

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF HERITAGE PARK**

08347

THIS DECLARATION, is made as of this 13 day of May, 1998, by NELL O'BRYAN BALE and KENNETH BALE, her husband; ELLEN HICKS DISANTO and ALEC M. DISANTO, her husband; NANCY HICKS SULLIVAN and WALTER C. SULLIVAN, her husband; ROBERT E. HICKS, JR., single; PATRICK E. WRIGHT, JR. and BEVERLY WRIGHT, his wife; HELEN WRIGHT CORNELL and JOHN CORNELL, her husband; JOHN M. WRIGHT and KATHY R. WRIGHT, his wife; and WILLIAM O'BRYAN WRIGHT and SHANNON S. WRIGHT, his wife ("Owners"), of P.O. Box 1787, Owensboro, Kentucky 42303-1787.

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WITNESSETH:

WHEREAS, Owners are the fee simple owners of certain real property located in Daviess County, Kentucky, more particularly described in Exhibit A attached hereto (the "Property") which shall be called Heritage Park; and

WHEREAS, in order to provide for the orderly development of the Property, Owners desire to impose certain restrictions and covenants with respect to the use, development and occupancy of the Property.

NOW, THEREFORE, in consideration of the premises, Owners hereby declare and establish the following restrictions and covenants with respect to the use, development and occupancy of the Property:

*Appt to: Sullivan, Robert E. & Nancy Hicks Sullivan  
100 Sullivan St., Owensboro, Ky 42303*

## ARTICLE I

### Establishment of restrictions and covenants, development review board, and association

1.1. Owners hereby declare that the Property is now held and shall be transferred, sold, leased, conveyed, mortgaged, developed and occupied subject to the restrictions and covenants herein set forth, which shall inure to the benefit of the Owners and their heirs, successors and assigns, and shall be binding upon Owners and any person or entity hereafter acquiring any interest in any portion of the Property, and their respective heirs, successors and assigns.

1.2. O'Bryan Heirs Development Review Board.

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1.2(a) Establishment and Functions. The Owners hereby establish the O'Bryan Heirs Development Review Board (the "Review Board") consisting of William O'Bryan Wright of P.O. Box 1787, Owensboro, Kentucky 42302, and Quincy R. Johnson, Architect, of 949 Clint Moore Road, Boca Raton, Florida 33487. The Review Board shall consist of not less than two nor more than seven members. A function of the Review Board is to review and approve or disapprove plans for improvements to and development of portions of the Property pursuant to the provisions set forth herein, including Sections 2.4 and 2.9. No improvements shall be erected, constructed, placed, altered, remodeled, demolished or permitted to remain on such portion of the property except single family residential lots until plans for such, consistent with the specifications set forth in Section 2.9, have been submitted to the Review Board and approved by it in writing. The Review Board may establish and revise a standard review fee which must be paid by the party submitting the plan at the time the plan is submitted. The Review Board is given full power and authority to make any subjective judgments and to interpret the intent and provisions of this Declaration in such manner and

with such results as the Review Board, in its sole discretion, may deem appropriate. While the covenants, conditions and restrictions set forth herein are intended as a general guide to development within the Property, the Review Board shall have the right to grant variances from these guidelines as it, in its sole discretion, deems appropriate.

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1.2(b) Until the Owners or any one of them own no interest in any part of the Property, the Owners shall have the exclusive right and authority to create and fill vacancies on the Review Board and remove members of the Review Board with or without cause. When the Owners no longer own any interest in the Property, the Review Board shall be re-established by the O'Bryan Heirs Property Association pursuant to §1.3, infra.

### 1.3 O'Bryan Heirs Property Association.

1.3(a) Membership. Each and every owner of any parcel of the Property automatically is a member of the O'Bryan Heirs Property Association (the "Association"). The membership of any owner in the Association shall terminate automatically whenever such member ceases to be an owner of any parcel of the Property, except that such termination shall not release or relieve that member from any liability or obligation arising under this Declaration during the member's period of ownership. Any transfer of title to any parcel in the Property shall operate automatically to transfer membership in the Association appurtenant to such parcel to the new owner.

1.3(b) Member in Good Standing. A member shall be considered a "Member in Good Standing" and eligible to vote on Association matters if such member's property and use thereof complies with the terms of this Declaration.

1.3(c) Voting Power. Each member is entitled to one vote for each acre in the Property which it owns except for single family residential lots (rounded to the nearest 1/100th of an acre). If any

parcel is owned by more than one owner, the number of votes attributable to such parcel shall be the same number of votes as if there were only one owner of such parcel, and the votes attributable to such parcel may be cast only if all of the owners owning such parcel, prior to the time of the vote in question, have delivered to the Association a written agreement as to how such votes are to be cast or a written designation of one of such owners to cast the votes attributable to such parcel. Any member who is not an individual must designate a representative to act for such member in Association matters and to cast votes for such member, such designation to be made in writing to the Association. A member may delegate its right to vote to any tenant occupying its parcel provided such delegation is made in writing delivered to the Association.

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1.3(d) Quorum, Voting and Notices. Members holding 50% of the aggregate votes entitled to be cast by Members in Good Standing who are represented at a meeting of the members in person or by a legitimate proxy in a form approved by the Association shall constitute a quorum for voting on matters brought before the Association. The vote of Members in Good Standing holding, in the aggregate, a majority of the votes entitled to be cast by the Members in Good Standing present or voting by legitimate proxy at a called meeting at which a quorum is present shall be the act of the Association. Each owner shall submit to the Association chairman the name of its designated representative and the address where all notices shall be sent. Notice of any meeting of the members must be delivered 14 days in advance of said meeting by first class mail, postage pre-paid, to the designated representative of each member which is submitted to the Association.

1.3(e) Creation of Board of Directors. The Association shall be governed by a board elected by a majority vote of the members. The board shall consist of not less than three nor more than five directors. The board shall exist and function solely for the benefit of the Property, the Association

and the members. William O'Bryan Wright shall serve as chairman of the board of directors for the Association until he resigns or he is replaced by a vote of the members of the Association. The members of the Association's board of directors shall elect a chairman by a majority vote.

1.3(f) Duties of the Association. The Association shall have no duties or authority to act, other than establishing a board of directors until the Owners no longer own any interest in any part of the Property. When the Owners no longer own any interest in any part of the Property, the Association shall have the power to enforce the provisions of this Declaration and to enjoin action or seek damages and/or remedial action for any violation of this Declaration, and shall have the power and authority to perform all other acts granted to the Owners in this Declaration. This power shall include the authority to create and fill vacancies on the Review Board and to remove members of the Review Board with or without cause.

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## ARTICLE II

### Restrictions

2.1. Parking. Parking for employees, owners, occupants, customers, tenants and invitees of any parcel of the Property shall be provided on that respective parcel of the Property, and each parcel shall be developed, constructed and maintained so as to provide adequate parking to serve the needs of the parcel. All parking areas shall be paved with cement, asphalt or blacktop, and there shall be no gravel parking areas. This restriction does not apply to single-family residential units, which will be subject to the regulations and requirements of the Owensboro Metropolitan Planning Commission.

2.2. Building Esthetics. In all but single family residential parcels, decorative screening and/or landscaping shall be installed so as to obscure from public view all trash rooms, trash holding receptacles, loading or service areas, mechanical or electrical equipment, storage facilities or bins, or

other unsightly building appearances. No detached temporary storage buildings are allowed, except in single-family residential units. All buildings and structures shall be of quality construction. Except for buildings constructed on a parcel which is zoned I-1 light industrial, all buildings on the subject property shall be architecturally harmonious with buildings already constructed on other properties, and no building shall be constructed of metal or aluminum materials.

2.3. Signs.

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2.3(a). Rooftop signs. No rooftop sign or signs shall be permitted to extend above the top of any parapet wall on any building.

2.3(b). Exterior signs. Except as provided in section 2.3(c), any exterior sign shall be mounted on a building. The length of any building mounted sign shall not exceed forty percent (40%) of the length of the wall upon which the sign is mounted.

2.3(c). Free standing signs. No more than one free standing sign may be placed upon any parcel. Any such free standing sign shall not be more than thirty (30) feet high. Any sign itself may not exceed one hundred twenty (120) square feet. No temporary signs shall be permitted, including, but not limited to, portable neon signs with removable letters.

2.3(d). No signs shall be erected, placed or altered on any parcel or on any building constructed on any parcel until the sign's location, height, appearance and quality have been approved by the Review Board, and such approval shall not be unreasonably withheld.

2.4. Development Restrictions. No building shall be located closer to any exterior lot line than the lesser of the minimum setback lines shown on any recorded plat of all or part of the Property or those set by applicable planning and zoning laws and regulations. The width of any building fronting Carter Road or Tamarack Road may not exceed fifty percent (50%) of the property line of the parcel along Carter Road or Tamarack Road, except in single-family residential units, on which

the building shall be constructed. Except for driveways and curb cuts, and except for single-family residential units, a landscaped area of at least ten (10) feet in width shall be maintained along each parcel property line and will at a minimum comply with the landscape and land use buffers established by the Owensboro Metropolitan Planning Commission. All portions of the parcel which are not improved with a building, drives or parking areas shall be grassed or landscaped. At least 10% of the area of any parcel within the Property shall be used as green space. All buildings on the parcels, except for those parcels zoned I-1 light industrial, shall be architecturally harmonious with other buildings constructed on the Property and shall be approved by the Review Board.

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2.5. Use. None of the property may be used for any of the following purposes, or so as to create or maintain the following, or to allow any of the following on any parcel: any noxious, toxic or corrosive or caustic fuel or gas; any dust, dirt or fly ash in excessive quantity; any unusual fire, explosive or other damaging or dangerous hazard, including the storage, sale or display of explosives or fireworks; any assembling, manufacturing, distilling, smelting, refining, agricultural or mining operation; any mobile home, trailer court, labor camp, junkyard, stockyard or animal raising (but pet shops are not prohibited); any drilling for or removal of subsurface substances; any dumping of garbage or refuse; any entertainment, adult video or adult bookstore primarily showing or selling sexually explicit materials; massage parlor; or a coin-operated manual car-wash complex. Nor shall any part of the Property be used as a disco, dance club, bar, tavern, night club, theater, bowling alley or other non-retail business which requires extensive parking, or as a business which features sexually explicit products or drug paraphernalia; however, this restriction shall not prohibit the use of any parcel as a restaurant which may also serve alcoholic beverages. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept on the premises

except in sanitary containers obscured from view by decorative screening or landscaping pursuant to §2.2. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No junk cars shall be kept outside of buildings, nor shall major automobile engine repair or overhaul work be conducted outside of any buildings on any parcels.

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2.6. Easements. Easements for installation and maintenance of utilities and drainage facilities and for other public purposes are reserved as shown on the recorded plat, and no building, wall, or fence shall be erected, placed or altered on any portion of said easements, except that a wall or fence may be erected on the easements in single-family residential units. This covenant shall not prohibit any owner of an parcel from paving over such easements, but any such paving shall be done at owner's risk.

2.7. Maintenance of Parcels. Owners or occupants of any parcels will be responsible for the care and maintenance of the buildings and other structures located upon their respective properties and will keep them in good repair and condition, free from waste and nuisance of any kind. Owners or occupants of parcels shall be responsible for the care and maintenance of the grounds and parking areas around the buildings and other structures located on their respective properties and said duty includes, but is not limited to, the following: cleaning, sweeping, snow and ice removal, upkeep and repair of planted and/or landscaped areas, repairs and replacement to parking areas, sidewalks and driveways, and all other functions necessary for proper maintenance, upkeep and operation of said areas.

2.8. Compliance with Applicable Laws and Regulations. Each owner, developer and/or occupant of any parcel shall, at a minimum, comply with all applicable laws, regulations and codes, including any applicable zoning laws and regulations.



2.9. Approval of Development. Before beginning construction of any improvements on any parcel of the Property, except single family residential lots, the owner, developer and/or occupant shall submit to the Review Board for its review and approval an exterior elevation and site plan which shows lighting, landscaping, parking and construction specifications for all improvements, including buildings, to be constructed on the parcel. The plan shall satisfy all requirements of this Declaration, and no work shall begin on the parcel until the plan is approved by the Review Board. By approving the plan, the Review Board in no way warrants or represents that said plan complies with any applicable laws or regulations, including those pertaining to planning and zoning, nor that said plan complies with prudent design, engineering and construction practices. It is the sole responsibility of the owner of the parcel to see that its plan complies with all laws, requirements and practices.

### ARTICLE III

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#### Remedies

3.1. Abatement and Suit. Violation or breach of any restrictions and covenants herein contained shall give to Owners the right to enter upon the Property or any part thereof and to summarily abate and remove, at the expense of the owner, tenant and/or occupant of any parcel, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and Owners may prosecute a proceeding at law or in equity against said owner, tenant or occupant who has violated, or is attempting to violate, any of these restrictions and covenants to enjoin or prevent it from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

3.2. Attorney's Fees. In any legal or equitable proceeding to restrain a violation of or to enforce this Declaration or any provision hereof, in the event Owners are successful in said

proceeding, the losing party or parties shall pay the attorney's fees of the Owners in such amount as may be fixed by the court in such proceeding.

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3.3. Inspection. Owners may, from time to time, at any reasonable hour or hours, enter and inspect any parcel except single family residential lots to ascertain compliance herewith.

3.4. Failure to Enforce Not a Waiver of Rights. The failure of Owners to enforce any restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter, nor of the right to enforce any other restriction or covenant. Any variance from the restrictions set forth herein shall be approved in writing by the then owners of the Property or any parcel thereof except single family residential lots if parcels have been sold. Any request for any such variance shall be made in writing to the current owners of the Property and any parcel thereof except single family residential lots and shall include all relevant and necessary documents.

3.5. All remedies provided herein, at law or in equity, shall be cumulative and not exclusive, and Owners shall have all remedies available at law or equity, whether or not they are mentioned herein.

#### ARTICLE IV

##### Miscellaneous Provisions

4.1. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

4.2. Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

4.3. Successors and Assigns. The provisions of this Declaration are made for the benefit of Owners and their heirs, successors and assigns, and the term Owners herein shall refer to and mean the then owners of the Property or any parcel thereof. Such provisions may be enforced by Owners

and any such successor owner. Any consents or approvals hereunder, or variances herefrom may be given only in writing with written approval of the then owners of the Property and all parcels except single family residential lots, if any. This Declaration shall be binding upon the Owners or any successor owners, lessees or occupants of any portion of the Property.

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4.4. These covenants are to run with the land and shall be binding on the Property and the Owners and all persons claiming under the Owners for a period of twenty-five (25) years from the date these covenants and restrictions are recorded, after which time, said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of the majority of the acreage of the Property has been recorded, agreeing to change said covenants in whole or in part.

4.5 Plat Changes. In single-family residential areas only and except as hereinafter provided, no lot or lots shall be subdivided (a) except as such may become necessary in order to correct minor changes resulting from errors of survey in the platting of the Subdivision or (b) unless the lot or lots resulting from such subdivision shall have a minimum of not less than that allowed by governmental bodies. In either of the events described in this section, the Owner or any Developer of any single-family residential unit may (a) subdivide or resubdivide lots without the consent of any other lot owners; and (b) make other modifications to the recorded Plat of the Subdivision, including modifications to building setback lines or easements as may be permitted by applicable zoning ordinances without the consent of other lot owners.

4.6 Dedication and Restrictions for Single-Family Residential. The Developer of any single-family residential unit may file Dedication and Restrictions containing additional provisions for such single-family residential unit or units.

IN WITNESS WHEREOF, the Owners have executed this Declaration on the date first hereinabove written.

Nell O'Bryan Bale  
NELL O'BRYAN BALE  
Kenneth Bale  
KENNETH BALE

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STATE OF KENTUCKY

COUNTY OF Way

Signed and acknowledged before me by Nell O'Bryan Bale and Kenneth Bale, her husband, on this 13 day of May, 1998.

Ray Whiston  
Notary Public, 40-58-1220  
My Commission Expires: 5-19-99

Ellen Hicks DiSanto  
ELLEN HICKS DISANTO

Alec M. DiSanto  
ALEC M. DISANTO

STATE OF Ky

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COUNTY OF Daviess

Signed and acknowledged before me by Ellen Hicks DiSanto and Alec M. DiSanto, her husband, on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, Stalwood Lane  
My Commission Expires: 8/25/99

Nancy Hicks Sullivan  
NANCY HICKS SULLIVAN

Walter C. Sullivan  
WALTER C. SULLIVAN

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STATE OF Key.

COUNTY OF Duval

Signed and acknowledged before me by Nancy Hicks Sullivan and Walter C. Sullivan, her husband, on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, State of Florida  
My Commission Expires: 8/25/99

Robert E. Hicks, Jr.  
ROBERT E. HICKS, JR.

STATE OF Ky.

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COUNTY OF Daviess

Signed and acknowledged before me by Robert E. Hicks, Jr., single, on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, State of Ky.  
My Commission Expires: 8/25/99

*Patrick E. Wright Jr.*

PATRICK E. WRIGHT JR.

*Beverly Wright*

BEVERLY WRIGHT

STATE OF Ky.

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COUNTY OF Daviess

Signed and acknowledged before me by Patrick E. Wright Jr. and Beverly Wright, his wife,  
on this 13 day of May, 1998.

*Shelba J. Thompson*  
Notary Public, State of Ky. Abbeville  
My commission expires: 8/25/99



Helen Wright Cornell  
HELEN WRIGHT CORNELL  
John Cornell  
JOHN CORNELL

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STATE OF Ky

COUNTY OF Daviess

Signed and acknowledged before me by Helen Wright Cornell and John Cornell, her husband,  
on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, State of Ky  
My commission expires: 8/25/99

John M. Wright  
JOHN M. WRIGHT

Kathy R. Wright  
KATHY R. WRIGHT

William O'Bryan Wright  
WILLIAM O'BRYAN WRIGHT

Shannon S. Wright  
SHANNON S. WRIGHT

STATE OF KENTUCKY

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COUNTY OF DAVIESS

Signed and acknowledged before me by John M. Wright and Kathy R. Wright, his wife, on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, Ky State at Large  
My Commission Expires: 8/25/99

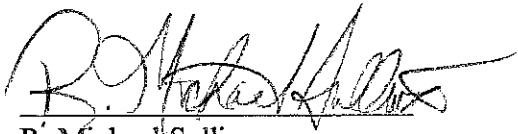
STATE OF KENTUCKY

COUNTY OF DAVIESS

Signed and acknowledged before me by William O'Bryan Wright and Shannon S. Wright, his wife, on this 13 day of May, 1998.

Shelba J. Thompson  
Notary Public, Ky State at Large  
My Commission Expires: 8/25/99

THIS INSTRUMENT PREPARED BY:



R. Michael Sullivan  
SULLIVAN, MOUNTJOY, STAINBACK  
& MILLER, P.S.C.  
100 St. Ann Street  
P.O. Box 727  
Owenboro, KY 42302-0727  
(502) 926-4000

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EXHIBIT A

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A certain tract of land located on the southwest side of Owensboro, Daviess County, Kentucky on the east side of Carter Road and the north side of Tamarack road and being more particularly described as follows:

Beginning at a 1/2" iron pipe found in the north right of way line of Tamarack road in the west line of Carriage Park Subdivision; thence with said right of way the following seven (7) calls:


South 72 degrees 07 minutes 11 seconds West 220.43 feet to a 1/2" rebar found; thence along a curve to the right an arc distance of 229.93 feet to a 1/2" iron pipe found (said curve having a chord of South 88 degrees 58 minutes 37 seconds west 226.56 feet); thence North 74 degrees 07 minutes 09 seconds West 330.91 feet to a 1/2" iron pipe found; thence North 70 degrees 51 minutes 58 seconds West 300.61 feet to a 1/2" iron pipe found; thence North 73 degrees 42 minutes 42 seconds West 1,668.95; thence North 41 degrees 22 minutes 05 seconds West 27.03 feet; thence North 70 degrees 31 minutes 45 seconds West 80.53 feet to the east right of way line of Carter Road (KY 2698); thence with said right of way line the following nine (9) calls:

North 16 degrees 35 minutes 17 seconds East 505.05 feet; thence North 16 degrees 14 minutes 51 seconds East 600.03 feet; thence North 16 degrees 15 minutes 35 seconds East 600.02 feet; thence North 28 degrees 27 minutes 07 seconds East 89.94 feet; thence North 28 degrees 11 minutes 19 seconds East 12.01 feet; thence North 20 degrees 46 minutes 00 seconds East 294.43 feet; thence North 60 degrees 49 minutes 28 seconds East 46.36 feet; thence crossing Old Scherm Road North 20 degrees 49 minutes 58 seconds East 30.06 feet; thence North 26 degrees 05 minutes 52 seconds West 1.07 feet to a point in the south line of Southern States Cooperative, Inc.; thence with Southern States Cooperative, Inc. South 72 degrees 43 minutes 00 seconds East 1,308.65 feet to a railroad spike found at the intersection of Old Scherm Road and Scherm Ditch; thence North 59 degrees 40 minutes 35 seconds East 32.96 feet to the center of Scherm Ditch; thence with the center of Scherm Ditch the following five (5) chords:

North 72 degrees 08 minutes 25 seconds East 242.20 feet; thence North 76 degrees 52 minutes 50 seconds East 79.85 feet; thence North 84 degrees 34 minutes 30 seconds East 103.21 feet; thence South 89 degrees 30 minutes 30 seconds East 156.93 feet; thence North 81 degrees 19 minutes 50 seconds East 43.32 feet to a 1/2" iron pipe found in the western right of way line of Wendell Ford Expressway (U.S. 60 Bypass); thence with said right of way line South 59 degrees 03 minutes 42 seconds East 29.56 feet to a 1/2" iron pipe found; thence South 50 degrees 22 minutes 42 seconds West 35.36 feet to a railroad spike found in the center of Old Scherm Road at the northern terminus of the right of way of Frontage Road No. 5; thence with the westerly right of way line of Frontage Road No. 5 South 47 degrees 45 minutes 06 seconds East 608.87 feet to a 1/2" iron pipe found at the

northwest corner of Carriage Park Subdivision; thence with said Subdivision South 08 degrees 16 minutes 09 seconds West 1107.25 feet to a 1/2" iron pipe found; thence South 08 degrees 15 minutes 09 seconds West 714.83 feet to a 1/2" iron pipe found; thence South 08 degrees 27 minutes 06 seconds West 172.21 feet to the point of beginning and containing 136.062 acres as per field surveys in October, 1994 and March, 1998 for O'Bryan Heirs by HRG, PLLC and being subject to all legal easements and rights of way.

AND BEING part of the same property conveyed to Nell O'Bryan Bale (an 1/3 undivided interest), Ruth O'Bryan Wright (an 1/3 undivided interest), Ellen Hicks DiSanto (an 1/9 undivided interest), Nancy Hicks Sullivan (an 1/9 undivided interest), and Robert E. Hicks, Jr. (an 1/9 undivided interest) from Nell Bale and Ruth Wright, Co-Executrices under the Will of Helen M. O'Bryan, by deed dated October 1, 1983, of record in Deed Book 528, page 496, in the Daviess County, Kentucky, Clerk's Office, which deed was made pursuant to the provisions of the Last Will and Testament of Helen Medley O'Bryan, a.k.a. Helen M. O'Bryan, which was recorded June 24, 1980, of record in Will Book 8, page 21, in the Daviess County, Kentucky, Clerk's Office. Ruth O'Bryan Wright, a.k.a. Ruth Helen O'Bryan Wright, and Patrick E. Wright, her husband, conveyed her 1/3 undivided interest in the subject property to her children, Patrick E. Wright, Jr. (an 1/12 undivided interest), Helen Wright Cornell (an 1/12 undivided interest), John M. Wright (an 1/12 undivided interest), and William O. Wright (an 1/12 undivided interest), by deed dated December 28, 1992, of record in Deed Book 619, page 331, in the Daviess County, Kentucky, Clerk's Office.

BY  NEIL L. O'NEIL  
DAVISS COUNTY CLERK

98 MAY 20 11:22

LODGED FOR RECORD  
AND RETURNED TO THIS

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HERITAGE PARK

This amendment is made as of this 7th day of January, 1999, to the Declaration of Covenants, Conditions and Restrictions of Heritage Park dated May 13, 1998, of record in Deed Book 686, page 421, in the Daviess County, Kentucky, Clerk's Office, by NELL O'BRYAN BALE, married; ELLEN HICKS DISANTO and ALEC M. DISANTO, her husband; NANCY HICKS SULLIVAN and WALTER C. SULLIVAN, her husband; ROBERT E. HICKS, JR., single; PATRICK E. WRIGHT, JR. and BEVERLY WRIGHT, his wife; HELEN WRIGHT CORNELL and JOHN CORNELL, her husband; JOHN M. WRIGHT and KATHY R. WRIGHT, his wife; and SHANNON S. WRIGHT, wife of WILLIAM O'BRYAN WRIGHT, by and through William O'Bryan Wright, their lawful attorney-in-fact; WILLIAM O'BRYAN WRIGHT, individually; KENNETH BALE, husband of NELL O'BRYAN BALE, all of P.O. Box 1787, Owensboro, Daviess County, Kentucky 42302-1787; and DAYMAR PROPERTIES-OWENSBORO, LLC, a Kentucky limited liability company, of 1515 East 18th Street, Owensboro, Daviess County, Kentucky 42303., hereinafter referred to as "Owners".

WITNESSETH:

WHEREAS, the above-mentioned persons are all the fee simple owners of the property known as Heritage Park, which consists of 136.062 acres, more or less, and is located in Owensboro, Daviess County, Kentucky; and

WHEREAS, in order to provide for the proper and orderly development of said property, a Declaration of Covenants, Conditions and Restrictions of Heritage Park dated May 13, 1998, was recorded in Deed Book 686, page 421, in the Daviess County, Kentucky, Clerk's Office; and

WHEREAS, the parties wish to amend Section 2.6 of said Declaration.

NOW, THEREFORE, in consideration of the premises, Owners hereby amend Section 2.6 to read as follows:

2.6. Easements for installation and maintenance of utilities and drainage facilities and for other public purposes are reserved as shown on the recorded plat, and no building shall be erected, placed or altered on any portion of said easements. This covenant shall not prohibit any owner of a parcel from paving over such easement or constructing a fence or wall along its property line which is in said

Return to: MIKE SULLIVAN  
P.O. Box 1727  
Owensboro, KY 42302

easement, but any such action by such owner shall be done at the owner's risk.

All remaining provisions of the Declaration shall remain in full force and effect.

Nell O'Bryan Bale, Ellen Hicks DiSanto, Alec M. DiSanto, Nancy Hicks Sullivan, Walter C. Sullivan, Robert E. Hicks, Jr., Patrick E. Wright, Jr., Beverly Wright, Helen Wright Cornell, John Cornell, John M. Wright, Kathy R. Wright, and Shannon S. Wright

By: [Signature]  
William O'Bryan Wright, Attorney in Fact

[Signature]  
William O'Bryan Wright, individually

[Signature]  
Kenneth Bale

Daymar Properties-Owensboro, LLC

By: [Signature]  
Mark A. Gabis, Member

COMMONWEALTH OF KENTUCKY  
COUNTY OF DAVIESS

The foregoing Amendment was SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by William O'Bryan Wright, individually and as attorney-in-fact for Nell O'Bryan Bale, Ellen Hicks DiSanto and Alec M. DiSanto, her husband, Nancy Hicks Sullivan and Walter C. Sullivan, her husband, Robert E. Hicks, Jr., single, Patrick E. Wright, Jr., and Beverly Wright, his wife, Helen Wright Cornell and John Cornell, her husband, John M. Wright and Kathy R. Wright, his wife, and Shannon S. Wright, this 11 day of November, 1998.

[Signature]  
Notary Public, [Signature]  
My Commission Expires: 8/25/99

COMMONWEALTH OF KENTUCKY  
COUNTY OF Daviess

The foregoing Amendment was SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Kenneth Bale, husband of Nell O'Bryan Bale, this 11 day of Nov., 1998.

[Signature]  
Notary Public, [Signature]  
My Commission Expires: 8/25/99

COMMONWEALTH OF KENTUCKY  
COUNTY OF DAVIESS

The foregoing Amendment was SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by Mark A. Gabis, a member of Daymar Properties-Owensboro, LLC, a Kentucky limited liability company, for and on behalf of the limited liability company, this 7<sup>th</sup> day of January, 1999.

Walter E. Thomas  
Notary Public, State of Kansas  
My Commission Expires: 10/24/99

THIS INSTRUMENT PREPARED BY:

R. Michael Sullivan

R. Michael Sullivan  
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Owensboro, Kentucky 42303

DAVIESS COUNTY  
BY John F.  
NOTARY PUBLIC  
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LORD & BURTON