

**MASTER AGREEMENT OF
RESTRICTIVE COVENANTS FOR FLOOD MANAGEMENT
REGARDING THE RIVERS EDGE**

This Master Agreement of Restrictive Covenants For Flood Management Regarding The Rivers Edge is by and between Clark County, Indiana (herein "County"), the Clark County Plan Commission (herein "Plan Commission"), the Clark County, Indiana Emergency Management Agency (herein "EMA") and Rivers Edge Homeowner's Association (herein "Association").

WHEREAS, heretofore various structures have been placed in the development know as the Rivers Edge in Clark County, Indiana, in violation of federal, state and county laws, rules, ordinances and regulations and;

WHEREAS, the parties to this Agreement desire to mitigate the damages or other effects that could occur because of such violations and to enter into a Remedial Agreement acceptable to all parties, and;

WHEREAS, this Agreement shall serve as a Master Agreement setting forth all of the terms, conditions, covenants and restrictions applicable to the existing structures located in the Rivers Edge development, and;

WHEREAS, it will be necessary for the Fee Sample Title Owners of all of the lots and lands comprising the development know as The Rivers Edge to adopt and impose the terms, conditions, restrictions and covenants of this Master Agreement upon each such tract of land currently in non-compliance, and,

WHEREAS, it would be impractical for all Fee Simple Title Owners to sign a single document, the Master Agreement shall be recorded in the Recorder's Office of Clark County, Indiana, and assigned a document number such that each Fee Simple Title Owners of lands in the development may sign an Agreement ("Evacuation Agreement") incorporating the terms, conditions, covenants and restrictions of this Master Agreement for purposes of imposing the terms, conditions, and restrictions upon each such tract of land and to provide that this Master Agreement shall be a covenant running with the land of each such owner.

NOW THEREFORE, the parties intending to be legally bound, hereby agree as follows:

1. Applicability. The terms, conditions, covenants and restrictions set forth in this Agreement shall be applicable to and binding upon all parties to this Agreement and all lot owners who sign an Evacuation Agreement and record same with the Recorder of Clark County, Indiana. This Agreement shall also be binding upon all persons claiming under any lot owner who has recorded an Evacuation Agreement.

2. Term and Amendments. This Agreement shall be effective until January 1, 2051. This Agreement may be modified, amended, or supplemented in whole or in part at any time by an agreement in writing signed by all of the parties herein and a majority of all lot owners who have executed and recorded Evacuation Agreements. Any such modification, amendment or supplement shall be recorded in the Recorder's office of Clark County, Indiana.

3. Land Use. No land or any portion thereof subject to the terms of this Agreement shall be used in violation of this Agreement. In the event of any violation or breach of this Agreement, this Agreement may be enforced as provided for in this Agreement. Structures currently in violation, including houses and manufactured homes, may remain in place only so long as there is compliance with this Agreement.

4. Manufactured Homes Mobility Inspection. The Enforcement Officer for the Plan Commission shall inspect all manufactured homes located within the Rivers Edge development within one hundred eighty (180) days from the date of this Agreement and shall perform a like inspection each six (6) months thereafter for the term of this Agreement. Said Enforcement Officer will give written notice to Owner within fifteen (15) days of such inspection as to any manufactured home which does not comply with the required items ("Mobility Checklist") as follows:

- a) All tires must be properly inflated and in road worthy condition;
- b) The manufactured home must have quick disconnects from electric, sewer, and water hookups;

- c) No permanent deck or other structure such as a storage building shall be placed such that it obstructs movement of the manufactured home;
- d) The tongue of the manufactured home must be on the unit or readily available, or easily installed;
- e) The unit must be placed such that the tongue faces the access road or such that adequate clearance is provided on the river side at reasonably the same elevation as the pad or grade under the unit for access of moving equipment;
- f) Shrubs and/or trees shall not be planted or allowed to grow to obstruct movement of the unit;
- g) No extensions or protrusions shall be allowed which are not self-supporting and/or which would obstruct the movement of the unit.

At the time of the first inspection, the Enforcement Officer will photograph each and every manufactured home and structure located within the Rivers Edge development. The Enforcement Officer shall further mark each photograph to identify the photograph with a lot number or other specific identifying information and a duplicate photograph shall be provided to DNR. If, during the initial inspection or any subsequent inspection, the Enforcement Officer determines that there are no violations regarding any manufactured home with regards to the mobility checklist items, then such fact shall be certified in writing by the Enforcement Officer to each Owner and such information shall be kept on file.

5. Procedure For Violation of Mobility Checklist. In the event that the Enforcement Officer identifies any manufactured home which has failed to comply with the Mobility Checklist at the time of any inspection by the Enforcement Officer, then the Enforcement Officer shall give written notice of such violation (specifically identifying the violation or violations) by certified mail to the lot owner at the address of such lot owner then existing in the office of the Auditor of Clark County, Indiana, for real estate tax billing purposes ("Default Notice"). The lot owner shall have thirty (30) days from the date of mailing of the Default Notice by the Enforcement Officer in which to fully remedy and cure all items identified as violations. Immediately upon the expiration of such thirty (30) day period, the Enforcement Officer shall inspect such manufactured home to ascertain compliance with the Default Notice. If the Enforcement Officer determines that all violations have been cured by such lot owner, he will confirm such fact in writing to the lot owner. If the Enforcement Officer determines that the violation(s) have not been cured then he shall immediately send a second Default Notice to the lot owner requiring the immediate removal of the manufactured home from the lot and the lot owner shall remove the manufactured home from the lot within fifteen (15) days of such notice. Any further use of the lot owner's real estate shall be in full and complete compliance with all laws, rules, regulations and ordinances without regard to this Agreement. In the event that the Enforcement Officer finds a subsequent violation of any Mobility Checklist item previously violated during a prior inspection for which a Default Notice was given, then the Enforcement Officer shall give second Default Notice to the lot owner as herein provided to remove the manufactured home from the lot without any opportunity to cure the violation and the lot owner shall remove the manufactured home from the property within fifteen (15) days from the date of Notice.

6. Removal of Manufactured Homes During Flood. The director of EMA shall monitor the elevation levels of the Ohio River during any period in which the Ohio River is rising and appears to present a flood threat to the River Edge development. EMA shall rely upon the river elevations supplied by the U.S. Army Corps of Engineers office ("Corps"). EMA shall immediately and without any delay verbally notify the President of the Clark County Commissioners in the event the Eminent Risk Level is reached as defined in this paragraph. If the President is unavailable EMA shall notify the Vice President of the Clark County Commissioners. The President or Vice President of the Clark County Commissioners shall issue a verbal order to the President and Vice President of the Association, the Extraction Contractor and the backup Extraction Contractor for the removal of all manufactured homes from the Rivers Edge development in the event that such person receives information from EMA that the Ohio River level has reached a risk level ("Eminent Risk Level") as herein defined and the Extraction contractor (or backup Extraction Contractor as the case may be), Association and all Lot Owners shall comply by immediately removing all manufactured homes to the Staging Area as defined herein. The Eminent Risk Level is defined as an Ohio River level of 25' or above on the upper gauge and the prediction by the Corps that the upper level of the Ohio River will reach 28' or above on the upper gauge.

In the event that a manufactured home is not immediately moved when ordered under this section, then the Lot Owner shall be in breach of this Agreement without opportunity to cure. In the event of breach the County

shall attempt to have the home removed if time and resources allow. In any event the County shall not be liable for any loss, damage, injury or death for moving, attempting to move or failing to move a home in the event of breach. The Owner shall hold the County harmless from all loss or liability, including attorneys' fees, regardless of whether the home is moved or not. The Owner shall reimburse the County within Ten (10) days after written notice for any cost incurred by the County in moving or attempting to move such home. In the event of a breach, if the County was unable to move the home during the flood evacuation then the Lot Owner shall remove the home within ten (10) days after the flood subsides and the home may not be replaced on the lot except in full compliance with all then existing laws and ordinances.

7. Extraction Contractor. The Association has entered into a contract with KAS Enterprises, Inc. ("Extraction Contractor") to provide moving services for all manufactured homes located within the Rivers Edge in the event notice is given that manufactured homes must be moved because the Ohio River has reached Eminent Risk Level. The Association has entered into a written contract with Miles Brothers Enterprises as a backup extraction contractor to perform such moving services if the Extraction Contractor fails to immediately begin moving manufactured homes from the properties and thereafter diligently completes the move after Notice. In the event that the Association contracts with a substitute extraction contractor or backup extraction contractor then such Association shall immediately provide copies of substitute or replacement contracts to each of the original parties to this Agreement with written notice. If at any time, the Association fails to maintain a moving Agreement with an extraction contractor and a backup extraction contractor as described under this paragraph then the Association and all lot owners shall be deemed in default of this Agreement, without opportunity to cure, and all manufactured homes must immediately be removed from all properties located within the Rivers Edge development which do not now or later comply with all laws, rules, regulations and ordinances regarding Flood Plan Management without regard to this Agreement.

8. Staging Area. The Association has entered into a Lease which includes a legal description of the leased Premises ("Staging Area Lease") with Petroblend, Inc. ("Petroblend") to provide a location outside of any flood hazard area (as defined by FIRM maps) to serve as a parking area for all manufactured homes which are removed from their existing location by the Extraction Contractor (or backup) in the event that a removal order is given because of an Eminent Risk Level. In the event that the Association enters into a replacement Staging Area Lease, then it shall give written notice (with a copy of the Replacement Staging Area Lease) to all original parties of this Agreement. If at any time, the Association fails to maintain a Staging Area Lease and as described under this paragraph then the Association and all lot owners shall be deemed in default of this Agreement, without opportunity to cure, and all manufactured homes must immediately be removed from all properties located within the Rivers Edge development which do not now or later comply with all laws, rules, regulations and ordinances regarding Flood Plan Management without regard to this Agreement.

9. Notification to Lot Owners. The Association represents and warrants to the other parties to this Agreement and agrees to maintain on a continuing basis during the term of this Agreement a procedure whereby all lot owners including those not in current possession of a manufactured home or structure during any flooding or possible flooding shall be notified by the Association of the conditions existing and of any removal of the manufactured homes immediately upon receiving a removal notice.

10. Notification of Utilities. In the event that EMA determines that an Eminent Risk Level has been reached then the EMA shall also notify Clark County REMC and all known propane tank suppliers to terminate electricity to the River Edge development and to secure propane tanks.

11. Personal Property Storage. The Association, at all times during the term of this Agreement, shall maintain access to a facility or facilities located in an area outside of any flood hazard area (as defined by FIRM maps) in which the residents of River Edge may store personal property items in the even of flooding.

12. Damage or Improvement to Structures. In the event that any lot owner wishes to: (1) make structural alterations to an existing building, (2) reconstruct or make repairs to any damaged building or manufactured home in excess of fifty percent (50%) of the market value (excluding the value of the land and existing before the damage occurred) of the building or manufactured home, or (3) place an additional structure or different manufactured home on a site then any such act shall be in full compliance with all rules, laws, ordinances and regulations of the State of Indiana and of Clark County including the Flood Plan Ordinance of Clark County, Indiana, without regard to this Agreement.

13. Notice. All notices, requests, demands or other communications required under this Agreement to be in writing shall be transmitted by United States mail, certified, return receipt requested, postage prepaid, addressed as follows.

Indiana Department of Natural Resources
Division of Water
402 West Washington Street, Room W264
Indianapolis, IN 46204-2748
Attn: Head, Flood Plan Management Section

Clark County, Indiana
C/O Clark County Commissioners
501 E. Court Avenue
City-County Building
Jeffersonville, IN 47130

Clark County Plan Commission
501 E. Court Avenue
City-County Building Room 300
Jeffersonville, IN 47130

Rivers Edge Homeowner's Association
C/O Katherine Lovan
606 Leon Prall Road
Otisco, IN 47163

Clark County, Indiana Emergency Management Agency
11452 Highway 62
Charlestown, IN 47111

The parties hereto shall have the right, at any time and from time to time during the term of this Agreement to change their respective addresses for notices by giving all other parties hereto written notice thereof.

14. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Indiana without regards to its conflict of law provisions.

15. Specific Performance. The parties for themselves and for each person, business organization, association, agency and corporation claiming by, under or through either party, stipulate that all parties hereto shall have the remedy of specific performance against the other. Each party, including all lot owners who file an Evacuation Agreement, knowingly and voluntarily waive their right to allege or assert in any and all claims or counts for specific performance the defense that the other party has as adequate remedy at law.

16. Reading and Receipt of Copy. All parties hereto and each lot owner who has recorded an Evacuation Agreement stipulate that they have read and understand the conditions of this Agreement and acknowledge a receipt of a copy of this Agreement.

17. Attorney Fees and Costs. Each lot owner who has recorded an Evacuation Agreement shall pay all reasonable attorney fees and litigation expenses incurred by any party to this Agreement if the Plan Commission, Clark County, or any successor government agency files litigation against the lot owner for a breach of the terms and conditions of this Agreement.

18. Captions and Indexes. Section titles, captions and indexes contained in this Agreement are inserted only as a matter of convenience in reference, and in no way define, limit, extend or describe the scope of this Agreement, or the intent of any provision hereof.

19. Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

20. Enforcement to Fullest Extent. Each term and provision of this Agreement shall be enforced to the fullest extent permitted by law. Should any term or provision of this Agreement, or the application thereof, prove illegal or unenforceable, the remainder of this Agreement shall still be valid and enforced.

21. Neutral Interpretation. Each original party of this Agreement has been represented by counsel in negotiating and drafting this Agreement, each lot owner recording an Evacuation Agreement has had the opportunity to consult with independent counsel and this Agreement culminates the efforts of all original parties and of the vast majority of lot owners over a period of many years. Therefore, this Agreement shall not be construed against any original party to this Agreement by reason of drafting authorship.

22. Time of Essence. Time is of the essence under this Agreement.

23. Neither Party Agent of Other Party. Nothing in this Agreement shall be construed to render or constitute any original party in any way or for any purpose an agent of any other original party to this Agreement or of any Lot Owner.

24. Authority to Bind Party. Each of the individuals executing this Agreement on behalf of any original party represent and warrant that said person is duly authorized and empowered to enter into this Agreement on behalf of the entity or agency on whose behalf said person has signed.

25. Waiver of Jury Trial and Agreement to Venue. Each original party to this Agreement and each lot owner who records an Evacuation Agreement knowingly, voluntarily and intentionally waives any right it may have to a trial by jury in respect to any litigation based hereon or arising out of, under or in connection with this Agreement or any agreement, including an Evacuation Agreement, contemplated to be executed in conjunction herewith or any course of conduct, course of dealing, statements (whether oral or written), or actions of any party. This provision is a material inducement for the original parties entering into this agreement. All of the original parties and each lot owner who records an Evacuation Agreement agrees and consents that any litigation involving this Agreement or related thereto shall occur in a court of competent jurisdiction in Clark County, Indiana.

26. Agreement No Impact on Insurance Rate. This agreement shall not have an effect on Flood Insurance Rates.

27. Assumption of Risk and Release. The Association and each Lot Owner assume all risk for loss, injury, damage or death connected with or arising from flooding or from any act or omission to act arising from, based on or connected with this Agreement. The Association and each Lot Owner release all other parties to this Agreement from such loss, injury, damage or death.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the _____ day
of _____, 2002.