

Cross Reference Document No. _____

AMENDMENT TO DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS OF BROOKFIELD HEIGHTS, PHASE II, SECTION TWO AND PHASE III

THIS AMENDMENT TO DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS OF BROOKFIELD HEIGHTS, PHASE II, SECTION TWO AND PHASE III (“Amendment”) dated _____, 2021.

RECITALS

WHEREAS, a Declaration of Covenants, Easements, Restrictions and Assessments of Brookfield Heights, Phase II, Section Two and Phase III dated June 4, 1992, was recorded in the Office of the Recorder of Tippecanoe County, Indiana on _____ as Document No. _____ (together with all amendments thereto, the “Covenants”).

WHEREAS, this Amendment has been approved and adopted by at least two-thirds (2/3) of the Lot Owners in accordance with Section 16.F.i. of the Covenants, for the purpose of amending the Covenants as herein set forth.

WHEREAS, all acts and things have been done and performed which are necessary to amend the Covenants that, when executed and recorded in the Records of Tippecanoe County, Indiana, are enforceable with their respective terms to make this Amendment a valid and binding agreement.

NOW, THEREFORE, this Amendment is created by amending the Covenants as follows:

1. The foregoing recitals are true, accurate, and complete statements of fact and are hereby incorporated into and made a part of this Amendment as set forth verbatim.

2. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Covenants.

3. The Development shall continue to be subject to the Covenants as amended by this Amendment and any subsequent amendments thereto.

4. The following provision is added to the Covenants as Section 5.N.:

No wind energy conversion system (“WECS”), wind farm, wind farm collection system, or wind tower shall be constructed, installed, or permitted upon any Lot. The term “WECS” shall mean the equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, or other component used in the system. The term “wind farm” means two or more large wind systems on a single property or aggregated properties. The term “wind farm collection system” means all of the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching station. The term “wind tower” means the monopole, freestanding, or guyed structure that supports the energy capture, conversion, storage and transfer components of a WECS.

5. If any provision of this Amendment is determined to be unenforceable, the remainder of this Amendment will remain intact and enforceable.

6. Except to the extent specifically modified, amended, or supplemented by this Amendment, the Covenants shall remain in full force and effect.

7. In the event of any conflict between the terms of the Covenants and the terms of this Amendment, the terms of the Amendment shall control.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the undersigned, in their capacity as officers of the Brookfield Heights Homeowner's Association, Inc., have caused this Amendment to be executed as of the day first written above.

Brookfield Heights Homeowner's Association, Inc.

By: _____
(written)

(printed)
Its: President

Attest: _____
(written)

(printed)
Title: Secretary

STATE OF INDIANA)
) SS:
_____ COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared Brookfield Heights Homeowner's Association, Inc., by _____, its President, and by _____, its Secretary, who acknowledged the execution of the foregoing instrument on behalf of Brookfield Heights Homeowner's Association, Inc.

WITNESS my hand and Notarial Seal, this _____ day of _____, 2021.

(written)

(printed)

My Commission Expires: _____

NOTARY PUBLIC
Resident of _____ County

This instrument prepared by: Kevin J. Riley of the firm of REILING TEDER & SCHRIER, LLC, 250 Main Street, Suite 601, P.O. Box 280, Lafayette, Indiana 47902. Telephone: (765) 423-5333. E-mail: kjr@rtslawfirm.com

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