred in connection with such responsibility. Each Owner of a Lot shall be a member of the Association and shall be responsible for paying assessments with respect to the Lot owned by such Owner.

If all of the Community Area is dedicated or conveyed to governmental agencies, then the Association may be dissolved as provided in Section 5.08 hereof.

During the construction and marketing of the Development, the Declarant shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, as more fully described in Article Nine, the right to come upon the Premises in connection with Declarant's efforts to sell Lots and other rights reserved in Article Nine.

NOW, THEREFORE, the Declarant hereby declares as follows:

### ARTICLE ONE Definitions

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

1.01 ASSOCIATION: The Lindens Homeowners Association, an Illinois not-for-profit corporation, its successors and assigns.

1.02 BOARD: The board of directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provisions of Article Five.

1.03 BY-LAWS: The By-Laws of the Association.

1.04 CHARGES: The Community Assessment, any special assessment levied by the Association and/or any other charges or payments which an Owner is required to pay or for which an Owner is liable under this Declaration or the By-Laws.

1.05 COMMUNITY AREA: Those portions of the Premises which are described and designated as "Community Area" in Exhibit B hereto, together with all improvements located above and below the ground and rights appurtenant thereto. The Community Area shall generally include open space, retention ponds, and landscaped areas.

1.06 COMMUNITY ASSESSMENT: The amounts which the Association shall assess and collect from the Owners to pay the Community Expenses and accumulate reserves for such expenses, as more fully described in Article Six.

1.07 COMMUNITY EXPENSES: The expenses of administration (including management and professional services), operation, maintenance, repair, replacement and landscaping of the Community Area; the cost of insurance for the Community Area; the cost of general and special real estate taxes and assessments levied or assessed against the Community Area owned by the Association; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the maintenance of the Community Area; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners.

1.08 COUNTY: Kane County, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the Recording of this Declaration.

1.09 DECLARANT: The Lindens Venture, L.L.C., an Illinois limited liability company, its successors and assigns.

1.10 DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.11 DEVELOPMENT AREA: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto. Exhibit A is attached hereto for informational purposes only and no covenants, conditions, restrictions, easements, liens or charges shall attach to any part of the real estate described therein, except to the extent that portions thereof are described in Exhibit B and expressly made subject to the provisions of this Declaration as part of the Premises. Any portions of the Development Area which are not made

subject to the provisions of this Declaration as part of the Premises may be developed and used for any purposes not prohibited by law, including, without limitation, as a residential development which is administered separate from the Development.

1.12 HOME: That portion of a Lot which is improved with a single family home.

1.13 LOT: Each subdivided lot designated in Exhibit B hereto as a Lot, together with all improvements thereon and thereto.

1.14 MORTGAGEE: The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Lot.

1.15 MUNICIPALITY: The City of Aurora, Illinois or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the Municipality as of the Recording of this Declaration.

1.16 NON-OWNER: A person other than an Owner or a Resident.

1.17 OWNER: A Record owner, whether one or more persons, of fee simple title to a Lot, including contract seller, but excluding those having such interest merely as security for the performance of an obligation. The Declarant shall be deemed to be an Owner with respect to each Lot owned by the Declarant.

1.18 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.19 PREMISES: The real estate which is legally described in Exhibit B hereto, as amended or supplemented from time to time, with all improvements thereon and rights appurtenant thereto.

1.20 RECORD: To record in the office of the Recorder of Deeds for the County.

1.21 RESIDENT: An individual who resides in a Home.

1.22 TURNOVER DATE: The date on which the rights of the Declarant to designate the members of the Board are terminated under Section 9.05.

1.23 VOTING MEMBER: The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Five.

## ARTICLE TWO

### Scope of Declaration

2.01 PROPERTY SUBJECT TO DECLARATION: Declarant, as the owner of fee simple title to the Premises, expressly intends to and by Recording this Declaration, does hereby subject the Premises to the provisions of this Declaration. Declarant reserves the right to add additional real estate to the terms of this Declaration as more fully provided in Article Twelve.

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2.02 CONVEYANCES SUBJECT TO DECLARATION: All covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in any part of the Premises. Any deed of conveyance, lease, mortgage, trust deed, other evidence of obligation, or other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the covenants, conditions, restrictions, easements, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved, or declared by this Declaration, as fully and completely as though they were set forth in their entirety in any such document, regardless of whether a specific reference is made in such instrument to this Declaration.

2.03 DURATION: Except as otherwise specifically provided herein the covenants, conditions, restrictions, easements, reservations, liens, and charges, which are granted, created, reserved or declared by this Declaration shall be appurtenant to and shall run with and bind the land for a period of forty (40) years from the date of Recording of this Declaration and for successive periods of ten (10) years each unless revoked, changed or amended in whole or in part by a Recorded instrument executed by the Owner of not less than three-fourths (3/4) of the Lots then subject to the Declaration.

2.04 LOT CONVEYANCE: Once a Lot has been conveyed by the Declarant to a bona fide purchaser for value, then any subsequent conveyance or transfer of ownership of the Lot shall be of the entire Lot and there shall be no conveyance or transfer of a portion of the Lot without the prior written consent of the Board.

### ARTICLE THREE The Community Area

3.01 IN GENERAL: The restrictions and limitations contained in this Article shall be subject to the rights of the Declarant set forth in Article Nine.

3.02 OWNERSHIP: The Community Area shall be conveyed to the Association by Declarant free and clear of any mortgage or trust deed whatsoever on or before the Turnover Date; provided, that, if any Community Area is made subject to this Declaration after the Turnover Date, such Community Area shall be conveyed to the Association free and clear of any mortgage or trust deed whatsoever simultaneously with such Community Area being made subject to this Declaration. The Association shall be responsible for the payment of any and all Community Expenses in connection with the Community Area, including, without limitation, real estate taxes, if any, and property damage and public liability insurance premiums.

3.03 RIGHT OF ENJOYMENT: Each Owner shall have the non-exclusive right and easement to use and enjoy the Community Area. Such rights and easements shall run with the land, be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Association.

3.04 DELEGATION OF USE: Subject to the provisions of this Declaration, the By-Laws, and the reasonable rules and regulations from time to time adopted by the Board, any Owner may delegate his right to use and enjoy the Community Area and the Owner's Lot to Residents of his Lot. An Owner shall delegate such rights to tenants and contract purchasers of the Lot who are Residents.

3.05 MAINTENANCE, REPAIR AND REPLACEMENT BY ASSOCIATION:

Maintenance, repairs and replacements of the Community Area shall be furnished by the Association, and shall include, without limitation, the following:

- (i) added planting, replanting, care and maintenance of trees, shrubs, flowers, grass and all other landscaping on the Community Area; and
- (ii) maintenance, repair and replacement of improvements on the Community Area.

The cost of any maintenance, repairs and replacement furnished by the Association pursuant to this Section shall be Community Expenses.

3.06 ALTERATIONS, ADDITIONS OR IMPROVEMENTS TO THE COMMUNITY AREA: No alterations, additions or improvements shall be made to the Community Area without the prior written approval of the Board. The Association may cause alterations, additions or improvements to be made to the Community Area and the cost thereof shall be paid from a special assessment, as more fully described in Section 6.05; except, that, any such alteration, addition or improvement which shall cost more than four (4) months assessments then in effect under the then current budget shall be approved in advance at a special meeting of the Owners.

ARTICLE FOUR  
Insurance/Condemnation

4.01 COMMUNITY AREA INSURANCE:

(a) The Association shall have the authority to and shall obtain fire and all risk coverage insurance covering the improvements, if any, to the Community Area (based on current replacement cost for the full insurable replacement value) of such improvements.

(b) The Association shall have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workers compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its directors and officers, the Declarant, the managing agent, if any, and their respective employees and agents, as their interests may appear, from liability resulting from an occurrence on or in connection with, the Community Area. The Board may, in its discretion, obtain any other insurance which it deems advisable including, without limitation, insurance covering the directors and officers from liability for good faith actions beyond the scope of their respective authorities and covering the

indemnity set forth in Section 5.06. Such insurance coverage shall include cross liability claims of one or more insured parties.

(c) Fidelity bonds indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Association or of any other person handling funds of the Association may be obtained by the Association in such amounts as the Board may deem desirable.

(d) The premiums for any insurance obtained under this Section shall be Community Expenses.

**4.02 CONDEMNATION:** In the case of a taking or condemnation by competent authority of any part of the Community Area, the proceeds awarded in such condemnation shall be paid to the Association and such proceeds, together with any Capital Reserve being held for such part of the Community Area, shall, in the discretion of the Board, either (i) be applied to pay the Community Expenses, (ii) be distributed to the Owners and their respective mortgagees, as their interests may appear, in equal shares, or (iii) be used to acquire additional real estate to be used and maintained for the mutual benefit of all Owners, as Community Area under this Declaration. Any acquisition by the Association pursuant to this Section of real estate which shall become Community Area hereunder shall not become effective unless and until a supplement to this Declaration, which refers to this Section and legally describes the real estate affected, is executed by the President of the Association and Recorded.

## ARTICLE FIVE The Association

**5.01 IN GENERAL:** Declarant has caused or shall cause the Association to be incorporated as a not-for-profit corporation under Illinois law. The Association shall be the governing body for all of the Owners for the administration and operation of the Community Area. The Association shall be responsible for the maintenance, repair and replacement of the Community Area.

**5.02 MEMBERSHIP** Each Owner shall be a member of the Association. There shall be one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The Association shall be given written notice of the change of ownership of a Lot within ten (10) days after such change.

**5.03 VOTING MEMBERS:** Subject to the provisions of Section 9.05, voting rights of the members of the Association shall be vested exclusively in the Voting Members. One individual shall be designated as the "Voting Member" for each Lot. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners. If the Record ownership of a Lot shall be in more than one person, or if an Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member for the Lot shall be designated by such Owner or Owners in writing to the Board and if in the case of multiple individual Owners no designation is given, then the Board at its election may recognize an individual Owner of the Lot as the Voting Member for such Lot.

5.04 BOARD: Subject to the rights retained by the Declarant under Section 9.05, the Board shall consist of that number of members provided for in the By-Laws, each of whom shall be an Owner or Voting Member.

5.05 VOTING RIGHTS: Prior to the Turnover Date, all of the voting rights at each meeting of the Association shall be vested exclusively in the Declarant and the Owners shall have no voting rights. From and after the Turnover Date, all of the voting rights at any meeting of the Association shall be vested in the Voting Members and each Voting Member shall have one vote for each Lot which the Voting Member represents. From and after the Turnover Date any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the By-Laws) upon an affirmative vote of a majority by the Voting Members present at such meeting, except as otherwise provided herein or in the By-Laws.

5.06 DIRECTOR AND OFFICER LIABILITY: Neither the directors nor the officers of the Association shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless the Declarant, Declarant and each of the directors and officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the directors and officers on behalf of the Owners or the Association or arising out of their status as directors or officers unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other in which any such director may be involved by virtue of such person being or having been such director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such director or officer.

5.07 MANAGING AGENT: The Declarant (or an entity controlled by the Declarant) may be engaged by the Association to act as the managing agent for the Association and as managing agent shall be paid a reasonable fee for its services as fixed by a written agreement between the Association and the Declarant (or an entity controlled by the Declarant). Any management agreement entered into by the Association prior to the Turnover Date shall have a term of not more than two years and shall be terminable by the Association without payment of a termination fee on 90 days written notice.

5.08 DISSOLUTION: Although it is currently anticipated that the Association will own and maintain the Community Area, it is possible that a governmental agency may accept a dedication or conveyance of all of the Community Area and accept responsibility for

maintenance of the Community Area. If that occurs and the Association has no maintenance responsibilities, then at the option of the Declarant (which may be exercised at any time prior to the Turnover Date) or at the option of the members of the Association (which may be exercised by action of the members after the Turnover Date), the Association shall be dissolved and liquidated and thereafter the provisions of this Declaration which deal with the powers and duties of the Association shall be null and void and of no further force and effect. Any distribution of assets of the Association shall be made to the Owners of Lots in equal amounts for each Lot owned.

**5.09 LITIGATION:** No judicial or administrative proceedings shall be commenced or prosecuted by the Association without first holding a special meeting of the members and obtaining the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the Lots to the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws or rules and regulations adopted by the Board (including, without limitation, an action to recover Charges or to foreclose a lien for unpaid Charges) or (b) counterclaims brought by the Association in proceedings instituted against it.

**5.10 ATTENDANCE AT BOARD MEETINGS BY OWNERS:** Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

## ARTICLE SIX

### Assessments

**6.01 PURPOSE OF ASSESSMENTS:** The assessments levied by the Association shall be limited to the purposes of maintaining the Community Area, administering the affairs of the Association, paying the Community Expenses, and accumulating reserves for any such expenses.

**6.02 COMMUNITY ASSESSMENT:** Each year on or before December 1, the Board shall adopt and furnish each Owner with a budget for the ensuing calendar year, which shall show the following with reasonable explanations and itemizations:

- (1) The estimated Community Expenses;
- (2) The estimated amount, if any, to maintain adequate reserves for Community Expenses including, without limitation, amounts to maintain the Capital Reserve;
- (3) The estimated net available cash receipts from the operation and use of the Community Area, plus estimated excess funds, if any, from the current year's assessments;
- (4) The amount of the "Community Assessment" payable by the Owners, which is hereby defined as the amount determined in (1) above, plus the amount determined in (2) above, minus the amount determined in (3) above;

(5) That portion of the Community Assessment which shall be payable with respect to the ensuing calendar year by the Owner of each Lot which is subject to assessment hereunder, which shall be equal to the Community Assessment divided by the number of Lots, so that each Owner shall pay equal Community Assessments for each Lot owned. The Community Assessment shall be paid in periodic installments as determined by the Board from time to time, but no less frequently than once each calendar year.

Anything in this Section to the contrary notwithstanding, during the Initial Development Period the assessment procedure set forth in Section 6.08 shall apply and the budget provided for in this Section need not disclose the information called for in Subsection (5) above, although the budget shall disclose the portion of each Owner's share of the Community Assessment which shall be added to the Capital Reserve.

**6.03 PAYMENT OF COMMUNITY ASSESSMENT:** Each Owner of a Lot which is subject to assessment shall pay to the Association, or as the Board may direct, that portion of the Community Assessment which is payable by each Owner of a Lot under Section 6.02(5) or Section 6.08, as applicable, at such times as the Board shall determine from time to time.

**6.04 REVISED ASSESSMENT:** If after the Turnover Date the Community Assessment proves inadequate for any reason (including nonpayment of any Owner's assessment) or proves to exceed funds reasonably needed, then the Board may increase or decrease the assessment payable under Section 6.02(5) by giving written notice thereof (together with a revised budget and explanation for the adjustment) to each Owner not less than ten (10) days prior to the effective date of the revised assessment.

**6.05 SPECIAL ASSESSMENT:** After the Turnover Date the Board may levy a special assessment as provided in this Section (i) to pay (or build up reserves to pay) expenses other than Community Expenses incurred (or to be incurred) by the Association from time to time for a specific purpose including, without limitation, to make alterations, additions or improvements to the Community Area, or any other property owned or maintained by the Association; or (ii) to cover an unanticipated deficit under the prior year's budget. Any special assessment shall be levied against all of Lots in equal shares. No special assessment shall be adopted without the affirmative vote of Voting Members representing at least two-thirds (2/3) of the votes cast on the question. The Board shall serve notice of a special assessment on all Owners by a statement in writing giving the specific purpose and reasons therefor in reasonable detail, and the special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section (other than those to cover an unanticipated deficit under the prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

**6.06 CAPITAL RESERVE:** The Association shall segregate and maintain special reserve accounts to be used solely for making capital expenditures in connection with the Community Area (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Community Area and other property owned by the Association and periodic projections of the cost of

anticipated major repairs or replacements to the Community Area and the purchase of other property to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the Community Assessment which shall be added to the Capital Reserve and each Owner shall be deemed to make a capital contribution to the Association equal to such percentages multiplied by each installment of the Community Assessment paid by such Owner.

**6.07 INITIAL CAPITAL CONTRIBUTION:** Upon the closing of the first sale of a Lot by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to one sixth of the Community Assessment at the rate which shall become effective with respect to the Lot as of the closing. Said amount shall be held and used by the Association for its working capital needs.

**6.08 ASSESSMENTS DURING INITIAL DEVELOPMENT PERIOD:** Anything herein to the contrary notwithstanding, from the date of the Recording of this Declaration until the first meeting of the Voting Members after the Turnover Date (the "Initial Development Period"), the assessment procedure set forth in this Section shall apply.

(a) The Index. For purposes hereof: (i) The "Index" shall be the level of the most recently published Consumer Price Index, United States Municipality Average, All Urban Consumers, All Items (1982-84 = 100) as published from time to time by the Bureau of Labor Statistics or if the Index shall cease being published, such other index or standard designated by the Declarant, in its discretion, as shall most nearly approximate the measurements theretofore made by the Index shall be used as the Index hereunder and the Index Base Level (hereinafter defined) shall be adjusted accordingly; (ii) the "Index Base Level" shall be 177; and (iii) the "Index Ratio" shall be a fraction, the numerator of which shall be the most recently published level of the Index and the denominator of which shall be the Index Base Level.

(b) Owner's Obligations. Each year or portion thereof during the Initial Development Period each Owner (other than the Declarant) shall pay as his Community Assessment with respect to each Lot owned by the Owner, the amount designated from time to time by the Board, which amount, on an annualized basis, shall not be greater than \$150.00 multiplied by the Index Ratio. Payments shall be made periodically as determined by the Board from time to time, but not less frequently than once each year. Out of each such payment, the Association shall add that portion of the payment which is designated in the budget as a capital contribution under Section 6.06 to the Capital Reserve. The balance of each such payment shall be used by the Association to pay the Community Expenses.

(c) Declarant's Obligation. During the Initial Development Period the Declarant shall not be obligated to pay any amounts to the Association as a Community Assessment except as provided in this Subsection. The Declarant shall pay to the Association the aggregate excess, if any, of the Community Expenses incurred and paid during the Initial Development Period over the aggregate amounts assessed to the Owners (other than Declarant) for use by the Association for the payment of Community Expenses under Subsection (b) during the Initial Development Period. The Declarant shall not be

responsible for the payment of any amounts to the Capital Reserve during the Initial Development Period. The Declarant shall make such payments to the Association as needed during such period and a final accounting shall be made between Declarant and the Association within 180 days after the end of the Initial Development Period. If Declarant fails to pay any amounts due under this Subsection (c), the amount thereof shall be a lien against Lots owned by Declarant as provided in Article Seven.

**6.09 PAYMENT OF ASSESSMENTS:** Assessments levied by the Association shall be collected from each Owner by the Association and shall be a lien on the Owner's Lot and also shall be a personal obligation of the Owner in favor of the Association, all as more fully set forth in Article Seven.

## ARTICLE SEVEN

### Collection of Charges and Remedies for Breach or Violation

**7.01 CREATION OF LIEN AND PERSONAL OBLIGATION:** The Declarant hereby covenants, and each 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 and is deemed to covenant and hereby agrees to pay to the Association all Charges made with respect to the Owner on the Owner's Lot. Each Charge, together with interest thereon and reasonable costs of collection, if any, as hereinafter provided, shall be a continuing lien upon the Lot against which such Charge is made and also shall be the personal obligation of the Owner of the Lot at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

**7.02 COLLECTION OF CHARGES:** The Association shall collect from each Owner all Charges payable by such Owner under this Declaration.

**7.03 NON-PAYMENT OF CHARGES:** Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, from the due date to the date when paid. The Association may (i) bring an action against the Owner personally obligated to pay the Charge to recover the Charge (together with interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of the Charge and included in any judgment rendered in such action), and (ii) enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may add a reasonable late fee to any installment of an assessment which is not paid within thirty (30) days of its due date. No Owner may waive or otherwise escape personal liability for the Charges hereunder by nonuse of the Community Area or by abandonment or transfer of his Lot.

**7.04 LIEN FOR CHARGES SUBORDINATED TO MORTGAGES:** The lien for Charges, provided for in Section 7.01, shall be subordinate to the Mortgagee's mortgage on the Lot which was Recorded prior to the date that any such Charge became due. Except as hereinafter provided, the lien for Charges, provided for in Section 7.01, shall not be affected by any sale or transfer of a Lot. Where title to a Lot is transferred pursuant to a decree of foreclosure of the Mortgagee's mortgage or by deed or assignment in lieu of foreclosure of the

Mortgagee's mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Lot shall be personally liable for his share of the Charges with respect to which a lien against his Lot has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Community Assessment or special assessment, and non-payment thereof shall result in a lien against the transferee's Lot, as provided in this Article.

**7.05 SELF-HELP BY BOARD:** In the event of a violation or breach by an Owner of the provisions, covenants or restrictions of the Declaration, the By-Laws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, then the Board, upon not less than ten (10) days' prior written notice to the Owner, shall have the right to enter upon that part of the Premises where the violation or breach exists to remove or rectify the violation or breach; provided, that, if the violation or breach exists within a Home, judicial proceedings must be instituted before any items of construction can be altered or demolished.

**7.06 OTHER REMEDIES OF THE BOARD:** In addition to or in conjunction with the remedies set forth above, to enforce any of the provisions contained in this Declaration or any rules and regulations adopted hereunder the Board may levy a fine or the Board may bring an action at law or in equity by the Association against any person or persons violating or attempting to violate any such provision, either to restrain such violation, require performance thereof, to recover sums due or payable or to recover damages or fines, and against the land to enforce any lien created hereunder; and failure by the Association or any Owner to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter.

**7.07 COSTS AND EXPENSES:** All costs and expenses incurred by the Board in connection with any action, proceedings or self-help in connection with exercise of its rights and remedies under this Article, including, without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less, until paid, shall be charged to and assessed against the defaulting Owner, and the Association shall have a lien for all the same, upon his Lot as provided in Section 7.01.

**7.08 ENFORCEMENT BY OWNERS:** Enforcement of the provisions contained in this Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages, and against a Lot to enforce any lien created hereunder.

**7.09 ENFORCEMENT BY MUNICIPALITY:** The Municipality is hereby granted the right, but shall not be obligated, to enforce covenants and obligations of the Association or the Owners hereunder. If the Association or one or more Owners fail to comply with any covenants and obligations hereunder, the Municipality shall have the right (but shall not be obligated) to give notice to the Association or the offending Owner or Owners of its, his or their failure to perform its, his or their obligations. If such notice is given and the Association or the offending Owner or Owners do not perform to the satisfaction of the Municipality within thirty (30) days after the giving of such notice, then the Municipality may (but shall not be obligated to) enter

upon the Premises and perform any and all work which it deems necessary and appropriate, either directly or through contractors engaged by the Municipality. The Association or the offending Owner or Owners shall, upon demand, reimburse the Municipality for the reasonable cost of such work, including reasonable attorney's fees, and if payment is not made within thirty (30) days after demand, then the amount due shall become a lien on the Lot or Lots of the offending Owner or Owners or, in the case of the Association, the property of the Association; provided, however, that such lien shall be subordinate to the lien of any first mortgage on a Lot Recorded prior to the date on which any such cost becomes a lien against the Lot as provided above.

7.10 BACKUP SSA: The Municipality may establish a Special Service Area to serve as what is commonly referred to as a "Backup Special Service Area", to give the Municipality the power to levy taxes to pay the cost of maintaining the Community Area if the Association fails to do so and the Municipality chooses to furnish such services.

## ARTICLE EIGHT Use Restrictions

8.01 INDUSTRY/SIGNS: No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Community Area nor shall any "For Sale" or "For Rent" signs or any other advertising be maintained or permitted on any part of the Community Area, except as permitted by the Board or as permitted under Article Nine.

8.02 UNSIGHTLY USES: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Lot or the Community Area; except, that laundry may be hung in the back yard of the Lot. The Premises shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon.

8.03 RESIDENTIAL USE ONLY: Each Home shall be used only as a residence; provided that no Owner shall be precluded, with respect to his Home, from (i) maintaining a personal professional library, (ii) keeping his personal business records or accounts therein or (iii) handling his personal business or professional calls or correspondence therefrom.

8.04 PARKING: Unless expressly permitted by the Board, no boats, trucks, recreational vehicles, trailers or other similar vehicles shall be parked or stored on a Lot outside of the garage on the Lot for more than twenty-four (24) hours at a time.

8.05 OBSTRUCTIONS: Except as permitted under Section 9.03 there shall be no obstruction of the Community Area, and nothing shall be stored in the Community Area without the prior written consent of the Board.

8.06 PETS: No animal of any kind shall be raised, bred or kept in the Community Area.

8.07 NO NUISANCE: No noxious or offensive activity shall be carried on in the Premises nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the Residents.

8.08 ABOVE GROUND SWIMMING POOLS: No "above ground" swimming pool shall be constructed on any portion of a Lot without the prior written approval of the Board. Any above ground swimming pool which is constructed must be fully decked and skirted pursuant to plans approved in writing by the Board.

8.09 OUTBUILDINGS: No outbuilding, shed, storage shed, animal house or other temporary or permanent structure shall be constructed on any Lot unless such structure is constructed of wood and the plans therefore are approved in writing by the Board.

8.10 SEASONAL LIGHTING: Seasonal or holiday lighting and decorations shall only be permitted to be displayed between December 1<sup>st</sup> of a year and January 15<sup>th</sup> of the succeeding year.

8.11 AIR CONDITIONING UNITS: No air conditioning unit shall be placed or installed in a window of a Home; except that an air conditioning unit may be installed in a window which faces the rear of the Home.

8.12 BASKETBALL EQUIPMENT: No basketball hoop or backboard shall be installed on a Home; however, an Owner shall be permitted to install one (1) free standing basketball pole on his Lot.

8.13 FENCES: A Lot may be improved with a fence, provided that the fence is a board-on-board style and is constructed of clear stained natural cedar. Without limiting the foregoing:

(a) fences installed by the Declarant on or adjacent to Lots 1 through 22, both inclusive, Lot 40 and Lots 214 through 225, both inclusive, shall be five feet (5') in height; and

(b) a fence installed by an Owner may be four feet (4') or five feet (5') in height.

Any such fence, whether installed by the Declarant or by an Owner, shall be maintained, repaired and replaced by the Owner of the Lot on which or adjacent to which the fence is located. If an Owner refuses or fails to properly maintain a fence on or adjacent to his Lot, then the Board may cause such work to be done and may charge the Owner for the cost thereof as determined by the Board.

8.14 ANTENNA/SATELLITE DISHES: Subject to applicable federal, state or local laws, ordinances or regulations, the operation of "ham" or other amateur radio stations or the erection of any communication antenna, receiving dish or similar devices (other than a satellite dish of less than 1 (one) meter in diameter which is not visible from the front of the Home) shall not be allowed.

ARTICLE NINE  
Declarant's Reserved Rights and  
Special Provisions Covering Development Period

9.01 IN GENERAL: In addition to any rights or powers reserved to the Declarant under the provisions of this Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. Anything in this Declaration or the By-Laws to the contrary notwithstanding, the provisions set forth in this Article shall govern. Except as otherwise provided in this Article, the rights of Declarant under this Article shall terminate at such time as the Declarant no longer holds or controls title to any portion of the Development Area.

9.02 PROMOTION OF PROJECT: Declarant shall have the right, in its discretion, (i) to construct and maintain on the Development Area sales, leasing, and management offices, parking areas, displays, signs, lighting, banners and other forms of advertising and model Homes, and (ii) to come upon any portion of the Development Area for the purpose of showing the Development Area to prospective purchasers or lessees of Homes on the Development Area or at other locations in the general area of the Premises which are being offered for sale by Declarant or any of its affiliates, all without the payment of any fee whatsoever, other than the assessments payable by the Declarant with respect to Lots owned by the Declarant. The Declarant shall have the right and power to lease any Home owned by it to any person or entity which it deems appropriate in its sole discretion.

9.03 CONSTRUCTION ON PREMISES: In connection with the construction of improvements to any part of the Premises, the Declarant, its agents and contractors, shall have the right, at the Declarant's own expense, (but shall not be obligated) to make such alterations, additions or improvements to any part of the Premises including, without limitation, the construction, reconstruction or alteration of any temporary or permanent improvements to any structure which shall contain Homes or the Community Area which the Declarant deems, in its sole discretion, to be necessary or advisable, and the landscaping, sodding or planting and replanting of any unimproved portions of the Premises. In connection with the rights provided in the preceding sentence, the Declarant, its agents and contractors, shall have the right of ingress, egress and parking on the Premises and the right to store construction equipment and materials on the Premises without the payment of any fee or charge whatsoever.

9.04 GRANT OF EASEMENTS AND DEDICATIONS: Declarant shall have the right to dedicate portions of the Community Area to the County, the Municipality or any municipality or other governmental authority which has jurisdiction over such portions. Declarant shall also have the right to reserve or grant easements over the Community Area to any governmental authority, public utility or private utility for the installation and maintenance of cable TV, electrical and telephone conduit and lines, gas, sewer or water lines, or any other utility services serving any Lot.

9.05 DECLARANT CONTROL OF ASSOCIATION: The first and all subsequent Boards shall consist solely of three (3) persons from time to time designated by the Declarant, which persons may, but need not, be members under Section 5.02. Declarant's rights under this Section to designate the members of the Board shall terminate on the first to occur of (i) such time as Declarant no longer holds or controls title to any part of the Development Area, (ii) the giving of written notice by Declarant to the Association of Declarant's election to terminate such rights, or (iii) seven (7) years from the date of Recording hereof. The date on which the Declarant's rights under this Section shall terminate shall be referred to as the "Turnover Date". From and after the Turnover Date, the Board shall be constituted and elected as provided in the

By-Laws. Prior to the Turnover Date all of the voting rights at each meeting of the Owners shall be vested exclusively in the Declarant and the Owners shall have no voting rights.

**9.06 OTHER RIGHTS:** The Declarant shall have the right and power to execute all documents and do all other acts and things affecting the Premises which, in Declarant's opinion, are necessary or desirable in connection with the rights of Declarant under this Declaration.

**9.07 ASSIGNMENT BY DECLARANT:** All rights which are specified in this Declaration to be rights of the Declarant are mortgageable, pledgeable, assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (whether as the result of voluntary assignment, foreclosure, assignment in lieu of foreclosure, or otherwise) shall hold or be entitled to exercise the rights of Declarant hereunder as fully as if named as such party herein. No such successor assignee of the rights of Declarant hereunder shall have or incur any liability for the acts of any other party which previously exercised or subsequently shall exercise such rights.

## ARTICLE TEN

### Amendment

**10.01 SPECIAL AMENDMENTS:** Anything herein to the contrary notwithstanding, Declarant reserves the right and power to Record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots, (iii) to correct errors or inconsistencies in the Declaration or any Exhibit, (iv) to amend Exhibit A to include additional real estate, or (v) to bring the Declaration into compliance with applicable laws, ordinances or governmental regulations. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and Record Special Amendments. The right and power to make Special Amendments hereunder shall terminate at such time as Declarant no longer holds or controls title to a portion of the Premises.

**10.02 AMENDMENT:** Subject to Section 10.01 and Article Eleven, the provisions of this Declaration may be amended, abolished, modified, enlarged, or otherwise changed in whole or in part by the affirmative vote of Voting Members representing at least Seventy-Five percent of the total votes or by an instrument executed by Owners of at least Seventy-Five Percent (75%) of the Lots; except, that (i) the provisions of this Section 10.02 may be amended only by an instrument executed by all of the Owners and all Mortgagees, (ii) Article Nine or any other provisions relating to the rights of Declarant may be amended only with the written consent of the Declarant, and (iii) no amendment to the Declaration which changes the ratio of assessments

against Owners shall become effective without the consent of all Mortgagees. No amendment which removes Premises from the provisions of this Declaration shall be effective if as a result of such removal, an Owner of a Lot shall no longer have the legal access to a public way from his Lot. No amendment shall become effective until properly Recorded.

## ARTICLE ELEVEN

### Mortgagees Rights

11.01 **NOTICE TO MORTGAGEES:** Upon the specific, written request of Mortgagee or the insurer or guarantor of a Mortgagee's mortgage, such party shall receive some or all of the following:

- (a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Lot covered by the Mortgagee's mortgage;
- (b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners; provided, that, if an audited statement is not available, then upon the written request of the holder, insurer or guarantor of a Mortgage, the Association shall permit such party to have an audited statement for the preceding fiscal year of the Association prepared at such party's expense;
- (c) Copies of notices of meetings of the Owners;
- (d) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Community Area.
- (e) Notice of any default by the Owner of the Lot which is subject to the Mortgagee's mortgage under this Declaration, the By-Laws or the rules and regulations of the Association which is not cured within 30 days of the date of the default;
- (f) The right to examine the books and records of the Association at any reasonable times; and
- (g) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

The request of any such party shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association.

11.02 **INSURANCE PROCEEDS/CONDEMNATION AWARDS:** In the event of (i) any distribution of any insurance proceeds hereunder as a result of damage to, or destruction of, any part of the Community Area or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Community Area, any such distribution shall be made to the Owners and their respective Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to

priority over the Mortgagee of a Lot with respect to any such distribution to or with respect to such Lot; provided, that, nothing in this Section shall be construed to deny to the Association the right (i) to apply insurance proceeds to repair or replace damaged Community Area or (ii) to apply proceeds of any award or settlement as a result of eminent domain proceedings as provided in Article Four.

## ARTICLE TWELVE

### Annexing Additional Property

**12.01 IN GENERAL:** Declarant reserves the right at any time and from time to time prior to ten (10) years from the date of Recording of this Declaration to annex, add and subject additional portions of the Development Area to the provisions of this Declaration as additional Premises by recording a supplement to this Declaration (a "Supplemental Declaration"), as hereinafter provided. Any portion of the Development Area which is subjected to this Declaration by a Supplemental Declaration shall be referred to as "Added Premises"; any portion of any Added Premises which is made part of the Community Area shall be referred to as "Added Community Area"; and any Lots contained in the Added Premises shall be referred to as "Added Lots". After the expiration of said ten (10) year period, Declarant may exercise the rights described herein to annex, add and subject additional portions of the Development Area to the provisions of this Declaration, provided that the consent the Owners (by number) of two-thirds (2/3) of all Lots then subject to this Declaration is first obtained.

**12.02 POWER TO AMEND:** Declarant hereby retains the right and power to Record a Supplemental Declaration, at any time and from time to time as provided in Section 12.01, which amends or supplements Exhibit B. Exhibit B may only be amended or supplemented pursuant to this Article to add portions of the Development Area to Exhibit B and shall not be amended to reduce or remove any real estate which is described in Exhibit B immediately prior to the Recording of such Supplemental Declaration. A Supplemental Declaration may contain such additional provisions affecting the use of the Added Premises or the rights and obligations of owners of any part or parts of the Added Premises as the Declarant deems necessary or appropriate.

**12.03 EFFECT OF SUPPLEMENTAL DECLARATION:** Upon the Recording of a Supplemental Declaration by Declarant which annexes and subjects Added Premises, Added Community Area, or Added Lots to this Declaration, as provided in this Article, then:

(a) The easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Premises and inure to the benefit of and be binding on any Person having at any time any interest or estate in the Added Premises in the same manner, to the same extent and with the same force and effect that this Declaration applies to the Premises, and Persons having an interest or estate in the Premises, subjected to this Declaration prior to the date of the Recording of the Supplemental Declaration;

(b) Every Owner of an Added Lot shall be a member of the Association on the same terms and subject to the same qualifications and limitations as those members who are Owners of Lot immediately prior to the Recording of such Supplemental Declaration;

(c) In all other respects, all of the provisions of this Declaration shall include and apply to the Added Premises (including the Added Community Area or the Added Lots, if any) made subject to this Declaration by any such Supplemental Declaration and the Owners, mortgagees, and lessees thereof, with equal meaning and of like force and effect and the same as if such Added Premises were subjected to this Declaration at the time of the Recording hereof;

(d) The Recording of each Supplemental Declaration shall not alter the amount of the lien for any Charges made to a Lot or its Owner prior to such Recording;

(e) The Declarant shall have and enjoy with respect to the Added Premises all rights, powers and easements reserved by the Declarant in this Declaration, plus any additional rights, powers and easements set forth in the Supplemental Declaration; and

(f) Each Owner of an Added Lot which is subject to assessment hereunder shall be responsible for the payment of the Community Assessment pursuant to Section 6.02, but shall not be responsible for the payment of any special assessment which was levied prior to the time that the Added Lot became subject to assessment hereunder.

## ARTICLE THIRTEEN

### Miscellaneous

13.01 NOTICES: Any notice required to be sent to any Owner under the provisions of this Declaration or the By-Laws shall be deemed to have been properly sent when (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Association at the time of such mailing or (ii) when delivered personally to his Lot.

13.02 CAPTIONS: The Article and Section headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration. In the event of any conflict between statements made in recitals to this Declaration and the provisions contained in the body of this Declaration, the provisions in the body of this Declaration shall govern.

13.03 SEVERABILITY: Invalidation of all or any portion of any of the easements, restrictions, covenants, conditions, or reservations, by legislation, judgment or court order shall in no way affect any other provisions of this Declaration which shall, and all other provisions, remain in full force and effect.

13.04 PERPETUITIES AND OTHER INVALIDITY: If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George Bush, former President of the United States at the time this Declaration is Recorded.

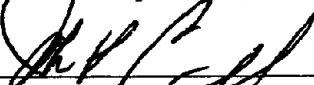
13.05 **TITLE HOLDING LAND TRUST:** In the event title to any Lot is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all Charges and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

Dated: September 4, 2001

**DECLARANT:**

THE LINDENS VENTURE, L.L.C.

By: The Kirk Corporation, managing member

By: 

Its: John P. Carroll, its President

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I, the undersigned, a Notary Public in and for said County and State, do hereby certify that John P. Carroll, the President of The Kirk Corporation, which is the managing member of The Lindens Venture, L.L.C., appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of The Lindens Venture, L.L.C. for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4th day of September, 2001.

Mary Ann Snod  
Notary Public



## **CONSENT OF MORTGAGEE**

Oak Brook Bank, as holder of a mortgage dated November 10, 2000, and recorded in the office of the Recorder of Deeds of Kane County, Illinois, on November 16, 2000, as Document No. 2000K092121, with respect to the Premises, hereby consents to the recording of this Declaration to which this Consent is attached and agrees that its mortgage shall be subject to the terms of this Declaration.

Dated: August 30, 2001

## OAK BROOK BANK

By: Molly S. Olerich  
Its: sp

**ATTEST:**

By: N. C. F.  
Its: C.

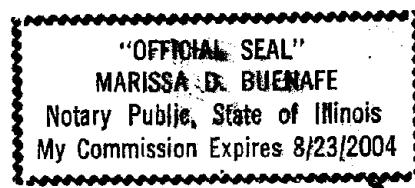
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that  
M.S. Delrich and Henry Wessel, the VP and  
VP respectively, of Oak Brook Bank, as such VP and  
VP appeared before me this day in person and acknowledged that they  
signed, sealed and delivered said instrument as their free and voluntary act, and as the free and  
voluntary act of Oak Brook Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of August, 2001.

Marisa D. Buenafe  
Notary Public

My Commission Expires: 01/23/2004



**EXHIBIT A TO  
DECLARATION OF THE LINDENS**

The Development Area

THE NORTHEAST QUARTER OF SECTION 25; EXCEPTING THEREFROM THE PREMISES CONVEYED TO THE CHICAGO AND IOWA RAILROAD COMPANY BY DEED DATED OCTOBER 31, 1870 AND RECORDED JUNE 1, 1877 IN BOOK 182, PAGE 84 AS DOCUMENT 1818 AND THE PREMISES CONVEYED TO THE ILLINOIS, IOWA AND MINNESOTA RAILWAY COMPANY BY DEED DATED JUNE 18, 1903 AND RECORDED AUGUST 6, 1903 IN BOOK 433, PAGE 22 AS DOCUMENT 64369, ALSO, THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 25, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER 13.93 CHAINS TO THE OLD CLAIM LINE; THENCE SOUTH 10 1/4 DEGREES EAST ALONG SAID CLAIM LINE TO THE CENTER OF THE JERICHO ROAD; THENCE NORTHEASTERLY ALONG THE CENTER OF SAID ROAD TO THE POINT OF BEGINNING, ALL IN TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY ILLINOIS; EXCEPTING FROM PARCEL ONE THE FOLLOWING PARCELS A AND B CONVEYED TO THE COUNTY OF KANE IN DEED RECORDED NOVEMBER 1, 1976 AS DOCUMENT NUMBER 1383771, DESCRIBED AS FOLLOWS: THE EAST 120 FEET OF THE EAST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTHERLY OF THE SOUTHERLY RIGHT-OF-WAY OF THE FORMER ILLINOIS, IOWA AND MINNESOTA RAILWAY COMPANY AS LAID OUT ON A MAP RECORDED AS SCROLL NO. 4 ON MARCH 2, 1904 AS DOCUMENT 67597 AND LYING NORTHERLY OF THE NORTHERLY RIGHT-OF-WAY LINE OF JERICHO ROAD (EXCEPT THE RIGHT-OF-WAY OF THE BURLINGTON NORTHERN, INC.) IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS. AND ALSO A TRIANGULAR TRACT OF LAND LYING EASTERLY OF A STRAIGHT LINE WHICH INTERSECTS THE EAST LINE OF SAID SECTION 25 AT A POINT 210 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 8 EAST AND WHICH INTERSECTS THE CENTER LINE OF JERICHO ROAD AT A POINT 200 FEET WEST OF THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25 AS MEASURED ON A NORMAL LINE. PARCEL TWO: THAT PART OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 00 DEGREES 19 MINUTES 16 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 1057.45 FEET TO THE CENTER LINE OF BLACKBERRY CREEK; THENCE NORTH 40 DEGREES 41 MINUTES 52 SECONDS EAST ALONG SAID CENTER LINE 80.00 FEET; THENCE NORTH 74 DEGREES 19 MINUTES 52 SECONDS EAST ALONG SAID CENTER LINE 86.00 FEET; THENCE SOUTH 75 DEGREES 48 MINUTES 08 SECONDS EAST ALONG SAID CENTER LINE 86.00 FEET; THENCE SOUTH 65 DEGREES 13 MINUTES 08 SECONDS EAST ALONG SAID CENTERLINE 308.86 FEET; THENCE NORTH 03 DEGREES 21 MINUTES 08 SECONDS WEST, 218.67 FEET; THENCE NORTH 80 DEGREES 38 MINUTES 52 SECONDS EAST, 343.00 FEET; THENCE SOUTH 09 DEGREES 21 MINUTES 08 SECONDS EAST, 256.37 FEET TO THE NORTHERLY LINE OF JERICHO ROAD AS NOW LOCATED; THENCE NORTH 68 DEGREES 22 MINUTES 05 SECONDS EAST ALONG SAID NORTHERLY LINE 697.72 FEET; THENCE NORTHEASTERLY ALONG SAID NORTHERLY LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 1399.69 FEET A DISTANCE OF 383.08 FEET TO AN OLD CLAIM LINE; THENCE NORTH 09 DEGREES 55 MINUTES 00 SECONDS WEST ALONG SAID CLAIM LINE 707.80 FEET TO THE NORTH LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 88 DEGREES 42 MINUTES 00 SECONDS WEST ALONG SAID NORTH LINE 1731.60 FEET TO THE POINT OF BEGINNING IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS. PARCEL THREE: THAT PART OF THE WEST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY BEGINNING AT A POINT IN THE EAST LINE OF SAID WEST HALF WHICH IS 15.00 FEET NORTH OF THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 25, THENCE SOUTH 00 DEGREES 29 MINUTES EAST ALONG THE EAST LINE OF SAID WEST HALF 414.4 FEET TO THE SOUTHEAST CORNER OF THE TRACT CONVEYED TO

CLAUDE L. GORTON AND CLARA S. GORTON, HUSBAND AND WIFE, BY DEED DATED DECEMBER 30, 1944 AND RECORDED AT PAGE 143 IN RECORD BOOK 1216 AS DOCUMENT 524857 IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS; THENCE SOUTH 85 DEGREES 23 MINUTES WEST ALONG THE SOUTH LINE OF SAID TRACT (BEING ALONG AN OLD FENCE AND LINE OF OCCUPATION) 599.00 FEET TO THE CENTERLINE OF BARNES ROAD; THENCE NORTH 19 DEGREES 22 MINUTES WEST ALONG SAID CENTER LINE 472.3 FEET TO A LINE 15.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 25; THENCE NORTH 88 DEGREES 42 MINUTES EAST ALONG SAID PARALLEL LINE 750.4 FEET TO THE PLACE OF BEGINNING IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS

AND

THAT PART OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 0 DEGREES 28 MINUTES 41 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST QUARTER 2635.27 FEET TO A POINT 15.0 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 88 DEGREES 42 MINUTES WEST PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER 500.0 FEET; THENCE NORTH 0 DEGREES 37 MINUTES WEST 1272.66 FEET TO THE EXTENSION EASTERLY OF THE NORTHERLY LINE OF HALLING SUBDIVISION; THENCE NORTH 82 DEGREES 41 MINUTES WEST ALONG SAID EXTENSION AND SAID NORTHERLY LINE OF HALLING SUBDIVISION 937.63 FEET TO THE CENTER LINE OF BARNES ROAD, BEING AT THE NORTHWESTERLY CORNER OF SAID HALLING SUBDIVISION; THENCE NORTH 30 DEGREES 53 MINUTES 26 SECONDS WEST ALONG THE CENTER LINE OF BARNES ROAD 606.76 FEET; THENCE NORTHERLY ALONG SAID CENTER LINE, BEING ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 768.17 FEET, A DISTANCE OF 363.38 FEET; THENCE NORTH 3 DEGREES 47 MINUTES 12 SECONDS WEST ALONG SAID CENTER LINE 351.91 FEET TO THE NORTH LINE OF SAID SECTION 25; THENCE NORTH 88 DEGREES 48 MINUTES EAST ALONG SAID NORTH LINE 1447.59 FEET TO A POINT 416.43 FEET WEST OF THE POINT OF BEGINNING; THENCE SOUTH 0 DEGREES 12 MINUTES EAST 280.0 FEET; THENCE NORTH 88 DEGREES 48 MINUTES EAST PARALLEL WITH THE NORTH LINE OF SAID SECTION 25 124.0 FEET; THENCE NORTH 0 DEGREES 12 MINUTES WEST 280.0 FEET TO THE NORTH LINE OF SAID SECTION 25; THENCE NORTH 88 DEGREES 48 MINUTES EAST ALONG SAID NORTH LINE 292.43 FEET TO THE POINT OF BEGINNING; (LESS AND EXCEPT THAT PART OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF BARNES ROAD WITH THE NORTH LINE OF SAID SECTION 25, TOWNSHIP 38 NORTH, RANGE 7; THENCE EASTERLY ALONG SAID NORTH LINE A DISTANCE OF 796.52 FEET TO THE CENTER LINE OF BLACKBERRY CREEK; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 107 DEGREES, 06 MINUTES, 41 SECONDS AS MEASURED COUNTER-CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 97.06 FEET; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 145 DEGREES, 34 MINUTES, 30 SECONDS AS MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 53.45 FEET; THENCE SOUTHEASTERLY ALONG SAID CENTER LINE 157 DEGREES, 05 MINUTES, 58 SECONDS AS MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 84.90 FEET; THENCE SOUTHWESTERLY 41 DEGREES, 14 MINUTES, 40 SECONDS AS MEASURED COUNTER-CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 356.12 FEET; THENCE SOUTHWESTERLY 120 DEGREES, 00 MINUTES, 00 SECONDS AS MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 878.75 FEET TO A LINE 66.00 FEET NORTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF HALLING SUBDIVISION; THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE 85 DEGREES, 49 MINUTES, 02 SECONDS AS MEASURED COUNTER-CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 189.04 FEET TO THE CENTER LINE OF SAID BARNES ROAD; THENCE NORTHWESTERLY ALONG SAID CENTER LINE 128 DEGREES, 10 MINUTES, 22 SECONDS AS MEASURED COUNTER-CLOCKWISE FROM THE LAST DESCRIBED COURSE A DISTANCE OF 522.72 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 768.17 FEET, TANGENT TO THE LAST DESCRIBED COURSE AN ARC DISTANCE OF 363.38 FEET; THENCE NORTHWESTERLY ALONG SAID CENTER LINE

TANGENT TO THE LAST DESCRIBED COURSE A DISTANCE OF 351.79 FEET TO THE POINT OF  
BEGINNING) IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

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**EXHIBIT B TO  
DECLARATION OF THE LINDENS**

The Premises

**I. Lots:** Each of the following described lots shall be a "Lot" hereunder:

A. Lots 4 through 40, both inclusive and Lots 43 through 59, both inclusive, in The Lindens Unit 1 Subdivision, being a Subdivision of part of the East half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 19, 2001 as Document No. 2001K023721, in Kane County, Illinois ("The Lindens Unit 1 Subdivision").

B. Lots 1 through 3, both inclusive, Lots 41, 42, 60, 61, 62, 63, Lots 77 through 120, both inclusive, Lots 141 through 149, both inclusive, in The Lindens Unit 2 Subdivision, being a Subdivision of part of the East half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded July 12, 2001 as Document No. 2001K06999822, in Kane County, Illinois ("The Lindens Unit 2 Subdivision").

**II. Community Area:**

A. Lot 258 in The Lindens Unit 1 Subdivision.

B. Lot 259 in The Lindens Unit 2 Subdivision.

PIN: 14-25-200-003  
14-25-400-001  
14-25-400-033

ADDRESS: Various

Audubon Lane, Aurora, IL  
Audubon Court, Aurora, IL  
HoneySuckle Lane, Aurora, IL  
Summerhill Drive, Aurora, IL  
Summerhill Court, Aurora, IL  
Suncrest Drive, Aurora, IL  
Little Creek Lane, Aurora, IL  
Roseglen Way, Aurora, IL  
Wingpointe Drive, Aurora, IL  
Meadowsedge Lane, Aurora, IL  
Meadowsedge Court, Aurora, IL  
Woodside Court, Aurora, IL

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Suite 250  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

DOC NO. 2002X016468

DATE REC. 1-31-02

ABOVE SPACE FOR RECORDER'S USE ONLY

Supp. No. 1 to Declaration

01/16/02

SUPPLEMENT NO. 1 TO  
DECLARATION FOR THE LINDENS

This Supplement is made and entered into by The Lindens Venture, L.L.C. ("Declarant").

RECITALS

Declarant recorded the Declaration for The Lindens (the "Declaration") on September 5, 2001 in the Office of the Recorder of Deeds for Kane County, Illinois as Document No. R2001K091775.

In Article Twelve of the Declaration, Declarant reserved the right and power to add and submit certain real estate to the Declaration by making portions of the Development Area subject to the Declaration as part of the Premises. Declarant desires to exercise this right and power to add and submit certain real estate to the provisions of the Declaration as part of the Premises.

NOW, THEREFORE, Declarant does hereby supplement and amend the Declaration as follows:

1. Terms. All Terms used herein, if not otherwise defined herein, shall have the meanings set forth in the Declaration.

2. Added Premises. Those portions of the Development Area which are legally described in Sections I(C) and II (C) of the First Amended and Restated Exhibit B attached hereto are hereby made part of the Premises as "Added Premises".

FIRST AMERICAN TITLE CO. OF ILLINOIS  
ONE N. BENTON AVENUE  
AURORA, IL 60508

3. Added Lots. The Lots in the Added Premises, which are legally described in Section I(C) of the First Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Lots".

4. Added Community Area. The Lots in the Added Premises which are legally described in Section II(C) of the First Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Community Area".

5. Amendment of Exhibit B. To reflect the addition of real estate to the Premises as set forth in Paragraph 2, 3 and 4 above, Exhibit B to the Declaration is hereby amended and restated to be as set forth in the First Amended and Restated Exhibit B to the Declaration which is attached hereto.

6. Covenants to Run with Land. The covenants, conditions, restrictions, and easements contained in the Declaration, as amended by this Supplement, shall run with and bind the Premises, including the Added Premises.

7. Continuation. As expressly hereby amended, the Declaration shall continue in full force and effect in accordance with its terms.

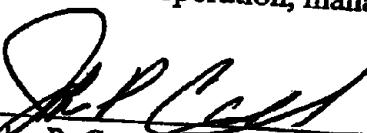
Dated: 1-25, 2002

**DECLARANT:**

**THE LINDENS VENTURE, L.L.C.**

By: The Kirk Corporation, managing member

By:

  
John P. Carroll, its President

STATE OF ILLINOIS )  
COUNTY OF DuPage ) SS

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that John P. Carroll, the President of The Kirk Corporation, which is the managing member of The Lindens Venture, L.L.C., appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of The Lindens Venture, L.L.C. for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 25th day of January, 2002.



Lisa Brennan  
Notary Public

## CONSENT OF MORTGAGEE

Oak Brook Bank, as holder of a mortgage dated November 10, 2000, and recorded in the office of the Recorder of Deeds of Kane County, Illinois, on November 16, 2000, as Document No. 2000K092121, with respect to the Premises, hereby consents to the recording of this Declaration to which this Consent is attached and agrees that its mortgage shall be subject to the terms of this Declaration.

Dated: Jan 28, 2002

ATTEST:

By: John B.  
Its: \_\_\_\_\_

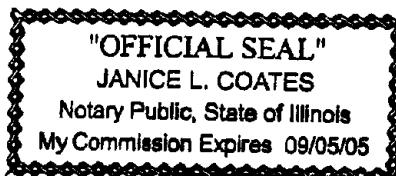
By: Molly S. Oelerich  
Its: V.P.

STATE OF ILLINOIS )

) SS.  
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Molly J. Oelerich and JOHN BONINO, the V. P. and V.P. respectively, of Oak Brook Bank, as such V. P. and V.P. appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of Oak Brook Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28<sup>th</sup> day of JANUARY, 2002.



Janice L. Coates  
Notary Public

My Commission Expires: \_\_\_\_\_

**FIRST AMENDED AND RESTATED  
EXHIBIT B TO DECLARATION  
FOR THE LINDENS**

**The Premises**

**I. Lots: Each of the following described lots shall be a "Lot" hereunder:**

- A. Lots 4 through 40, both inclusive and Lots 43 through 59, both inclusive, in The Lindens Unit 1 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 19, 2001 as Document No. 2001K023721, in Kane County, Illinois ("The Lindens Unit 1 Subdivision").**
- B. Lots 1 through 3, both inclusive, Lots 41, 42, 60, 61, 62, 63, Lots 77 through 120, both inclusive, Lots 141 through 149, both inclusive, in The Lindens Unit 2 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded July 12, 2001 as Document No. 2001K06999822, in Kane County, Illinois ("The Lindens Unit 2 Subdivision").**
- C. Lots 121 through 140, both inclusive, Lots 150 through 184, both inclusive, Lots 191 through 211, both inclusive, in The Lindens Unit 3 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded January 4, 2002 as Document No. 2002K001747, in Kane County, Illinois ("The Lindens Unit 3 Subdivision").**

**II. Community Area:**

- A. Lot 258 in The Lindens Unit 1 Subdivision.**
- B. Lot 259 in The Lindens Unit 2 Subdivision.**
- C. Lot 349 in The Lindens Unit 3 Subdivision.**

**PIN: 14-25-200-003  
14-25-400-001  
14-25-400-033**

ADDRESSES:

Various  
Audubon Lane, Aurora, IL  
Audubon Court, Aurora, IL  
HoneySuckle Lane, Aurora, IL  
Summerhill Drive, Aurora, IL  
Summerhill Court, Aurora, IL  
Suncrest Drive, Aurora, IL  
Little Creek Lane, Aurora, IL  
Roseglen Way, Aurora, IL  
Meadowsedge Lane, Aurora, IL  
Meadowsedge Court, Aurora, IL  
Woodside Court, Aurora, IL  
Wingpointe Drive, Aurora, IL

FILED FOR RECORD  
KANE COUNTY, ILL.

2002K057184

2002 MAY - 1 PM 12:15

*Sandy Wegman*  
RECODER

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Suite 250  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

05919\104\Sp.Amendmt.

04/18/02

**SPECIAL AMENDMENT NO. 1 TO  
DECLARATION FOR  
THE LINDENS**

This Special Amendment is made and entered into by The Lindens Venture, L.L.C., an Illinois limited liability company ("Declarant").

**R E C I T A L S**

Declarant Recorded the Declaration for The Lindens (the "Declaration") on September 5, 2001, in the Office of the Recorder of Deeds for Kane County, Illinois, as Document No. 2001K091775. The Declarant amended and supplemented the Declaration by recording Supplement No. 1 to the Declaration recorded in Kane County, Illinois, as Document No. 2002K016468. The Declaration subjected the real estate described in Exhibit A attached hereto to the provisions of the Declaration.

In Article Ten of the Declaration, Declarant reserved the right and power to record a Special Amendment to the Declaration to, among other things, correct errors or inconsistencies in the Declaration or any Exhibit thereto.

It has come to the Declarant's attention that Section 8.13 limited the fencing material to cedar fencing. It was not the intention of the Declarant to make such a limitation. The Declarant desires to correct Section 8.13 to reflect the Declarant's intention relating to fencing materials.

NOW, THEREFORE, Declarant does hereby amend the Declaration as follows:

1. Terms. All terms used herein, if not otherwise defined herein, shall have the meanings set forth in the Declaration.

FIRST AMERICAN TITLE CO. OF ILLINOIS  
ONE N. CONSTITUTION DRIVE  
AURORA, IL 60508

2002K057184

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2. Correction of Section 8.13. Section 8.13 of the Declaration is hereby amended to be and read as follows:

"A Lot may be improved with a fence, provided that the fence is a board-on-board style and is constructed of clear stained or treated wood. Without limiting the foregoing:

(a) fences installed by the Declarant on or adjacent to Lots 1 through 22, both inclusive, Lot 40 and Lots 214 through 225, both inclusive, shall be five feet (5') in height; and

(b) a fence installed by an Owner may be four feet (4') or five feet (5') in height.

Any such fence, whether installed by the Declarant or by an Owner, shall be maintained, repaired and replaced by the Owner of the Lot on which or adjacent to which the fence is located. If an Owner refuses or fails to properly maintain a fence on or adjacent to his Lot, then the Board may cause such work to be done and may charge the Owner for the cost thereof as determined by the Board."

3. Covenants to Run With Land. The covenants, conditions, restrictions and easements contained in the Declaration, as amended by this Special Amendment, shall run with and bind the Property.

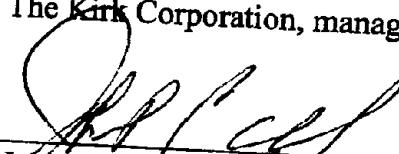
4. Continuation. As expressly hereby amended, the Declaration shall continue in full force and effect in accordance with its terms.

Dated: April 29, 2002

THE LINDENS VENTURE, L.L.C., an Illinois limited liability company

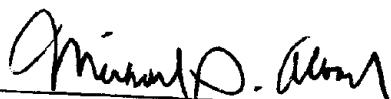
By: The Kirk Corporation, managing member

By:

  
John P. Carroll, President

ATTEST:

By:

  
Michael D. Albach  
Michael Albach, Secretary

STATE OF ILLINOIS )  
COUNTY OF DuPage ) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John P. Carroll, the President of The Kirk Corporation, managing member of The Lindens Venture, L.L.C. and Michael Albach, the Secretary thereof are personally known to me to be the same persons whose name are subscribed to the foregoing instrument and as such President and Secretary appeared before me this day in person and acknowledged that they signed and delivered the said instrument as the free and voluntary act of The Lindens Venture, L.L.C. for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 29 day of April, 2002.

Lisa Brennan  
Notary Public  
**OFFICIAL SEAL**  
**LISA BRENNAN**  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES: 08/20/02

**EXHIBIT A TO SPECIAL AMENDMENT NO. 1 TO  
DECLARATION FOR THE LINDENS**

The Premises

I. Lots: Each of the following described lots shall be a "Lot" hereunder:

A. Lots 4 through 40, both inclusive and Lots 43 through 59, both inclusive, in The Lindens Unit 1 Subdivision, being a Subdivision of part of the East half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 19, 2001 as Document No. 2001K023721, in Kane County, Illinois ("The Lindens Unit 1 Subdivision").

B. Lots 1 through 3, both inclusive, Lots 41, 42, 60, 61, 62, 63, Lots 77 through 120, both inclusive, Lots 141 through 149, both inclusive, in The Lindens Unit 2 Subdivision, being a Subdivision of part of the East half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded July 12, 2001 as Document No. 2001K06999822, in Kane County, Illinois ("The Lindens Unit 2 Subdivision").

II. Community Area:

A. Lot 258 in The Lindens Unit 1 Subdivision.

B. Lot 259 in The Lindens Unit 2 Subdivision.

PIN: 14-25-200-003  
14-25-400-001  
14-25-400-033

ADDRESS: Various  
Audubon Lane, Aurora, IL  
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Summerhill Drive, Aurora, IL  
Summerhill Court, Aurora, IL  
Suncrest Drive, Aurora, IL  
Little Creek Lane, Aurora, IL  
Roseglen Way, Aurora, IL  
Wingpointe Drive, Aurora, IL  
Meadowsedge Lane, Aurora, IL  
Meadowsedge Court, Aurora, IL  
Woodside Court, Aurora, IL

FILED FOR RECORD  
KANE COUNTY, ILL.

2002K089109

2002 JUL 19 AM 10:00

*Sandy Wegman*  
RECODER

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Second Floor  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

MAP ATTACHED

COPY

ABOVE SPACE FOR RECORDER'S USE ONLY

05919/104

6/07/02

AMENDMENT NO. 1 TO SEWER EASEMENT AGREEMENT

PL 1608  
This Amendment No. 1 to Sewer Easement Agreement is made by and between The Forest Preserve District of Kane County, Illinois, a municipal corporation ("Owner"), The Kirk Corporation, an Illinois corporation ("Kirk") and The Lindens Venture, L.L.C., an Illinois limited liability company ("Lindens").

RECITALS

Lindens and Kirk entered into that certain Sewer Easement Agreement which was recorded in Kane County, Illinois on November 30, 2001 as Document No. 2001K126174 (the "Sewer Easement Agreement"). At the time of the recording of the Sewer Easement Agreement, Lindens owned those parcels of real estate which are legally described, depicted and designated on the Plat of Easement which was attached to the Sewer Easement Agreement as Exhibit A as the "Temporary Construction Easement 1", the "Temporary Easement 2", the "Exclusive Permanent Easement 1", the "Exclusive Permanent Easement 2", the "Non-Exclusive Permanent Easement 1" and the "Non-Exclusive Permanent Easement 2". Pursuant to the Sewer Easement Agreement, Lindens granted certain easements with respect to such parcels to and for the benefit of Kirk, its successors and assigns.

Subsequent to the recording of the Sewer Easement Agreement Lindens conveyed to the Owner the real estate which is legally described in Exhibit Z hereto (the "Forest Preserve District Property"), which real estate includes the parcels which are defined in the Sewer Easement Agreement as Temporary Construction Easement 1, Temporary Easement 2, and those portions of Exclusive Permanent Easement 2 which are affected by this Amendment No. 1. The Forest Preserve District Property was conveyed subject to the easements granted in the Sewer Easement Agreement.

The Owner, Kirk and Lindens desire to modify and amend certain of the easements created under the Sewer Easement Agreement which affect portions of the Forest Preserve Property.

FIRST AMERICAN TITLE CO. OF ILLINOIS  
ONE N. CONSTITUTION DRIVE  
AURORA, IL 60506

*Chas J. S.*

*(b)*

Accordingly, the parties hereto agree as follows:

1. Amendment of Exhibit A. Exhibit A to the Sewer Easement Agreement is hereby amended and replaced, in its entirety, with the Revised Plat of Easement, which is attached hereto as Revised Exhibit A. The Revised Plat of Easement legally describes, depicts and designates thereon parcels which are identified as "Temporary Construction Easement 3A", "Temporary Construction Easement 3B", "Permanent Easement 3", "Revised Exclusive Permanent Easement 2", "Exclusive Permanent Easement 1", "Non-Exclusive Permanent Easement 2" and "Non-Exclusive Permanent Easement 1". For purposes of the Sewer Easement Agreement, as amended hereby, (i) the term "Temporary Easement Area" is hereby amended so that it shall mean Temporary Construction Easement 3A and Temporary Construction Easement 3B and shall not include any portion of Temporary Construction Easement 1 or Temporary Construction Easement 2 which were previously shown on Exhibit A; and (ii) the term "Exclusive Permanent Easement Area" shall mean Non-Exclusive Permanent Easement 1, Exclusive Permanent Easement 1, Permanent Easement 3, and Revised Exclusive Permanent Easement 2, and shall not include any portion of Exclusive Permanent Easement 2 which is not included in Revised Exclusive Permanent Easement 2.

2. Amendment of Exhibit B. Exhibit B to the Sewer Easement Agreement is hereby amended and restated to be as set forth in Revised Exhibit B attached hereto. Revised Exhibit B contains the legal description of Exclusive Permanent Easement 1, Permanent Easement 3, Revised Exclusive Permanent Easement 2, Non-Exclusive Permanent Easement 1, Non-Exclusive Permanent Easement 2 and Temporary Construction Easement 3A and Temporary Construction Easement 3B.

3. Modification of Easements. The easements granted in Paragraph 1 of the Sewer Easement Agreement as originally recorded are hereby modified so that the easements granted shall now relate to and affect the Temporary Easement Area, the Exclusive Permanent Easement Area and the Non-Exclusive Permanent Easement Area, as those areas are legally described in the Sewer Easement Agreement, as amended by this First Amendment. Paragraph 1 of the Sewer Easement Agreement is hereby amended to provide that unless specifically approved by the Owner, in writing, the sewer line to be installed pursuant to the Sewer Easement Agreement, as amended, shall be no larger than eight inches in diameter.

4. Benefit of Easements. The Easements granted in the Sewer Easement Agreement, as hereby amended, shall run to and be for the benefit of Kirk and Lindens, for themselves and for the benefit of real estate owned by Kirk and Lindens, including, without limitation, all lots and outlots in The Lindens Unit 5 Subdivision created or to be created pursuant to a plat thereof recorded in Kane County, Illinois.

5. Assignment. Kirk and Lindens shall have the right and power at any time or from time to time to assign any one or more of the rights, powers or easements reserved or granted in the Sewer Easement Agreement, as hereby amended, to a public utility, a private utility or a governmental agency, which assignment may impose additional restrictions and/or conditions on

the exercise of the rights, powers or conditions on the exercise of the rights, powers or easements so assigned.

6. Binding Effect. The Sewer Easement Agreement, as amended hereby, is hereby ratified and confirmed and shall continue in full force and effect. All easements granted to them in the Sewer Easement Agreement, as hereby amended, shall run with and bind the land and shall inure to the benefit of the Kirk and the Lindens and their respective successors and assigns.

Dated: 6/27, 2002

OWNER:

The Forest Preserve District of Kane County

By: Jack E. Cook

KIRK:

The Kirk Corporation

By: John P. Carroll, President

LINDENS:

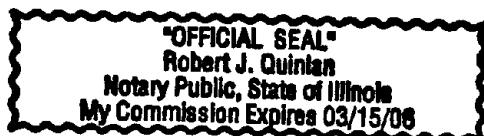
The Lindens Venture, L.L.C.  
By The Kirk Corporation, its manager

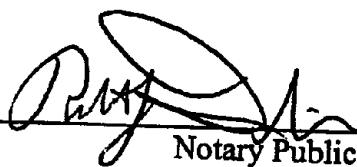
By: John P. Carroll, President

STATE OF ILLINOIS )  
                    ) SS.  
COUNTY OF \_\_\_\_\_ )

The undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that JACK E COOK, President of The Forest Preserve District of Kane County, Illinois, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this 24<sup>th</sup> day of June, 2002.

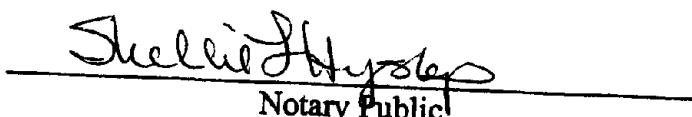


  
\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS )  
                    ) SS.  
COUNTY OF Kane )

The undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John P. Carroll, President of The Kirk Corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial seal this 24<sup>th</sup> day of June, 2002.

  
\_\_\_\_\_  
Notary Public

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**REVISED EXHIBIT "B"  
TO SEWER EASEMENT AGREEMENT**

**DESCRIPTION OF EXCLUSIVE PERMANENT EASEMENT 1**

THAT PART OF NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE BURLINGTON NORTH RAILROAD RIGHT-OF-WAY, NORTH OF THE CENTERLINE JERICHO ROAD AND EAST OF THE CENTERLINE OF BARNES ROAD DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY TO THE POINT OF BEGINNING; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 10.61 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 31.46 FEET; THENCE NORTH 72 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 5.24 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 687.32 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 661.85 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 70 DEGREES 20 MINUTES 53 SECONDS WEST, A DISTANCE OF 3.95 FEET; THENCE SOUTH 79 DEGREES 54 MINUTES 22 SECONDS WEST, A DISTANCE OF 52.06 FEET; THENCE NORTH 00 DEGREES 08 MINUTES 00 SECONDS WEST, A DISTANCE OF 672.09 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 18 MINUTES 50 SECONDS WEST, A DISTANCE OF 719.50 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 49.89 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 76,454 SQUARE FEET, 1.7551 ACRES, OF LAND, MORE OR

**DESCRIPTION OF REVISED EXCLUSIVE PERMANENT EASEMENT 2**

THAT PART OF THE NORTHEAST QUARTER, SOUTHEAST QUARTER AND SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THAT PART OF NORTHEAST

QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE BURLINGTON NORTH RAILROAD RIGHT-OF-WAY, NORTH OF THE CENTERLINE JERICHO ROAD AND EAST OF THE CENTERLINE OF BARNES ROAD DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY TO THE POINT OF BEGINNING: THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 10.61 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 31.46 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 685.75 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 728.10 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 26 SECONDS EAST, A DISTANCE OF 536.90 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE TO THE POINT OF BEGINNING: THENCE SOUTH 00 DEGREES 08 MINUTES 26 SECONDS EAST, A DISTANCE OF 190.97 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 28 MINUTES 50 SECONDS EAST, A DISTANCE OF 249.23 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE TO THE NORTHWEST LINE OF LOT 105 OF THE LINDENS UNIT 2 RECORDED AS DOCUMENT NUMBER 2001K069822 ON JULY 12, 2001; THENCE SOUTH 43 DEGREES 46 MINUTES 34 SECONDS WEST, A DISTANCE OF 7.20 FEET, ALONG THE NORTHWEST LINE OF SAID LOT 105; THENCE SOUTH 00 DEGREES 27 MINUTES 08 SECONDS EAST, A DISTANCE OF 139.26 FEET, ALONG THE WEST LINE OF SAID LOT 105 AND 104; THENCE SOUTH 46 DEGREES 13 MINUTES 26 SECONDS EAST, A DISTANCE OF 7.11 FEET, ALONG SOUTHWEST LINE OF SAID LOT 104; THENCE SOUTH 00 DEGREES 28 MINUTES 50 SECONDS EAST, A DISTANCE OF 303.59 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 61 DEGREES 33 MINUTES 02 SECONDS EAST, A DISTANCE OF 695.59 FEET; THENCE SOUTH 67 DEGREES 46 MINUTES 22 SECONDS EAST, A DISTANCE OF 28.94 FEET; THENCE ALONG A CURVE, CONCAVE NORTH WEST, WITH A RADIUS OF 1372.70 FEET, AN ARC DISTANCE OF 67.82 FEET, AND CHORD BEARING OF SOUTH 50 DEGREES 08 MINUTES 27 SECONDS WEST; THENCE NORTH 66 DEGREES 16 MINUTES 54 SECONDS WEST, A DISTANCE OF 705.01 FEET; THENCE NORTH 00 DEGREES 28 MINUTES 50 SECONDS WEST, A DISTANCE OF 894.08 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 08 MINUTES 26 SECONDS WEST, A DISTANCE OF 26.37 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE ALONG A CURVE, CONCAVE WEST, WITH A RADIUS OF 150.00 FEET, AN ARC DISTANCE OF 89.00 FEET, AND CHORD BEARING OF NORTH 16 DEGREES 43 MINUTES 23

SECONDS EAST; THENCE NORTH 00 DEGREES 16 MINUTES 29 SECONDS WEST, A DISTANCE OF 102.02 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 30 SECONDS EAST, A DISTANCE OF 9.42 FEET; THENCE NORTH 00 DEGREES 27 MINUTES 08 SECONDS WEST, A DISTANCE OF 190.00 FEET; THENCE NORTH 49 DEGREES 22 MINUTES 18 SECONDS EAST, A DISTANCE OF 21.58 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 26 SECONDS EAST, A DISTANCE OF 216.85 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 50 DEGREES 16 MINUTES 35 SECONDS EAST, A DISTANCE OF 13.03 FEET; THENCE NORTH 72 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 5.24 FEET, TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 119181 SQUARE FEET, 2.74 ACRES, OF LAND, MORE OR LESS.

#### **DESCRIPTION OF NON-EXCLUSIVE PERMANENT EASEMENT 1**

THAT PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 10.61 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 31.46 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 685.75 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 728.10 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 26 SECONDS EAST, A DISTANCE OF 536.90 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 50 DEGREES 16 MINUTES 35 SECONDS WEST, A DISTANCE OF 13.03 FEET TO A POINT 5.00 FEET EAST OF THE ABOVE DESCRIBED SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 08 MINUTES 26 SECONDS WEST, A DISTANCE OF 216.85 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 49 DEGREES 22 MINUTES 18 SECONDS WEST, A DISTANCE OF 21.58 FEET TO A POINT 11.41 FEET WEST OF THE ABOVE DESCRIBED SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 27 MINUTES 08 SECONDS EAST, A DISTANCE OF 190.00 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 30 SECONDS WEST, A DISTANCE OF 9.42 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 29 SECONDS EAST, A DISTANCE OF 102.02 FEET; THENCE ALONG A CURVE, CONCAVE WEST, WITH A RADIUS OF 150.00 FEET, AN ARC DISTANCE OF 89.00 FEET, AND CHORD

BEARING OF SOUTH 16 DEGREES 43 MINUTES 23 SECONDS WEST; THENCE NORTH 00 DEGREES 08 MINUTES 26 SECONDS WEST, A DISTANCE OF 701.68 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 08 MINUTES 00 SECONDS WEST, A DISTANCE OF 55.92 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 79 DEGREES 54 MINUTES 22 SECONDS EAST, A DISTANCE OF 52.06 FEET; THENCE NORTH 70 DEGREES 20 MINUTES 53 SECONDS EAST, A DISTANCE OF 3.95 FEET TO A POINT 10.00 FEET EAST OF SAID SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 08 MINUTES 00 SECONDS WEST, A DISTANCE OF 661.86 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE NORTH 00 DEGREES 18 MINUTES 50 SECONDS WEST, A DISTANCE OF 687.32 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 5.24 FEET TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 42,430 SQUARE FEET, 0.9741 ACRES, OF LAND, MORE OR LESS.

#### **DESCRIPTION OF NON-EXCLUSIVE PERMANENT EASEMENT 2**

THAT PART OF THE EAST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25A; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY TO THE POINT OF BEGINNING: THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 10.61 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 31.46 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, A DISTANCE OF 685.75 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 728.10 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 26 SECONDS EAST, A DISTANCE OF 727.87 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 28 MINUTES 50 SECONDS EAST, A DISTANCE OF 249.23 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE TO THE POINT OF BEGINNING: THENCE SOUTH 00 DEGREES 28 MINUTES 50 SECONDS EAST, A DISTANCE OF 149.38 FEET ALONG A LINE PARALLEL WITH SAID SANITARY SEWER CENTERLINE TO THE SOUTHWEST LINE OF LOT 104 OF THE LINDENS UNIT 2 RECORDED AS DOCUMENT NUMBER 2001K069822 ON JULY 12, 2001; THENCE NORTH 46 DEGREES 13 MINUTES 26 SECONDS WEST, A DISTANCE OF 7.11 FEET, ALONG SOUTHWEST LINE OF SAID

LOT 104; THENCE NORTH 00 DEGREES 27 MINUTES 08 SECONDS WEST, A DISTANCE OF 139.26 FEET, ALONG THE WEST LINE OF SAID LOT 104 AND LOT 105; THENCE NORTH 43 DEGREES 46 MINUTES 34 SECONDS EAST, A DISTANCE OF 7.20 FEET, ALONG THE NORTHWEST LINE OF LOT 105, TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 730 SQUARE FEET, 0.0168 ACRES, OF LAND, MORE OR LESS.

#### **DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT 3A**

THAT PART OF THE EAST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF- WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF-WAY; THENCE SOUTH 88 DEGREES 45 MINUTES 32 SECONDS WEST, A DISTANCE OF 49.89 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, 719.50 FEET ALONG A LINE PARALLEL WITH THE SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 532.27 FEET ALONG A LINE PARALLEL WITH THE SANITARY SEWER CENTERLINE TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, 100.01 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, A DISTANCE OF 857.38 FEET; THENCE NORTH 45 DEGREES 11 MINUTES 13 SECONDS WEST, A DISTANCE OF 167.77 FEET; THENCE NORTHEASTERLY ON A CURVE, CONCAVE NORTHWESTERLY, WITH A RADIUS OF 63.00 FEET, AN ARC DISTANCE OF 5.22 FEET AND CHORD BEARING NORTH 44 DEGREES 52 MINUTES 48 SECONDS EAST; THENCE SOUTH 47 DEGREES 29 SECONDS 39 MINUTES EAST, A DISTANCE OF 117.00 FEET; THENCE NORTH 31 DEGREES 45 MINUTES 05 SECONDS EAST, A DISTANCE OF 67.18 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 59 SECONDS EAST, A DISTANCE OF 850.88 FEET TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 88,139 SQUARE FEET, 2.02 ACRES OF LAND, MORE OR LESS.

### **DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT 3B**

THAT PART OF THE EAST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF- WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF-WAY; THENCE SOUTH 88 DEGREES 45 MINUTES 32 SECONDS WEST, A DISTANCE OF 49.89 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, 719.50 FEET ALONG A LINE PARALLEL WITH THE SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 632.27 FEET ALONG A LINE PARALLEL WITH THE SANITARY SEWER CENTERLINE; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, A DISTANCE OF 865.65 FEET ALONG A LINE AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE TO THE POINT OF BEGINNING; THENCE NORTH 80 DEGREES 54 MINUTES 27 SECONDS WEST, A DISTANCE OF 94.45 FEET; THENCE NORTH 19 DEGREES 34 MINUTES 04 SECONDS WEST, A DISTANCE OF 117.00 FEET; THENCE NORTHEASTERLY ON A CURVE, CONCAVE NORTHWESTERLY, WITH A RADIUS OF 63.00 FEET, AN ARC DISTANCE OF 4.96 FEET AND CHORD BEARING NORTH 68 DEGREES 10 MINUTES 28 SECONDS EAST; THENCE SOUTH 45 DEGREES 11 MINUTES 13 SECONDS EAST, A DISTANCE OF 180.21 FEET TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 5,259 SQUARE FEET, 0.12 ACRE, MORE OR LESS

### **DESCRIPTION OF PERMANENT EASEMENT 3**

THAT PART OF THE EAST HALF OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 1169.69 FEET, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 25 TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF- WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 104.27 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT-OF-WAY; THENCE SOUTH 88 DEGREES 45 MINUTES 32 SECONDS WEST, A DISTANCE OF 49.89 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS EAST, 719.50 FEET ALONG A LINE PARALLEL WITH

THE SANITARY SEWER CENTERLINE; THENCE SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 632.27 FEET ALONG A LINE PARALLEL WITH THE SANITARY SEWER CENTERLINE TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00 DEGREES 08 MINUTES 00 SECONDS EAST, A DISTANCE OF 20.00 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST, A DISTANCE OF 865.65 FEET ALONG A LINE AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE; THENCE NORTH 45 DEGREES 11 MINUTES 13 SECONDS WEST, A DISTANCE OF 180.21 FEET; THENCE NORTHEASTERLY ON A CURVE CONCAVE NORTHWESTERLY, WITH A RADIUS OF 63.00 FEET, AN ARC DISTANCE OF 20.52 FEET AND CHORD BEARING NORTH 56 DEGREES 35 MINUTES 08 SECONDS EAST; THENCE SOUTH 45 DEGREES 11 MINUTES 13 SECONDS EAST, A DISTANCE OF 167.77 FEET; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS EAST, 857.38 FEET TO THE POINT OF BEGINNING, ALL IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

CONTAINING AN AREA OF 20,698 SQUARE FEET, 0.48 ACRE OF LAND, MORE OR LESS.

**EXHIBIT "Z" TO AMENDMENT NO. 1  
TO SEWER EASEMENT AGREEMENT**

THAT PART OF SECTION 25, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 25; THENCE SOUTH 00 DEGREES 28 MINUTES 00 SECONDS EAST, A DISTANCE OF 50.00 FEET, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 489.73 FEET, PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF BEGINNING; THENCE NORTH 88 DEGREES 45 MINUTES 31 SECONDS EAST, A DISTANCE OF 830.50 FEET, PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 72 DEGREES 47 MINUTES 25 SECONDS EAST, A DISTANCE OF 217.60 FEET, ALONG THE SOUTHERLY LINE OF THE BURLINGTON NORTH RAILROAD RIGHT OF WAY; THENCE SOUTH 49 DEGREES 39 MINUTES 55 SECONDS WEST, A DISTANCE OF 30.00 FEET; THENCE WESTERLY ALONG A CURVE, CONCAVE SOUTH, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 75.91 FEET AND CHORD BEARING NORTH 76 DEGREES 34 MINUTES 39 SECONDS WEST; THENCE NORTH 72 DEGREES 47 MINUTES 25 SECONDS WEST, A DISTANCE OF 179.11 FEET; THENCE SOUTH 00 DEGREES 27 MINUTES 08 SECONDS EAST, A DISTANCE OF 1353.35 FEET, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 79 DEGREES 54 MINUTES 22 SECONDS WEST, A DISTANCE OF 218.61 FEET; THENCE WESTERLY ALONG A CURVE, CONCAVE SOUTH, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 20.10 FEET AND CHORD BEARING NORTH 79 DEGREES 16 MINUTES 56 SECONDS WEST; THENCE NORTH 88 DEGREES 52 MINUTES 37 SECONDS WEST, A DISTANCE OF 186.11 FEET; THENCE SOUTHWESTERLY ALONG A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 92.98 FEET AND CHORD BEARING SOUTH 46 DEGREES 43 MINUTES 43 SECONDS WEST; THENCE SOUTH 02 DEGREES 20 MINUTES 03 SECONDS WEST, A DISTANCE OF 475.37 FEET; THENCE SOUTHERLY ALONG A CURVE, CONCAVE EAST, HAVING A RADIUS OF 100.00 FEET, AN ARC DISTANCE OF 14.75 FEET AND CHORD BEARING SOUTH 01 DEGREES 55 MINUTES 38 SECONDS EAST; THENCE SOUTH 06 DEGREES 09 MINUTES 07 SECONDS EAST, A DISTANCE OF 217.30 FEET; THENCE SOUTHEASTERLY ALONG A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 66.00 FEET, AN ARC DISTANCE OF 101.97 FEET AND CHORD BEARING SOUTH 50 DEGREES 24 MINUTES 43 SECONDS EAST; THENCE NORTH 85 DEGREES 19 MINUTES 42 SECONDS EAST, A DISTANCE OF 245.53 FEET; THENCE NORTHEASTERLY ALONG A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 150.00 FEET, AN ARC DISTANCE OF 224.11 FEET AND CHORD BEARING NORTH 42 DEGREES 31 MINUTES 36 SECONDS EAST; THENCE NORTH 00 DEGREES 16 MINUTES 28 SECONDS WEST, A DISTANCE OF 102.02 FEET; THENCE NORTH 89 DEGREES 43 MINUTES 30 SECONDS EAST, A DISTANCE OF 9.42 FEET; THENCE SOUTH 50 DEGREES 16 MINUTES 35 SECONDS EAST, A DISTANCE OF 110.83 FEET; THENCE NORTH 89 DEGREES 32

MINUTES 52 SECONDS EAST, A DISTANCE OF 166.50 FEET, PERPENDICULAR TO THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 27 MINUTES 08 SECONDS EAST, A DISTANCE OF 135.00 FEET, PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 24 DEGREES 26 MINUTES 40 SECONDS WEST, A DISTANCE OF 46.36 FEET; THENCE SOUTH 43 DEGREES 46 MINUTES 34 SECONDS WEST, A DISTANCE OF 304.42 FEET; THENCE SOUTH 00 DEGREES 27 MINUTES 08 SECONDS EAST, A DISTANCE OF 139.26 FEET PARALLEL WITH THE EAST LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 46 DEGREES 13 MINUTES 26 SECONDS EAST, A DISTANCE OF 364.61 FEET; THENCE SOUTH 40 DEGREES 56 MINUTES 29 SECONDS EAST, A DISTANCE OF 64.30 FEET; THENCE SOUTH 21 DEGREES 46 MINUTES 51 SECONDS EAST, A DISTANCE OF 215.00 FEET; THENCE NORTH 68 DEGREES 13 MINUTES 09 SECONDS EAST, A DISTANCE OF 133.50 FEET; THENCE SOUTH 21 DEGREES 46 MINUTES 51 SECONDS EAST, A DISTANCE OF 62.54 FEET; THENCE SOUTHEASTERLY ALONG A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 133.00 FEET, AN ARC DISTANCE OF 48.85 FEET AND CHORD BEARING SOUTH 32 DEGREES 18 MINUTES 10 SECONDS EAST; THENCE SOUTH 42 DEGREES 49 MINUTES 28 SECONDS EAST, A DISTANCE OF 133.65 FEET, TO A POINT 60.00 FEET NORMALLY DISTANCE FROM THE CENTERLINE OF JERICHO ROAD; THENCE SOUTHWESTERLY ALONG A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1372.70 FEET, AN ARC DISTANCE OF 474.59 FEET AND CHORD BEARING SOUTH 58 DEGREES 27 MINUTES 28 SECONDS WEST, ALONG A LINE PARALLEL WITH THE CENTERLINE OF JERICHO ROAD; THENCE SOUTH 68 DEGREES 21 MINUTES 45 SECONDS WEST, A DISTANCE OF 690.27 FEET; THENCE NORTH 09 DEGREES 34 MINUTES 34 SECONDS WEST, A DISTANCE OF 227.77 FEET; THENCE SOUTH 80 DEGREES 38 MINUTES 52 SECONDS WEST, A DISTANCE OF 343.00 FEET; THENCE SOUTH 03 DEGREES 21 MINUTES 08 SECONDS EAST, A DISTANCE OF 218.67 FEET, TO THE CENTERLINE OF BLACKBERRY CREEK; THENCE NORTH 65 DEGREES 13 MINUTES 08 SECONDS WEST, A DISTANCE OF 308.86 FEET, ALONG SAID CENTERLINE; THENCE NORTH 75 DEGREES 48 MINUTES 08 SECONDS WEST, A DISTANCE OF 86.00 FEET, ALONG SAID CENTERLINE; THENCE SOUTH 74 DEGREES 19 MINUTES 52 SECONDS WEST, A DISTANCE OF 86.00 FEET, ALONG SAID CENTERLINE; THENCE SOUTH 40 DEGREES 41 MINUTES 52 SECONDS WEST, A DISTANCE OF 80.00 FEET, ALONG SAID CENTERLINE TO A POINT OF INTERSECTION OF THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION AND SAID CENTERLINE BEING 1057.45 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION AS MEASURED ON THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 DEGREES 19 MINUTES 16 SECONDS WEST, A DISTANCE OF 658.05 FEET, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTH 85 DEGREES 17 MINUTES 47 SECONDS WEST, A DISTANCE OF 599.00 FEET, (SOUTH 85 DEGREES 23 MINUTES WEST RECORD) ALONG THE SOUTH LINE OF THE TRACK CONVEYED TO CLAUDE L. GORTON AND CLARA S. GORTON, HUSBAND AND WIFE, BY DEED DATED DECEMBER 30, 1944 AND RECORDED AT PAGE 143 IN RECORD BOOK 1216 AS DOCUMENT #524857 IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS (BEING ALONG AN OLD FENCE AND LINE OF OCCUPATION) TO THE CENTERLINE OF BARNES ROAD; THENCE NORTH 19 DEGREES 16 MINUTES 49

SECONDS WEST, A DISTANCE OF 472.97 FEET, (NORTH 19 DEGREES 22 MINUTES WEST RECORD), ALONG SAID CENTERLINE TO A LINE 15.00 NORTH AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE NORTH 88 DEGREES 41 MINUTES 51 SECONDS EAST, A DISTANCE OF 247.63 FEET, PARALLEL WITH SAID SOUTH LINE; THENCE NORTH 00 DEGREES 37 MINUTES 12 SECONDS WEST, A DISTANCE OF 1273.93 FEET, (NORTH 00 DEGREES 37 MINUTES 00 SECONDS WEST, 1272.66 FEET RECORD) TO THE EXTENSION EASTERLY OFF THE NORTHERLY LINE OF HALLING SUBDIVISION; THENCE NORTH 82 DEGREES 41 MINUTES 01 SECONDS WEST, A DISTANCE OF 934.04 FEET, (NORTH 82 DEGREES 41 MINUTES 00 SECONDS WEST, 937.63 FEET RECORD) ALONG SAID EXTENSION AND SAID NORTHERLY LINE OF HALLING SUBDIVISION TO THE CENTERLINE OF BARNES ROAD, BEING AT THE NORTHWESTERLY CORNER OF SAID HALLING SUBDIVISION; THENCE NORTH 30 DEGREES 52 MINUTES 14 SECONDS WEST, A DISTANCE OF 83.97 FEET, (NORTH 30 DEGREES 53 MINUTES 26 SECONDS WEST RECORD) ALONG THE SAID CENTERLINE; THENCE SOUTH 82 DEGREES 41 MINUTES 01 SECONDS EAST, A DISTANCE OF 188.96 FEET, (189.04 FEET RECORD) ALONG A LINE 66.00 FEET NORTHERLY OF AND PARALLEL WITH NORTHERLY LINE OF HALLING SUBDIVISION; THENCE NORTH 03 DEGREES 07 MINUTES 49 SECONDS EAST, A DISTANCE OF 878.73 FEET, (878.75 FEET RECORD); THENCE NORTH 63 DEGREES 07 MINUTES 49 SECONDS EAST, A DISTANCE OF 356.12 FEET, TO THE CENTERLINE OF BLACKBERRY CREEK; THENCE NORTH 75 DEGREES 37 MINUTES 31 SECONDS WEST, A DISTANCE OF 84.90 FEET, ALONG SAID CENTERLINE; THENCE NORTH 52 DEGREES 43 MINUTES 29 SECONDS WEST, A DISTANCE OF 53.45 FEET, ALONG SAID CENTERLINE; THENCE NORTH 18 DEGREES 17 MINUTES 59 SECONDS WEST, A DISTANCE OF 97.06 FEET, ALONG SAID CENTERLINE TO THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 88 DEGREES 48 MINUTES 42 SECONDS EAST, A DISTANCE OF 651.02 FEET, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, TO A POINT 416.43 FEET WEST OF THE NORTH QUARTER CORNER; THENCE SOUTH 00 DEGREES 11 MINUTES 18 SECONDS EAST, A DISTANCE OF 280.00 FEET (SOUTH 00 DEGREES 12 MINUTES 00 SECONDS EAST RECORD); THENCE NORTH 88 DEGREES 48 MINUTES 42 SECONDS EAST, A DISTANCE OF 124.00 FEET (NORTH 88 DEGREES 48 MINUTES 00 SECONDS EAST RECORD); THENCE SOUTH 29 DEGREES 42 MINUTES 55 SECONDS WEST, A DISTANCE OF 145.89 FEET; THENCE SOUTH 03 DEGREES 27 MINUTES 29 SECONDS EAST, A DISTANCE OF 270.53 FEET; THENCE SOUTH 09 DEGREES 13 MINUTES 42 SECONDS WEST, A DISTANCE OF 285.22 FEET; THENCE SOUTH 11 DEGREES 44 MINUTES 20 SECONDS EAST, A DISTANCE OF 220.28 FEET; THENCE SOUTH 01 DEGREES 06 MINUTES 41 SECONDS EAST, A DISTANCE OF 1198.89 FEET; THENCE NORTH 89 DEGREES 32 MINUTES 00 SECONDS EAST, A DISTANCE OF 189.58 FEET, PERPENDICULAR TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE SOUTH 57 DEGREES 59 MINUTES 24 SECONDS EAST, A DISTANCE OF 104.67 FEET; THENCE NORTH 22 DEGREES 20 MINUTES 53 SECONDS EAST, A DISTANCE OF 101.94 FEET; THENCE NORTH 07 DEGREES 51 MINUTES 59 SECONDS EAST, A DISTANCE OF 137.70 FEET; THENCE NORTH 33 DEGREES 33 MINUTES 10 SECONDS EAST, A DISTANCE OF 28.73 FEET; THENCE NORTH 55 DEGREES 32 MINUTES 35

SECONDS EAST, A DISTANCE OF 56.04 FEET; THENCE NORTH 01 DEGREES 33 MINUTES 43 SECONDS WEST, A DISTANCE OF 461.63 FEET; THENCE SOUTH 89 DEGREES 32 MINUTES 00 SECONDS WEST, A DISTANCE OF 15.57 FEET; THENCE NORTH 08 DEGREES 19 MINUTES 12 SECONDS WEST, A DISTANCE OF 75.97 FEET; THENCE NORTH 08 DEGREES 01 MINUTES 17 SECONDS WEST, A DISTANCE OF 75.66 FEET; THENCE NORTH 09 DEGREES 43 MINUTES 41 SECONDS WEST, A DISTANCE OF 159.61 FEET; THENCE NORTH 89 DEGREES 32 MINUTES 00 SECONDS EAST, A DISTANCE OF 210.65 FEET, PERPENDICULAR TO THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH 79 DEGREES 58 MINUTES 58 SECONDS EAST, A DISTANCE OF 59.73 FEET; THENCE NORTH 19 DEGREES 34 MINUTES 04 SECONDS WEST, A DISTANCE OF 117.00 FEET; THENCE NORTHEASTERLY ALONG A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 63.00 FEET, AN ARC DISTANCE OF 30.71 FEET AND CHORD BEARING NORTH 56 DEGREES 28 MINUTES 08 SECONDS EAST; THENCE SOUTH 47 DEGREES 29 MINUTES 39 SECONDS EAST, A DISTANCE OF 117.00 FEET; THENCE NORTH 31 DEGREES 45 MINUTES 05 SECONDS EAST, A DISTANCE OF 67.18 FEET; THENCE NORTH 10 DEGREES 14 MINUTES 32 SECONDS EAST, A DISTANCE OF 67.18 FEET; THENCE NORTH 00 DEGREES 30 MINUTES 44 SECONDS WEST, A DISTANCE OF 363.82 FEET; THENCE NORTH 36 DEGREES 39 MINUTES 26 SECONDS EAST, A DISTANCE OF 105.82 FEET; THENCE NORTH 01 DEGREES 14 MINUTES 29 SECONDS WEST, A DISTANCE OF 225.00 FEET, PERPENDICULAR TO THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 20 DEGREES 33 MINUTES 36 SECONDS EAST, A DISTANCE OF 161.55 FEET; THENCE NORTH 01 DEGREES 14 MINUTES 29 SECONDS WEST, A DISTANCE OF 330.00 FEET, PERPENDICULAR TO THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 5,670,200 SQUARE FEET, (130.1699 ACRES), OF LAND, MORE OR LESS.

**DEDICATION AGREEMENT**

The Lindens Unit 3

THIS AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2002 by and between THE LINDENS VENTURE, L.L.C., an Illinois limited liability company, (hereinafter referred to as "Developer"), the FOX VALLEY PARK DISTRICT organized under "An Act to provide for the creation of Pleasure Driveway and Park District", approved June 19, 1893, as amended (hereinafter referred to as the "Park District").

**WITNESSETH**

WHEREAS, "Developer" is record owner of certain land which is in the City of Aurora, Illinois (hereunder referred to as the "City") identified as The Lindens which is being subdivided and developed as a residential use area; and

WHEREAS, "Developer" has reserved the following described lots as a neighborhood park;

Lot 348 consisting of 4.41 acres in The Lindens, Unit 3, being a subdivision of part of the east half of Section 25, Township 38 North Range 7 East of the Third Principal Meridian, in the City of Aurora, Kane County, Illinois.

hereinafter referred to as the "Park"; and

WHEREAS, the Park (which is shown on the Plat of Subdivision of said The Lindens attached hereto as Exhibit "A") has been designed as a neighborhood park, and

WHEREAS, "Developer" will convey the "Park" to the Park District by Deed as soon as "Developer" has completed, or caused to be completed:

1. The placement of 6" of topsoil on the "Park" and the "Park" has been rough graded, fine graded and seeded.
2. The improvements described in paragraphs 4 and 5 of this agreement.

(hereinafter referred to as the Work).

NOW, THEREFORE, for and in consideration of the premises and the mutual agreements of the parties, it is hereby agreed as follows:

1. **Deed of Dedication.** Subject to the provisions hereof, "Developer" hereby agrees to cause the "Park" to be conveyed to Park District by Deed in the form attached hereto as Exhibit "B" for the use and benefit of the Park District subject to the conditions in said Deed as soon as "Developer" has completed the Work. When the Work has been completed, "Developer" shall send notice to Park District advising Park District that the Work has been completed and that "Developer" is prepared to cause execution of a Deed conveying the "Park" to Park District. Within fifty-five (45) days after receipt of notice that the Work has been completed, Park District shall advise "Developer" if any portion of the Work has not been completed. If not so advised, "Developer" shall promptly furnish to Park District a Title Commitment as hereinafter described, a copy of the recorded plat and a copy of the proposed Deed from "Developer" conveying the "Park" to the Park District.



2. **Title Insurance.** The Title Commitment furnished by "Developer" to the Park District at the former's expense shall be issued by First American Title Insurance Company, in an amount equal to Forty-Two Thousand Five Hundred Dollars (\$42,500.00) for each acre contained in the "Park" showing clear and merchantable title to the "Park" to be vested in said "Developer", subject to the following:

- (a) General taxes for the year of conveyance of the property and subsequent years;
- (b) Rights-of-way for drainage tiles, ditches, feeders and laterals;
- (c) The terms and provisions of said Deed;
- (d) Usual and customary exceptions contained in title insurance policies issued by First American Title Insurance Company.

If the Title Commitment shows "Developer" to possess a merchantable title to the "Park" and the proposed Deed is in satisfactory form, the Park District will request "Developer" to deliver the original Deed together with all other documentation required to record the deed to it, and agrees to record the Deed within fourteen (14) days from the date of receipt of such deed.

3. **Real Estate Taxes.** It is hereby agreed and understood that all general real estate taxes on the Park to the date of delivery of the Deed conveying such "Park" to the Park District, shall be paid by "Developer", and that any and all general real estate taxes accruing or arising from the period after the date of delivery of said Deed shall be paid by Park District.

4. **Improvements.** "Developer" has prepared and submitted the final engineering plans for the improvements to be constructed on the "Park" to the Park District for its review and approval. "Developer" shall comply with all written standards for Park District property development including prohibiting the use of Park property for stockpiles and borrow pits. "Developer" shall complete the improvements in conformity with such final engineering plans as approved by the "City" and Park District shall have the right to inspect and approve the "Park" for conformance with such plans. Upon conveyance, Park District agrees that it shall bear all responsibility for maintenance of the "Park" and for all other park improvements including landscaping. "Developer" shall complete, or cause to be completed, the Work as promptly as practicable following execution of this Agreement, provided that such Work shall be completed no later than two (2) years following execution hereof.

5. **Subdivision Improvements.** As required by the approved final engineering plans, "Developer" shall construct or cause to be constructed, at no cost to the Park District, the subdivision improvements on an adjacent to the "Park", including, without limitation, bicycle/walking path, public street improvements with the required curb and gutter, sidewalk and street trees.

6. **Reservation of Easements.** The Park District agrees that easements may be reserved in the Deed conveying the Park to the Park District in favor of the "City" and "Developer", their employees, agents, representatives and contractors, to enter upon, cross and recross the "Park" as may be necessary for the "City" and "Developer" to carry out their obligations set forth in Paragraphs 4 and 5 hereof.

7. **Landscaping.** In the event "Developer" elects to install any additional landscaping on the "Park", in addition to landscaping in accordance with the "Developer's" annexation agreement with the "City", "Developer" shall receive approval of Park District prior to such landscaping.







8. **General Provisions.**

- (a) This Agreement shall be and remain binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.
- (b) Nothing herein contained shall be deemed to create any rights in any other person or entity not a party to this Agreement.
- (c) Either party shall have the right to compel specific performance of the terms and conditions of this Agreement.
- (d) All notices required hereunder shall be in writing and sent by certified mail, postage prepaid, return receipt requested and addressed as follows:

If to Developer: The Lindens Venture, L.L.C.  
% The Kirk Corporation  
972 High Point Lane  
Streamwood, Illinois 60107

If to Park District: Fox Valley Park District  
P.O.Box 818  
712 South River Street  
Aurora, Illinois 60507

With a copy to:

Murphy, Hupp and Kinnally , P.C.  
P.O.Box 5030  
2114 Deerpath Road  
Aurora, Illinois 60507  
Attn: Gerald Hodge

- (e) The paragraph headings used herein are for convenience only and in no way are intended to define or limit the substantive provisions of this Agreement.

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

ATTEST:

Kristina A. Behman  
Secretary

FOX VALLEY PARK DISTRICT

Linda A. Cole  
President, Board of Trustees

ATTEST:

Michael A. Aban  
Secretary

THE LINDENS VENTURE, L.L.C an Illinois corporation, managing member

By: The Kirk Corporation, an Illinois Corporation, managing member

BY:

John P. Carroll, President

**EXHIBIT "B"**  
**WARRANTY DEED**  
**Statutory (Illinois)**  
**(Corporation to Corporation)**

**THE GRANTOR, \_\_\_\_\_**

\_\_\_\_\_, a  
corporation created and existing  
under and by virtue of the laws of  
the State of \_\_\_\_\_ and duly

(The Above Space for Recorder's Use Only)

authorized to transact business in the State of Illinois for the consideration of Ten and No/100 DOLLARS (\$10.00) in hand paid, and pursuant to authority given by the Board of Directors of said corporation, CONVEYS and WARRANTS to FOX VALLEY PARK DISTRICT, a body politic organized an existing under "An Act to provide for the creation of Pleasure Driveway and Park District: approved June 19, 1893, as amended," having its principal office at 712 South River Street, Aurora, Illinois, all interest in the following described Real Estate situated in the County of Will and State of Illinois, to wit:

**Permanent Real Estate Index Number(s):**

**Address(es) of Real Estate:**

**Subject to:** General real estate taxes not yet due and payable; rights-of-way for drainage tiles, ditches, feeders and laterals; utility and other easements and covenants, conditions and restrictions as shown on the plat of subdivision or shown of record including, without limitation, "City Easements," provided such easements, covenants, and restrictions do not interfere with the proposed development of the real estate for park and recreational purposes.

Grantor hereby reserves for itself, its successors and assigns, and for the City/Village of \_\_\_\_\_, and their respective employees, agents, representatives and contractors, an easement to enter upon, cross and recross the real estate herein conveyed, for the purpose of completing or causing to be completed improvements to be constructed on the real estate and subdivision improvements,

including public street improvements, to be constructed on and adjacent to the real property herein conveyed.

In Witness Whereof, said Grantor has caused its name to be signed to these presents by its attorneys-in-fact this \_\_\_\_\_ day of \_\_\_\_\_.

By: \_\_\_\_\_

By: \_\_\_\_\_  
Its: Attorneys-in-Fact

MELTZER, PURTILL & STELLE LLC  
ATTORNEYS AT LAW

File Number: 05919-104  
Direct Dial: (847) 330-2407

MP&S

SCHAUMBURG CORPORATE CENTER  
1515 EAST WOODFIELD ROAD  
SECOND FLOOR  
SCHAUMBURG, ILLINOIS 60173-5431

TELEPHONE (847) 330-2400  
FACSIMILE (847) 330-1231  
[www.mpslaw.com](http://www.mpslaw.com)

January 3, 2003

Mr. Mike Albach  
The Kirk Corporation  
201 Juniper Circle  
Streamwood, Illinois 60107

Re: The Lindens

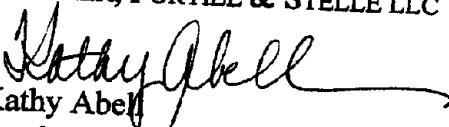
Dear Mike:

Enclosed is the original recorded Supplement No. 2 to the Declaration for The Lindens along with an updated Binder Index and divider so that you can update your Declaration Binder.

Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

MELTZER, PURTILL & STELLE LLC

  
Kathy Abel  
Paralegal

\ka  
enclosures

009-KA\corres\010303.001

LINDEN-1 LINDEN-2 LINDEN-3

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Suite 250  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

2002K140654

FILED FOR RECORD  
KANE COUNTY, ILL.

2002 OCT 31 AM 11:00

Sandy Wegman  
RECORDER

ABOVE SPACE FOR RECORDER'S USE ONLY

05919\104\Supp. No.2 to Declaration

10/17/02

**SUPPLEMENT NO. 2 TO  
DECLARATION FOR THE LINDENS**

This Supplement is made and entered into by The Lindens Venture, L.L.C. ("Declarant").

**R E C I T A L S**

Declarant recorded the Declaration for The Lindens (the "Declaration") on September 5, 2001 in the Office of the Recorder of Deeds for Kane County, Illinois as Document No. R2001K091775.

In Article Twelve of the Declaration, Declarant reserved the right and power to add and submit certain real estate to the Declaration by making portions of the Development Area subject to the Declaration as part of the Premises. Declarant exercised this right and power by recording the following document:

<u>Name of Document</u>	<u>Recording Date</u>	<u>Recording Number</u>
Supplement No. 1	January 31, 2002	2002K016468

Declarant desires once again to exercise this right and power to add and submit certain real estate to the provisions of the Declaration as part of the Premises.

NOW, THEREFORE, Declarant does hereby supplement and amend the Declaration as follows:

FIRST AMERICAN TITLE CO. OF ILLINOIS  
ONE N. CONSTITUTION DRIVE  
AURORA, IL 60506

*lbg 2002*

1. Terms. All Terms used herein, if not otherwise defined herein, shall have the meanings set forth in the Declaration.

2. Added Premises. Those portions of the Development Area which are legally described in Sections I(D) and II (D) of the Second Amended and Restated Exhibit B attached hereto are hereby made part of the Premises as "Added Premises".

3. Added Lots. The Lots in the Added Premises, which are legally described in Section I(D) of the Second Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Lots".

4. Added Community Area. The Lots in the Added Premises which are legally described in Section II(D) of the Second Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Community Area".

5. Amendment of Exhibit B. To reflect the addition of real estate to the Premises as set forth in Paragraph 2, 3 and 4 above, Exhibit B to the Declaration is hereby amended and restated to be as set forth in the Second Amended and Restated Exhibit B to the Declaration which is attached hereto.

6. Covenants to Run with Land. The covenants, conditions, restrictions, and easements contained in the Declaration, as amended by this Supplement, shall run with and bind the Premises, including the Added Premises.

7. Continuation. As expressly hereby amended, the Declaration shall continue in full force and effect in accordance with its terms.

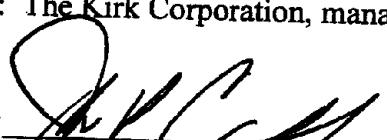
Dated: October 22, 2002

**DECLARANT:**

THE LINDENS VENTURE, L.L.C.

By: The Kirk Corporation, managing member

By:

  
John P. Carroll, its President

STATE OF ILLINOIS )  
) SS  
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that John P. Carroll, the President of The Kirk Corporation, which is the managing member of The Lindens Venture, L.L.C., appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of The Lindens Venture, L.L.C. for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 22nd day of October, 2002.



Lisa Brennan  
Notary Public

## **CONSENT OF MORTGAGEE**

Oak Brook Bank, as holder of a mortgage dated November 10, 2000, and recorded in the office of the Recorder of Deeds of Kane County, Illinois, on November 16, 2000, as Document No. 2000K092121, with respect to the Premises, hereby consents to the recording of this Declaration to which this Consent is attached and agrees that its mortgage shall be subject to the terms of this Declaration.

Dated: October 23, 2002

By: Wally S. Oderich  
Its: VP

**ATTEST:**

By: Virginia Buscher  
Its: AVP

STATE OF ILLINOIS )

11 SS.

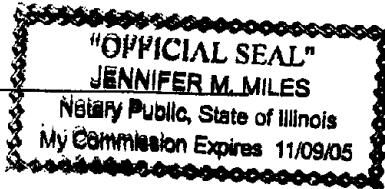
COUNTY OF DuPage

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Malv S. Oelenich and Ivana Buschman, the VP and AVP respectively, of Oak Brook Bank, as such VP and AVP appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of Oak Brook Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 3<sup>rd</sup> day of October , 2002.

Dawniee m miles  
Notary Public

### My Commission Expires:



**SECOND AMENDED AND RESTATED  
EXHIBIT B TO DECLARATION  
FOR THE LINDENS**

**The Premises**

**I. Lots:** Each of the following described lots shall be a "Lot" hereunder:

- A. Lots 4 through 40, both inclusive and Lots 43 through 59, both inclusive, in The Lindens Unit 1 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 19, 2001 as Document No. 2001K023721, in Kane County, Illinois ("The Lindens Unit 1 Subdivision").
- B. Lots 1 through 3, both inclusive, Lots 41, 42, 60, 61, 62, 63, Lots 77 through 120, both inclusive, Lots 141 through 149, both inclusive, in The Lindens Unit 2 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded July 12, 2001 as Document No. 2001K06999822, in Kane County, Illinois ("The Lindens Unit 2 Subdivision").
- C. Lots 121 through 140, both inclusive, Lots 150 through 184, both inclusive, Lots 191 through 211, both inclusive, in The Lindens Unit 3 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded January 4, 2002 as Document No. 2002K001747, in Kane County, Illinois ("The Lindens Unit 3 Subdivision").
- D. Lots 261 through 344, both inclusive, in The Lindens Unit 5 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded October 11, 2002 as Document No. 2002K128384, in Kane County, Illinois ("The Lindens Unit 5 Subdivision").

**II. Community Area:**

- A. Lot 258 in The Lindens Unit 1 Subdivision.
- B. Lot 259 in The Lindens Unit 2 Subdivision.
- C. Lot 349 in The Lindens Unit 3 Subdivision.
- D. Lots 345, 346 and 347 in The Lindens Unit 5 Subdivision.

PIN: 14-25-200-003  
14-25-400-001  
14-25-400-033

ADDRESSES: Various  
Audubon Lane, Aurora, IL  
Audubon Court, Aurora, IL  
HoneySuckle Lane, Aurora, IL  
Summerhill Drive, Aurora, IL  
Summerhill Court, Aurora, IL  
Suncrest Drive, Aurora, IL  
Little Creek Lane, Aurora, IL  
Roseglen Way, Aurora, IL  
Meadowsedge Lane, Aurora, IL  
Meadowsedge Court, Aurora, IL  
Woodside Court, Aurora, IL  
Wingpointe Drive, Aurora, IL

2002 K 140654

6

MELTZER, PURTILL & STELLE LLC  
ATTORNEYS AT LAW

File Number: 05919-115  
Direct Dial: (847) 330-2407

MP&S

SCHAUMBURG CORPORATE CENTER  
1515 EAST WOODFIELD ROAD  
SECOND FLOOR  
SCHAUMBURG, ILLINOIS 60173-5431

TELEPHONE (847) 330-2400  
FACSIMILE (847) 330-1231  
[www.mpslaw.com](http://www.mpslaw.com)

January 9, 2003

Mr. Mike Albach  
The Kirk Corporation  
201 Juniper Circle  
Streamwood, Illinois 60107

Re: THE LINDENS

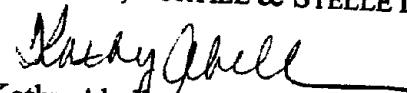
Dear Mike:

Enclosed is the original recorded Supplement No. 1 to Declaration for The Lindens. Please place this document in the binder that we sent to you previously.

Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

MELTZER, PURTILL & STELLE LLC

  
Kathy Abel  
Paralegal

lka  
enclosure

009-KA\corres\010903.001

LINDEN-3  
KA42908

LINDEN-2

LINDEN-1

THIS INSTRUMENT PREPARED  
BY AND SHOULD BE RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Suite 250  
Schaumburg, Illinois 60173-5431  
(847) 330-2400

2002K016468

FILED FOR RECORD  
KANE COUNTY, ILL.

2002 JAN 31 AM 9:45

Sandy Weyman  
RECODER

ABOVE SPACE FOR RECORDER'S USE ONLY

Supp. No.1 to Declaration

01/16/02 01/

**SUPPLEMENT NO. 1 TO  
DECLARATION FOR THE LINDENS**

This Supplement is made and entered into by The Lindens Venture, L.L.C. ("Declarant").

**R E C I T A L S**

Declarant recorded the Declaration for The Lindens (the "Declaration") on September 5, 2001 in the Office of the Recorder of Deeds for Kane County, Illinois as Document No. R2001K091775.

In Article Twelve of the Declaration, Declarant reserved the right and power to add and submit certain real estate to the Declaration by making portions of the Development Area subject to the Declaration as part of the Premises. Declarant desires to exercise this right and power to add and submit certain real estate to the provisions of the Declaration as part of the Premises.

NOW, THEREFORE, Declarant does hereby supplement and amend the Declaration as follows:

1. Terms. All Terms used herein, if not otherwise defined herein, shall have the meanings set forth in the Declaration.

2. Added Premises. Those portions of the Development Area which are legally described in Sections I(C) and II (C) of the First Amended and Restated Exhibit B attached hereto are hereby made part of the Premises as "Added Premises".

FIRST AMERICAN TITLE CO. OF ILLINOIS  
ONE N. INNISFELDATION DRIVE  
AURORA, IL 60506

2002K016468

Clay C.  
20

3. Added Lots. The Lots in the Added Premises, which are legally described in Section I(C) of the First Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Lots".

4. Added Community Area. The Lots in the Added Premises which are legally described in Section II(C) of the First Amended and Restated Exhibit B, are hereby made part of the Premises as "Added Community Area".

5. Amendment of Exhibit B. To reflect the addition of real estate to the Premises as set forth in Paragraph 2, 3 and 4 above, Exhibit B to the Declaration is hereby amended and restated to be as set forth in the First Amended and Restated Exhibit B to the Declaration which is attached hereto.

6. Covenants to Run with Land. The covenants, conditions, restrictions, and easements contained in the Declaration, as amended by this Supplement, shall run with and bind the Premises, including the Added Premises.

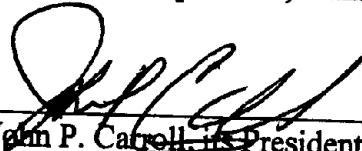
7. Continuation. As expressly hereby amended, the Declaration shall continue in full force and effect in accordance with its terms.

Dated: 1-25, 2002

**DECLARANT:**

THE LINDENS VENTURE, L.L.C.

By: The Kirk Corporation, managing member

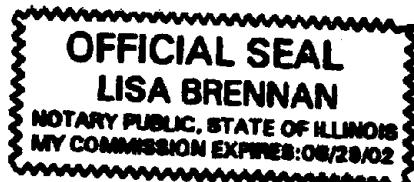
By:   
John P. Carroll, President



STATE OF ILLINOIS )  
COUNTY OF Burke )  
SS

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that John P. Carroll, the President of The Kirk Corporation, which is the managing member of The Lindens Venture, L.L.C., appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of The Lindens Venture, L.L.C. for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 25<sup>th</sup> day of January, 2002.



Eric Bremar

## Notary Public

2002K016468

## CONSENT OF MORTGAGEE

Oak Brook Bank, as holder of a mortgage dated November 10, 2000, and recorded in the office of the Recorder of Deeds of Kane County, Illinois, on November 16, 2000, as Document No. 2000K092121, with respect to the Premises, hereby consents to the recording of this Declaration to which this Consent is attached and agrees that its mortgage shall be subject to the terms of this Declaration.

Dated: Jan. 28, 2002

By: Molly S. O'Brien  
Its: VP

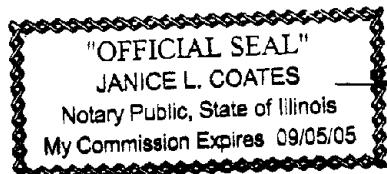
ATTEST,

By: John Bonino  
Its: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that Molly S. O'Brien and John Bonino, the V.P. and V.P. respectively, of Oak Brook Bank, as such V.P. and V.P. appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of Oak Brook Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28<sup>th</sup> day of January, 2002.



Janice L. Coates

Notary Public

My Commission Expires: \_\_\_\_\_

2002K016468

**FIRST AMENDED AND RESTATED  
EXHIBIT B TO DECLARATION  
FOR THE LINDENS**

**The Premises**

**I. Lots: Each of the following described lots shall be a "Lot" hereunder:**

A. Lots 4 through 40, both inclusive and Lots 43 through 59, both inclusive, in The Lindens Unit 1 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded March 19, 2001 as Document No. 2001K023721, in Kane County, Illinois ("The Lindens Unit 1 Subdivision").

B. Lots 1 through 3, both inclusive, Lots 41, 42, 60, 61, 62, 63, Lots 77 through 120, both inclusive, Lots 141 through 149, both inclusive, in The Lindens Unit 2 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded July 12, 2001 as Document No. 2001K06999822, in Kane County, Illinois ("The Lindens Unit 2 Subdivision").

C. Lots 121 through 140, both inclusive, Lots 150 through 184, both inclusive, Lots 191 through 211, both inclusive, in The Lindens Unit 3 Subdivision, being a Subdivision of part of the East Half of Section 25, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded January 4, 2002 as Document No. 2002K001747, in Kane County, Illinois ("The Lindens Unit 3 Subdivision").

**II. Community Area:**

- A. Lot 258 in The Lindens Unit 1 Subdivision.
- B. Lot 259 in The Lindens Unit 2 Subdivision.
- C. Lot 349 in The Lindens Unit 3 Subdivision.

PIN: 14-25-200-003  
14-25-400-001  
14-25-400-033

2002 K 016468

ADDRESSES:

Various  
Audubon Lane, Aurora, IL  
Audubon Court, Aurora, IL  
HoneySuckle Lane, Aurora, IL  
Summerhill Drive, Aurora, IL  
Summerhill Court, Aurora, IL  
Suncrest Drive, Aurora, IL  
Little Creek Lane, Aurora, IL  
Roseglen Way, Aurora, IL  
Meadowsedge Lane, Aurora, IL  
Meadowsedge Court, Aurora, IL  
Woodside Court, Aurora, IL  
Wingpointe Drive, Aurora, IL

2002K016468

**THE LINDENS**

**BY LAWS**

THE BY-LAWS OF THE  
LINDENS HOMEOWNERS ASSOCIATION  
AN ILLINOIS NOT-FOR-PROFIT CORPORATION

ARTICLE I  
NAME OF CORPORATION

The name of this corporation is The Lindens Homeowners Association.

ARTICLE II  
PURPOSE AND POWERS

2.01 PURPOSES: The purposes of this Association are to act on behalf of its members collectively, as their governing body, with respect to the preservation, care, maintenance, replacement, improvement, enhancement, operation and administration of both real and personal property and for the promotion of the health, safety and welfare and the common use and enjoyment thereof by members of the Association, all on a not-for-profit basis. These By-Laws are subject to the provisions of the Declaration for The Lindens ("Declaration") recorded with the Office of the Recorder of Deeds for DuPage County, Illinois on September 5, 2001, as Document No 2001K091775. All terms used herein shall have the meanings set forth in the Declaration.

2.02 POWERS: The Association shall have and exercise all powers as are now or may hereafter be granted by the General Not-For-Profit Corporation Act of the State of Illinois, the Declaration and these By-Laws.

ARTICLE III  
OFFICES

3.01 REGISTERED OFFICE: The Association shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

3.02 PRINCIPAL OFFICE: The Association's principal office shall be maintained on the Development Area.

ARTICLE IV  
MEETINGS OF MEMBERS

4.01 VOTING RIGHTS: Any or all members may be present at any meeting of the members, but the voting rights shall be vested exclusively in the Voting Members; provided, that, prior to the Turnover Date, the voting rights shall be vested exclusively in the Declarant and the Voting Members shall have no voting rights. From and after the Turnover Date, each Voting Member (other than those designated by Declarant) shall be entitled to one vote for each Lot which the Voting Member represents. The Voting Members may vote in person or by proxy. All

proxies shall be in writing, revocable, valid only for eleven (11) months from the date of execution and filed with the Secretary.

**4.02 PLACE OF MEETING: QUORUM:** Meetings of the members shall be held at the principal office of this Association or at such other place in Cook County, Illinois as may be designated in any notice of a meeting. All meetings shall be conducted in accordance with the rules and provisions set forth in Roberts Rules of Order as from time to time published. Twenty percent (20%) of the Voting Members shall constitute a quorum. Unless otherwise expressly provided herein or in the Declaration, any action may be taken at any meeting of the Owners at which a quorum is present upon the affirmative vote of a majority of the members present at such meeting.

**4.03 ANNUAL MEETINGS:** The initial meeting of the members shall be held upon not less than twenty-one (21) days' written notice given by the Declarant. If not called earlier by the Declarant, the initial meeting of the Owners shall be held no later than thirty (30) days after the Turnover Date. Thereafter, there shall be an annual meeting of the Owners on the anniversary thereof, or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated by written notice of the Board delivered to the Owners not less than ten (10) days prior to the date fixed for said meeting.

**4.04 SPECIAL MEETINGS:** Special meetings of the members may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Owners or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board, or by twenty percent (20%) of the Voting Members, and delivered not less than ten (10) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered.

**4.05 NOTICE OF MEETINGS:** Notices of meetings required to be given herein may be delivered either personally or by mail to the members, addressed to such member at the address given by him to the Board for the purpose of service of such notice or to the Lot of the Owner, if no address has been given to the Board. A notice of meeting shall include an agenda of business and matters to be acted upon or considered at the meeting.

## ARTICLE V BOARD OF DIRECTORS

**5.01 IN GENERAL:** The affairs of the Association shall be vested in the board of directors (the "Board"), which shall consist of five (5) persons ("Directors") or such other number of persons as shall be fixed from time to time by the affirmative vote of 50% of the Voting Members. Each Director shall be an Owner or a Voting Member.

**5.02 DEVELOPER DESIGNATED BOARDS:** Anything herein to the contrary notwithstanding, until the first meeting of the members after the Turnover Date the Board shall consist of three (3) persons from time to time designated by the Declarant, who shall serve at the discretion of the Declarant. During such period the Owners may elect from among themselves

that number of non-voting counselors to the Board as the Declarant may, in its sole discretion, permit.

**5.03 BOARDS AFTER TURNOVER DATE:** At the first meeting of the Owners (which shall be held no later than thirty (30) days after the Turnover Date) the Voting Members shall elect a full Board of Directors in the manner hereinafter provided to replace the Declarant designated Board established under Section 5.02. From and after such meeting, each member of the Board shall be an Owner or a Voting Member, or both. Within sixty (60) days after the election of a majority of the Board other than those designated by the Declarant, the Declarant shall deliver to the Board:

- (a) Original copies of the Declaration, these By-Laws, the Association's Articles of Incorporation and the Association's minute book.
- (b) An accounting of all receipts and expenditures made or received on behalf of the Association by the Declarant designated Boards.
- (c) All Association funds and bank accounts.
- (d) A schedule of all personal property, equipment and fixtures belonging to the Association including documents transferring the property to the Association.

**5.04 ELECTION:** At the initial meeting of the Owners, the Voting Members shall elect a full Board of Directors. The three (3) candidates receiving the greatest number of votes shall each serve a two year term and the two (2) candidates receiving the next greatest number of votes shall each serve a one year term. Thereafter, each Director shall serve a two year term. Each Director shall hold office until his term expires or until his successor shall have been elected and qualified. Directors may succeed themselves in office. In all elections for members of the Board, the Voting Member for each Lot shall be entitled to the number of votes equal to the number of Directors to be elected (cumulative voting shall not be permitted).

**5.05 ANNUAL MEETINGS:** The Board shall hold an annual meeting within ten (10) days after the annual meeting of the members.

**5.06 REGULAR MEETINGS:** Regular meetings of the Board shall be held at such time and place as shall be determined at the annual meeting or, from time to time, by a majority of the Directors, provided that not less than four such meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Director, personally or by mail, at least two (2) days prior to the day named for any such meeting and such notice shall state the time and place of such regular meeting and such notice shall be posted conspicuously on the Premises so as to inform the Owners of such meetings.

**5.07 SPECIAL MEETINGS:** Special meeting of the Board may be called by the President or at least one-third (1/3) of the Directors then serving.

**5.08 ATTENDANCE AT MEETINGS BY OWNERS:** Owners may attend meetings of the Board only if, and to the extent, permitted by the Board in its discretion. It is not the

intention that Owners shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act.

**5.09 WAIVER OF NOTICE:** Before or at any meeting of the Board any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**5.10 QUORUM:** A majority of the Directors serving from time to time shall constitute a quorum for the election of officers and for the transaction of business at any meeting of the Board, provided, that if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Directors present at a meeting at which a quorum is present.

**5.11 COMPENSATION/REIMBURSEMENT FOR EXPENSES:** Directors shall receive no compensation, except as expressly provided in a resolution duly adopted by 75% of the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Director shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his duties as a Director.

**5.12 REMOVAL OR RESIGNATION OF DIRECTOR:** Any Director may be removed from office, with or without cause, by the affirmative vote of at least two-thirds (2/3) of the Directors then serving at any annual meeting or at a special meeting called for such purpose. Any Director may resign at any time by submitting his written resignation to the Board. If a Director ceases to be an Owner or Voting Member, he shall be deemed to have resigned as of the date of such cessation. A successor to fill the unexpired term of a Director who resigns may be appointed by a majority of the remaining Directors at any regular meeting or a special meeting called for such purpose and any successor so appointed shall serve the balance of his predecessor's term.

**5.13 POWERS AND DUTIES OF THE BOARD:** The Board shall have all of the powers and duties granted to it or imposed upon it by the Declaration, these By-Laws, and the Illinois General Not-For-Profit Corporation Act, including, without limitation, the following powers and duties:

- (a) To engage the services of a manager or managing agent upon such terms and with such authority as the Board may approve;
- (b) To provide for the designation, hiring and removal of such employees and such other personnel, including attorneys and accountants, as the Board may, in its discretion, deem necessary or proper;

- (c) To provide for any maintenance, repair, alteration, addition, improvement or replacement of the Community Area for which the Association is responsible under the Declaration and these By-Laws;
- (d) To procure insurance as provided for under the Declaration;
- (e) To estimate and provide each Owner with an annual budget showing the Community Expenses;
- (f) To set, give notice of, and collect Community Assessments from the Owners as provided in the Declaration;
- (g) To pay the Community Expenses;
- (h) Subject to the provisions of the Declaration, to own, convey, encumber or otherwise deal with any real property conveyed to or purchased by the Association;
- (i) To adopt and, from time to time, to amend such reasonable rules and regulations as the Board may deem advisable for the use, enjoyment, administration, management, maintenance, conservation and beautification of the Community Area, and for the health, comfort, safety and general welfare of the Owners. Written notice of any such rules and regulations or amendments thereto shall be given to all Owners affected thereby;
- (j) To delegate the exercise of its power to committees appointed pursuant to Article Seven of these By-Laws.

## ARTICLE VI OFFICERS

**6.01 OFFICERS:** The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, Treasurer, and such assistants to such officers as the Board may deem appropriate. All officers shall be Directors and shall be elected at each annual meeting of the Board and shall hold office at the discretion of the Board.

**6.02 VACANCY OF OFFICE:** Any officer may be removed at any meeting of the Board by the affirmative vote of the majority of the Directors in office, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof.

**6.03 POWERS OF OFFICERS:** The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers, including but not limited to, the following:

- (a) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the members and at all meetings of the Board and shall execute amendments to the Declaration and these By-Laws as provided in the Declaration and these By-Laws.