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DEDICATION AND RESTRICTIONS
OF THE HIGHLANDS OF HEARTLAND,
PHASE 1

The Undersigned, Jagoe Development, LLC, a Kentucky limited liability company, of 3624 Wathens Crossing, Owensboro, Kentucky, 42301, (the "Developer"), is the owner of certain real estate lying and being in Daviess County, Kentucky, known as The Highlands of Heartland, Phase 1, (the "Subdivision"), which Subdivision is shown and described on Plat of record in the Office of the Daviess County Court Clerk's Office, Plat Book 34, Page 48 ("Plat").

For the enjoyment of the residents and the purpose of promoting the development of the Subdivision, the undersigned Developer agrees to and does hereby dedicate for public use the streets and easements shown in the Plat of the Subdivision.

In addition to the restrictions imposed under and by all existing zoning ordinances of the City of Owensboro, Kentucky, and the rules and regulations of the Owensboro Metropolitan Planning Commission ("OMPC"), the undersigned Developer does hereby establish and place upon the lots in the Subdivision, including those identified in the Plat and any and all later or added units of the Subdivision which are subsequently platted and recorded, all of the restrictions set forth herein.

The words "Unit" and "Phase" as used herein are intended as synonymous.

For purposes of this dedication and restrictions, the term "Owner" and "Owners" means the person or persons other than the Developer who are the record title holders of one or more lots within the Subdivision.

Section 1. Dedication. The Developer hereby dedicates to the City of Owensboro the streets, green belts, pocket parks, parks, and retention basins as may be shown on or within the Plat.

Section 2. Building Location. All buildings (including accessory buildings) erected shall conform to the building setback lines for front, rear and side yards and the public utility easements where established on the recorded Plat; no building may be erected or maintained between such lines and property lines of the lots. Where building setback lines are not indicated on the recorded Plat, there shall be a five (5) foot side line restriction, meaning that no building, including storage buildings, shall be placed more than five (5) feet to the side property line.

Section 3. Dwelling Quality and Size. The floor area of a dwelling shall not be less than 950 square feet. Such minimums shall be exclusive of open porches, breezeways and attached garages. No building shall be constructed more than two and one-half (2 ½) stories in height. All dwellings and structures shall have siding of brick, stone, stucco, vinyl, aluminum, concrete, wood or wood products or a combination of any two or more of these materials unless otherwise approved by the Design Review Committee. See additional restrictions in Section 13 for lots adjoining East Byers Avenue.

Section 4. Driveways. All driveways shall have a permanent constructed surface of concrete or bituminous asphalt.

Section 5. Appearance of Lots. The Owners shall keep the front yard areas of each lot neat and clean. All trash containers, junk, immobilized autos, bicycles and any other items must be stored in the side or back yard of a lot and out of view from the street.

Basketball goals placed in front yard shall be 20 feet or more from street curb, and shall not be attached to the home.

Section 6. Vehicles. The Owners shall not park or permit others to park vehicles or trailers which total over eight (8) feet in height or more than twenty (20) feet in length or any immobile motor vehicles on a permanent or regularly reoccurring basis in the driveways, front yards, streets, alleys, or along East Byers Avenue in the Subdivision. The vehicles referred to in this section by dimensions are intended to include, but are not limited to, semi-trucks and trailers, large vacation or recreation vehicles, two-ton or larger trucks, boats and trailers, and similar vehicles. No minibikes, go-carts, or vehicles of similar noise or speed shall be operated on sidewalks or any other property covered by this Dedication and Restrictions, nor shall any such vehicles be operated upon any vacant land within said Subdivision.

Section 7. Fences. Fences or walls erected at the rear and side yards shall not be higher than eight (8) feet or as allowed by the OMPC . Only ornamental fences may be constructed, and any of said fences constructed in front of any building setback line along a street, but not East Byers Avenue, may not exceed three and one-half (3½) feet in height. Ornamental fences may include attractive wood, masonry, ornamental iron, vinyl, and similar fences, but not chain link or woven wire fencing. Small dog runs or pens in rear yards may be chain link or woven wire but must be set back 5 feet or more from the property lines. See additional fence restrictions in Section 13.

Section 8. Care of Property, Drainage and Easements. A good turf shall be established and maintained by the Owner and each Owner shall be responsible for maintenance and grade elevation of the drainage swales on their lot or lots. The

Developer has established certain grades for the Subdivision as required by the OMPC. Accordingly, it shall be each Owner's sole responsibility to maintain their drainage easements and swales on their lots to provide proper surface water drainage for the Subdivision. If a lot Owner fails to or does not properly maintain its lot's drainage easement and swales to provide proper surface water drainage ("Failing Owner"), and such failure to maintain drainage easements and/or swales adversely affects the Developer, Builder, Homeowners Association or another lot Owner ("Affected Party"), then such Affected Party may bring suit to compel the Failing Owner to perform said maintenance of the drainage easements and swales, and the Affected Party shall be entitled to recovery of reasonable attorney's fees and costs incurred for bringing the suit. If at any time the easement of a lot is blocked or obstructed and access to any such easement by a public utility or public agency is necessary, the Owner of the lot shall be responsible for the removal of any such easement obstruction at the Owner's sole cost and expense.

All areas upon the recorded Plat of the Subdivision which are designated as easements thereon are hereby reserved for the use of any and all public utilities and for the installation of water, sewer and gas mains, for drainage above or underground, electric facilities and surface water drainage, subject at all times to the proper authorities. No structures or other improvements, planting or other materials shall be erected or permitted to remain within said easements which may damage or interfere with the installation and maintenance of the utilities and drainage. The easement area of each lot shall be maintained continuously by the Owner of said lot so as not to change the intended direction of flow of surface water within said easement as said direction of flow is set forth in the site plan for the Subdivision filed with the OMPC. Any existing creeks, spillways,

storm inlets, outflow structures, or other drainage way within the Subdivision shall be maintained by each lot Owner affected thereby in its present condition so as to maintain thorough and clear surface water drainage along said waterway at all times, such lot Owner being responsible to maintain that portion of said waterway which is located upon said Owner's respective lot. Water from downspouts or other surface water drainage systems shall not be drained into or connected with the sanitary sewer system serving the lots in the Subdivision.

Section 9. Residential Purposes. All lots shall be used for purposes allowed by the OMPC in the residential zone for the Subdivision, except that model homes, sales or construction buildings or trailers of the Developer or its designated builders may be placed upon the lots. No building shall be erected, altered, placed or permitted to remain on any lot other than (i) one detached single-family residence; (ii) detached garage or carport; and (iii) one storage building not to exceed two hundred (200) square feet with exterior walls not to exceed eight (8) feet in height, as measured from the surface of the floor, excluding gables. All structures on a lot shall be color coordinated with one or more of the same colors as the dwelling, including siding and roofs.

Section 10. Trade or Activity. Except as set forth herein and except for development and promotion of The Heartland and home construction activities, no noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 11. Temporary Structures. No trailer, garage, garage-apartment, barn, tent, shack or other buildings in the Subdivision shall at any time be used as a residence, nor shall any structure of a temporary character be used as a residence. This restriction

shall not be construed to prohibit the building of a detached garage to be used as a garage or storage building.

Section 12. Plat Changes. 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 Developer may (a) subdivide or re-subdivide 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.

Section 13. Additional Restrictions for Lots Adjoining East Byers Avenue and the City of Owensboro greenbelt. This restriction applies to all Lots which adjoin East Byers Avenue and the City of Owensboro greenbelt ("Greenbelt").

(a) Fences along East Byers Avenue and the Greenbelt may not be higher than six (6) feet. They shall be cedar and dog-eared or dog-eared-shadow-box style. All such fences shall not be stained or painted, and must be left natural, except that a clear preservative may be applied. The fences must be the same design and location as constructed by the Developer or original Builder.

(b) The Owner of the Lot must maintain and replant shrubs and trees located along the East Byers Avenue side of the Lot or fence. If the City of Owensboro fails to perform any maintenance of shrubs and trees in the East Byers Avenue right-of-way or the Greenbelt, the Owner of the Lot adjoining same must maintain them. If such shrubs or

trees die or if a portion of a hedge dies, then the Owner shall replace them with the same species and variety, and the replacement planting shall be during the optimum planting season which first occurs after the tree or shrub dies or becomes unsightly. All replacement trees must be at least 1-1/2 inch diameter or larger. If a disease or insect which kills the trees or shrubs spreads through the region killing all or a majority of like trees or shrubs, according to and verified by the University of Kentucky, College of Agriculture, Cooperative Extension Service, a similar tree or shrub may be planted which is resistant to the disease or insect. The Owner shall not be required to replace trees or shrubs if the remaining trees and shrubs have reached sufficient size that it is not practicable to plant more trees and shrubs in the particular area.

(c) Grass and mulched areas along East Byers Avenue shall be kept in pristine condition up to the line of maintenance by the City of Owensboro which is the line for street rights-of-way, parks, and Greenbelt. If the City of Owensboro does not perform its responsibility of maintaining any adjoining rights-of-way for streets, islands or Greenbelt, then the Lot Owner shall maintain the area by cutting grass, trimming shrubs and trees, removing debris, fertilizing, herbiciding, treating for pests, watering, etc.

(d) Houses, storage sheds and garages adjoining East Byers Avenue must use neutral, off-white, earth-tone-colored brick, siding, exterior trim, accent colors and roofing. Whites, reds, blues, yellows or bright primary or secondary colors may not be used. Off-whites, browns, grays, blacks, dark green, dark red, blue-gray or neutral or muted colors which do not draw your eye to and detract from the landscaping along East Byers Avenue may be used.

(e) Any additional landscaping by the Owner in the back or side yards adjoining East Byers Avenue shall have a natural, informal scheme complementing the Developer's installed landscaping. Any hedges installed by the Developer or original Builder shall be retained. All hedges shall be planted to form a continuous screen and shall be allowed to grow together. They shall be minimally pruned to maintain a natural shape. They shall not be heavily sheared into a tightly growing hedge or balls.

(f) If any above-ground pool, outbuilding, play equipment, or backyard structure, (other than landscape-type structures), is placed on a lot along East Byers Avenue, then such lot Owner shall construct a fence to a height of at least 6 feet near their lot property line adjoining East Byers Avenue. Any such fences or landscaping must meet the requirements of Section 7 and be approved by the Design Review Committee.

Section 14. Yard Signs and Mailboxes.

(1) Advertising signs may be placed in front of homes only. No real estate signs (except for signs of Developer or designated builders), yard sale, political or other signs shall be placed in the dedicated sign easements, islands, or facing East Byers Avenue rights-of-way. Any signs so placed may be confiscated and disposed of in any way by anyone.

(2) Replacement of mailboxes shall be only with mailboxes which are as nearly similar to the original boxes and supporting posts in construction and color as practicable.

Section 15. Subdivision Signs and Landscaping. The Heartland directional and informational wood and/or vinyl signs will remain until the Developer or its successor removes them. Easements for the installation and maintenance of brick entrance signs

and other Subdivision signs (the "Signs") are reserved and are as shown on the recorded Plat of the Subdivision (the "Sign Easements"). No structure, improvement or driveway, except for originally-installed signs, lighting and landscaping related structures, shall be located in or on the Sign Easements without the written consent of the Design Review Committee or its assignees. The Signs and landscaping located within the Sign Easements shall not be changed or altered without the express written consent of the Design Review Committee or its assignee. The obligation to remove debris and cut grass from the Sign Easements shall be the obligation of the Owner of the lot upon which any Sign Easement is located. The Signs, trees and shrubs which are located in the Sign Easements shall be maintained, repaired and replaced by the Heartland Homeowners Association, except trees and shrubs behind a brick wall shall be maintained by the homeowner. The homeowner shall replace trees behind the brick entrances which die or have enough dead growth that they are unsightly, provided, however, that it is not required to replace trees if the remaining trees have reached sufficient size that it is not practicable to plant more trees and shrubs in the particular area.

Section 16. Homeowners Association. All record Owners of lots in the Subdivision shall be members of and subject to the obligations, rules, regulations, assessments and Bylaws of The Heartland Homeowners Association, Inc., which shall include all subdivisions of Heartland whether now established or hereafter established (the Association). The Association shall be responsible for repair, maintenance, improvement and replacement of the following in Sign Easements: Heartland signs; lighting; and for trees, shrubs and flower beds in front of Signs. Homeowners shall replace trees behind Signs. The Association may perform other work along East Byers Avenue and East 26th

Street as it sees fit. By Contract dated March 18, 1997, and approved in Municipal Order No. 13-97, the Developer's predecessor in title agreed that the Subdivision should be annexed into Owensboro and the City of Owensboro agreed to maintain Greenbelt areas, all areas within the rights-of-way of East Byers Avenue and East 26th Street, all parks, pocket parks, street islands shown on drawings attached to the Contract and retention basins. If the City fails to maintain these areas in accordance with the Contract between the City of Owensboro and Developer, then the Homeowners Association shall be responsible for maintaining them and/or performing maintenance in addition to that done by the City of Owensboro. The Homeowners Association may supplement the maintenance performed by the City of Owensboro.

Each lot Owner in the Subdivision shall have one vote in the Association. In the event that one or more lots in the original Plat are subsequently combined and approved by OMPC, the Owner of the combined lot(s) shall have one vote in the Association. The Association is a non-profit corporation and shall be governed by the Bylaws of the Association and any properly passed rules and regulations of the Association. If a lot is sold on installment contract, the Owner, for purposes hereof, shall be the purchaser under the installment contract rather than the record title Owner. The Association may meet once a year, or more frequently, and may elect such officers as it sees fit at said meeting. The annual meeting shall be held on the first Saturday after Labor Day each year at 7:00 p.m., prevailing time, at Heartland Park gazebo, or at such inclement weather location as is posted at Heartland Park gazebo at least one hour before meeting, unless a different location is stated in the written notice of the meeting. No further notice shall be required for annual meetings. The Association shall give notice of special

meetings to members by United States First Class Mail deposited in the mail at least 20 days before a meeting.

The Developer may add other phases to The Highlands of Heartland, Phase 1, and/or other Subdivisions to the overall development known as Heartland, and may add all such units or phases and/or Subdivisions to the Heartland Homeowners Association as plats are approved by the OMPC and recorded for the units, phases and/or Subdivisions. The Developer may fix initial assessments for any such addition.

The Association may make assessments against the lots for performance of the duties required of the Association and in this document. Assessments for The Highlands of Heartland, Phase 1, shall be the sum of \$65.00 per year, or any part of the year, for any person who acquires a lot prior to April 1, 2004 and \$65.00 per year, or any part of the year for any person who acquires a lot prior to April 1, 2005. Beginning with April 1, 2005, assessments may be increased by no more than 10% per year. Assessments may exceed 10% per year if approved by a vote of the majority of the members attending a duly noticed meeting of The Heartland Homeowners Association, Inc. each year thereafter, or if the Homeowners Association is required to perform any of the responsibilities of the City of Owensboro. The assessment shall apply to all lots, whether owned by the Developer or whether owned by others.

The Association shall have a lien against the lot or lots of Owners who fail to pay the Association's assessments. All such assessment liens shall be subordinate to any mortgage lien on any lot.

The Association may bring suit to enforce any assessment lien. Each assessment shall bear interest at the rate of 18% per annum, and the Association may

recover reasonable attorney's fees required in the collection of any assessment and enforcement of any assessment lien.

Section 17. Design Review Committee. The Design Review Committee shall have the absolute right, in its sole discretion, to make all decisions regarding compliance with the restrictions of Section 13 as pertaining to lots adjoining East Byers Avenue and the Greenbelt.

The Developer shall have the right to determine all designs and landscaping prior to the sale of a lot to a builder or first occupant along East Byers Avenue. The Developer or its successors shall be the Design Review Committee until the Developer gives notice to the current residents of the Subdivision (or any other subdivisions or Phases in The Highlands of Heartland by United States First Class Mail which may become subject to these same Dedications and Restrictions) notifying them that The Heartland Homeowners Association, Inc. shall call a meeting of the members to elect a Design Review Committee to replace the Developer. Such notice shall state the names of the subdivisions to which said notice has been sent and shall state the street address and telephone number of the office of the Developer where there is maintained a list of the addresses of the residents to whom such notice was sent. The notice for election of a Design Review Committee shall also state any other subdivisions of Heartland which have already elected members to the Design Review Committee and the names of such committee members. Until the Heartland has been completely developed by the Developer, the Heartland Homeowners Association, Inc. shall notify the Developer of the names and addresses of each elected member of the Design Review Committee. The elected members of the Design Review Committee shall serve for one (1) year and new

members shall be elected by a majority vote of the members of The Heartland Homeowners Association, Inc. attending a duly noticed meeting each year thereafter. There shall be one Design Review Committee member from each Subdivision within Heartland except that where, as in the case of The Highlands of Heartland, each Phase of a community is a Subdivision, there shall be one Design Review Committee member from the total of all Subdivisions or Phases making up The Highlands of Heartland, or other community having more than one Phase, but the same overall title for the community.

The Design Review Committee's approval or disapproval as required in these Restrictions shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove, within thirty (30) days after plans and specifications have been submitted to it, approval shall not be required and the related Restrictions shall be deemed to have been fully complied with. If an Owner fails to submit plans and specifications but proceeds to construction, then approval need not be granted until plans and specifications have been submitted.

Section 18, Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept upon any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes; and provided further that no household may have more than a total of four (4) household pets at one time. Pets shall be controlled by their Owners throughout the Subdivision, including, without limitation, all yards and streets, in such a manner as to not become an annoyance or nuisance to neighbors.

Section 19, Amendment by Developer. At any time before a lot or lots are sold, the Developer may amend this Dedication and Restrictions so as to add or remove

restrictions for any unsold lot or lots. The consent of any other lot Owners shall not be required for the Developer to add or remove restrictions as provided in this section.

Section 20. Remonstrate or Petition. By acceptance of title to any lot in this Subdivision, the lot Owner agrees that he, she or it shall not object, remonstrate or petition against the Developer in any undertaking which the Developer deems beneficial to developing the Subdivision.

Section 21. Injunctive Relief. Each and all of the covenants, restrictions and conditions contained herein shall inure to the benefit of all Owners of lots in this Subdivision, jointly and severally, and may be enforced by them or by any of them, in any court of competent jurisdiction by injunction or other appropriate legal remedy. The party adjudged to have breached or violated any of said restrictions shall be liable to the aggrieved party for reasonable attorney's fees and court costs, which shall be fixed by the court hearing said matter. The Owner of any lot in this Subdivision shall have the right to enforce said covenants, conditions and restrictions without proof of pecuniary damage to their own property in this Subdivision or otherwise.

Section 22. Binding Effect. The restrictions set forth herein shall run with the land and shall be binding upon all persons claiming interest therein.

Section 23. Invalidation of Restrictions. In the event any one of the restrictions set forth herein shall be declared void by the judgment of a court of competent jurisdiction, such judgment shall in no wise affect any other restrictions herein contained.

Section 24. Termination of Restrictions. These restrictions shall continue in full force and effect for a period of thirty (30) years from the date this Dedication and Restrictions is recorded, after which time they shall be automatically extended for

successive periods of ten (10) years. The restrictions, conditions, covenants and agreements may be terminated at the end of the thirty (30) years or each of the successive ten (10) year periods by vote of not less than seventy-five (75%) percent of the then-current lot Owners in The Highlands of Heartland, Phase 1, except that all provisions regarding Sections 13, 16, 17 and 19 shall survive unless specifically terminated or amended by vote of seventy-five (75%) percent of the total members of all Subdivisions of Heartland. Any such termination or amendment must be recorded in the Office of the Daviess County, Kentucky, Court Clerk to be effective.

Section 25. Special Restrictions for Lot 596 for Dedicated Area along Stream and Subject to U.S. Army Corp of Engineers Permit. Lot 596 is subject to the declaration of Restrictions of National City Bank, agent for The James C. Ellis Estate Trust, dated the 13th day of September, 2004, and recorded at Deed Book 789, Page 377, Daviess County, Kentucky, Court Clerk's Office. These Restrictions are attached hereto. They apply to the area shown on the attached copy of the said Restrictions and the requirements imposed by them include, BUT ARE NOT LIMITED TO, the requirements to maintain the stand of grass, leave trees standing, replace trees with like tress, construct no buildings or structures, and make no topographical changes within the area or stream. The purpose of this restriction is to call to the attention of all owners of Lot 596 that their lot is subject to the Declaration of Restrictions at Deed Book 789, Page 377, and those restrictions do not terminate.

IN WITNESS WHEREOF, said Jagoe Development, LLC has caused this instrument to be executed by its duly authorized officer, this 14 day of March, 2005.

