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SANGAMON COUNTY  
ILLINOIS

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*Mary Ann Sammel*  
RECORDER

COVENANTS AND RESTRICTIONS  
FOR FOXK CREEK ESTATES SUBDIVISION  
SECOND ADDITION, AS AMENDED

R.L.P. DEVELOPMENT COMPANY, INC., an Illinois corporation (hereinafter referred to as "Developer"), is the owner and developer of the following described real estate, to-wit:

(See attached Exhibit "A" for legal description.)

NOW, THEREFORE, in consideration of the premises and of the benefits accrued and to accrue to the undersigned by reason of the covenants, conditions and restrictions imposed upon said real estate as hereinafter set forth, and as part of a plan for the use, improvement, development, sale and purchase of said real estate, the undersigned does hereby stipulate, agree and declare that the undersigned, its heirs, executors, administrators, successors and assigns do hereby subject and bind the aforesaid real estate to the following covenants, conditions and restrictions, and to hold each and every lot above described, or any portion thereof, for use and sale subject to the following covenants, conditions and restrictions, and do declare that no lot(s) or parcel(s) above described, or portion thereof, shall be sold, used or conveyed by the undersigned, its heirs, executors, administrators, successors or assigns, except subject to the following covenants, conditions and restrictions, whether expressly stated in the deed of conveyance or not, to wit:

1. APPLICABILITY, TIME PERIOD AND ENFORCEMENT OF RESTRICTIONS. These covenants and restrictions shall apply to Foxx Creek Estates Subdivision Second Addition as recorded in the office of Recorder of Deeds, Sangamon County, Illinois on the 25th day of April, 1995 as document number 95-12476, as well as any additional property, lots or parcels described in the plat of Foxx Creek Subdivision Second Addition as amended. Reference is also made to

the fact that the property platted as Foxx Creek Estates Subdivision Second Addition, as amended, and covered by these covenants and restrictions, is subject to the terms of an Annexation Agreement between R.L.P. Development Company, Inc., et al., and the Village of Chatham dated July 20, 1994 and recorded August 4, 1994 in the office of Recorder of Deeds, Sangamon County, Illinois as document number 94-31683. Specific reference is made to the fact that Lot 114A is specifically subject to the terms of paragraph 10 of said Annexation Agreement concerning village participation in the cost of offsite improvements benefitting the public generally, as set forth therein. These covenants and restrictions shall likewise apply to Lot 111B previously conveyed by the Developer. These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for ninety-nine (99) years from the date of these covenants, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of all of the owners of at least sixty-seven percent (67%) of the lots in all platted additions of Foxx Creek Estates Subdivision it is agreed to change said covenants and restrictions in whole or in part; these covenants may be amended or modified by the Developer until such time as all real estate described in Exhibit "A" has been conveyed by the Developer. These covenants and restrictions may also be rescinded or amended at any time by an approving vote of all of the owners of at least sixty-seven percent (67%) of the lots in all platted additions of Foxx Creek Estates Subdivision, which shall be effective upon recording of said rescission or amendment together with an affidavit certifying said vote by the secretary of the Homeowners Association, hereinbelow established, in the Recorder's Office of Sangamon County, Illinois. If the parties hereto, or any of them, or their heirs, successors, personal representatives or assigns shall violate or attempt to violate any of the covenants and restrictions herein, it shall then be lawful, and power and authority is hereby given to any other person or persons owning any of the above-described real property or for the Homeowners Association, Developer or any other named party possessing authority under these covenants and restrictions, to enforce or prosecute any proceeding at law or in equity to enforce these covenants and restrictions or to prevent any violation thereof or to recover damages resulting directly or consequently from such violation, together with expenses, courts costs and attorneys' fees incurred in such proceedings. Invalidation of any one of these covenants or restrictions, or any portion thereof, by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. No amendment or rescission of these covenants shall relieve any individual lot owner from the duty to maintain any utility or drainage easement, drainage detention area, public way or public area as set forth in these restrictions.

2. HOMEOWNERS ASSOCIATION MEMBERSHIP, DUTIES, AND VOTING.

The property subject to this plat is described in Exhibit "B" to the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition recorded in the office of Recorder of Deeds, Sangamon County, Illinois on October 26, 1994 as document number 94-42426 and, as such, shall not be subject to the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition except as specifically provided herein. The owner of each lot or parcel described herein shall, however, be a member of the Foxx Creek Estates Homeowners Association, and any drainage facilities, easements, subdivision fences, berms, landscaping, entrance improvements and subdivision signs, public areas and other appurtenances located upon property described in this plat shall be maintained at the expense of the Foxx Creek Estates Homeowners Association. The detention areas in Lots 109A and 110A shall be maintained by the Foxx Creek Estates Homeowners Association.

Each separate lot or parcel within the real estate described in Exhibit "A" shall have one vote in the Foxx Creek Estates Homeowners Association and shall be assessed, as each other lot or parcel within Foxx Creek Estates Subdivision, for only its proportionate share of maintenance costs of the drainage facilities, easements, subdivision fences, berms, landscaping, entrance improvements and subdivision signs, public areas and other appurtenances located within the areas maintained by the Foxx Creek Estates Homeowners Association. No lot or parcel within the area described in Exhibit "A" shall be assessed at a rate greater than any other lot or parcel belonging to the Foxx Creek Estates Homeowners Association, based upon the number of lots or parcels under separate ownership and having a vote in connection with the business of the Foxx Creek Estates Homeowners Association. Assessments shall be based upon the number of individually owned lots or parcels having membership in the Homeowners Association and shall not be based upon the square footage of any lot or parcel, the value of its improvements, or any other standard.

In the event of a conflict between the covenants and restrictions set forth herein and the zoning ordinance of the Village of Chatham, the more restrictive requirements shall apply.

3. LAND USE. The property described in Exhibit "A" shall be for commercial use and any use allowed or permitted by the zoning ordinance of the Village of Chatham for the zoning classification under which the property described in Exhibit "A" shall be classified shall be permitted.

Nothing in these covenants shall be construed to prohibit any property owner from seeking rezoning under the zoning ordinance of the Village of Chatham and from using such rezoned property for any use permitted under the zoning ordinance of the Village of Chatham.

4. PLANS AND SPECIFICATIONS. An architectural control committee is hereby established which shall be comprised of the officers or appointees of the undersigned R.L.P. Development Company, Inc. (hereinafter referred to as the "Architectural Committee"). The Architectural Committee shall have not more than three members. The following documents shall be submitted to the Architectural Committee for approval prior to the commencement of any site preparation or construction on any lot, to wit:

- A. Floor plans;
- B. Front, sides and rear elevations;
- C. Exterior materials and color selections;
- D. Name of general contractor or construction company;
- E. Plot plan showing front, side and rear setback lines, driveways, parking areas and location of all structures on the lot;
- F. Landscaping plan.

The Architectural Committee shall have absolute discretion in the approval of any structure in the subdivision pursuant to these covenants and restrictions. The Architectural Committee shall serve without pay and, in discharging the duties imposed upon them hereunder, is hereby granted an easement prior to and during the construction of any structure, and in discharging their duties hereunder, to enter upon any lot in the subdivision and will not be deemed to be trespassers thereby, and may enter into contracts and employ agents, servants and counsel as they deem necessary in the performance of their duties. In carrying out their duties hereunder, no member of the Architectural Committee shall be held personally liable for negligence or for injury to person or damage to property, or for any other act or omission in the absence of willful and deliberate misconduct. The members of the Architectural Committee shall be the same members described in paragraph 5 of the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition and shall hold office and be subject to replacement, appointment, etc. in accord with the provisions of paragraph 5 of the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition.

5. BUILDING SIZE, LOCATION AND MISCELLANEOUS. Height, size, location, sign restrictions, bulk requirements, yard requirements and other requirements in connection with the construction of improvements on any lot or parcel within this subdivision of Foxx Creek Estates Second Addition, as amended, shall be as permitted and allowed by the subdivision and zoning ordinances of the Village of Chatham except where specifically provided otherwise herein, in which case the most restrictive requirement of either these covenants or the subdivision and zoning ordinances of the Village of Chatham shall hereby apply.

6. CONSTRUCTION OF BUILDINGS, MAINTENANCE OF PROPERTY.

During the construction, maintenance or refurbishment of any building or lot, any littering or damage to the public and private roadways and easements in the subdivision, and any cleanup of them (including mud) shall be the responsibility of the owner of any lot upon which such work is being performed.

Each property owner shall be responsible for mowing and landscape maintenance of such owner's lot up to the property line of such lot and up to the street curb or curbs, such that the lot will always present a neat and attractive appearance. Each property owner shall submit to the Architectural Control Committee for approval, a landscape package of at least \$1,000.00 in value which shall be placed upon the property. Landscaping shall be completed within ninety (90) days (or as soon as weather permits) of substantial completion of the building.

The burning of any material outside of any building shall be prohibited except the burning of leaves in conformity with the statutes of the State of Illinois and ordinances of the Village of Chatham.

All sites shall have a finished grade that will allow the natural flow of surface drainage water from one lot to another without erosion or damage. Where possible, lot drainage shall be directed to the storm sewers provided at the front lot line of each lot or parcel. Under no circumstances shall the owner of any lot or parcel of land in the subdivision alter the topographic conditions of said owner's property in any way that will permit or cause additional quantities of water to flow from or across said owner's property and onto any adjoining property or public right-of-way. Grading shall be sloped and tapered at the side or rear lot lines in such a manner as to permit construction on an adjacent lot without the need for retaining walls. Gutter downspouts runoff shall be connected to storm sewers whenever permitted by municipal regulations but shall never be connected to any sanitary sewer.

All sump pumps shall discharge into drainage swales unless an alternate method of discharge is approved by either the Developer, the Homeowners Association, or the Village of Chatham, provided, however, that no sump pump shall discharge in violation of any ordinance of the Village of Chatham.

7. OIL AND MINING OPERATIONS. No oil drilling, oil or gas development operations, oil refining, gas storage, quarrying or mining operations of any kind for any mineral or minerals shall be permitted on any lot, nor shall oil or gas wells, tanks, tunnels, mineral excavation or shafts be permitted on any lot. No derrick or other structure designed for use in boring for oil or natural gas or minerals shall be erected, maintained or permitted on any lot.

8. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, rubbish and garbage or other wastes shall not be kept except in sanitary containers located inside the building, except on collection days when said sanitary containers may be placed near the platted streets for collection. Trash, rubbish and garbage or other waste shall be kept in secure containers inside established and secure storage areas of a type and nature to be approved by the Architectural Control Committee and shall be stored in such areas except on collection days when secure sanitary containers may be placed near platted streets for collection if necessary.

9. SIGNS. Signs shall be allowed with respect to all properties within this Foxx Creek Estates Subdivision Second Addition, as amended, as permitted by the zoning ordinance of the Village of Chatham.

10. EASEMENTS. Easements for installation, construction, reconstruction and maintenance of utilities and drainage facilities are reserved as shown on the above-mentioned recorded plat of the subdivision. No building or any other structure of any kind shall be placed on, in or over any such easement; any such building or structure shall be removed at the expense of the lot owner. The contours of any drainage easement or detention area shall be maintained by the adjoining or underlying property owner; contours of said easements and detention areas shall not be altered by any owner but shall be maintained as shown on the construction plans on file with the Village of Chatham with respect to Foxx Creek Estates Subdivision Second Addition, as amended, and any subsequent additions or plats which may be approved by the Village of Chatham. Drainage easements and detention areas will be maintained by the Developer until formation of the Homeowners Association, at which time the Homeowners Association will maintain drainage easements and detention areas and enforce the drainage, covenants and restrictions contained in this document. In the event that the Homeowners Association fails to enforce the covenants and restrictions contained in this document as they pertain to drainage easements and detention areas, and contours of drainage and maintenance of contours of drainage easements and detention areas, the Village of Chatham may, at its sole option, have standing in a court of competent jurisdiction to compel the Homeowners Association to enforce said covenants and restrictions against any property owner violating same.

11. ASSESSMENTS. Annual and special assessments may be established or levied against each lot and its owners for maintenance of drainage facilities, easements, subdivision fences, berms, landscaping, entrance improvements and subdivision signs, public areas or other appurtenances in the subdivision for the use of the lot owners, and for any other duties, powers and responsibilities of the Homeowners Association. Prior to the formation of the Homeowners Association, assessments shall be

established by the Developer and in accord with the provisions of paragraph 14 below. After formation of the Homeowners Association, annual assessments shall be established by a majority vote of the lot owners, each lot having one vote to be cast, in the aggregate or in fractions as agreed by and between the owners of that lot, at the first meeting of the Homeowners Association. Any unpaid assessment against a lot shall be the personal obligation of each owner of that lot at the time of assessment, jointly and severally, and shall also become a lien against that lot upon filing of a notice thereof in the Recorder's Office of Sangamon County Illinois; if such notice is not so filed on or before March 1 of the following year, said right to a lien shall expire. Any purchaser, lender or title company shall have the right to rely upon any statement or assurance by any officer of the Homeowners Association of the amount or payment status of any such lien.

12. HOMEOWNERS ASSOCIATION. All lot or parcel owners of property within Foxx Creek Estates Subdivision Second Addition, as amended, shall be members of the Homeowners Association as described previously in paragraph 2 and as described in the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition recorded in the office of Recorder of Deeds, Sangamon County, Illinois on October 26, 1994 as document number 94-42426. Membership shall be limited to matters pertaining to the maintenance of drainage facilities, easements, subdivision fences, berms, landscaping, entrance improvements and subdivision signs, public areas and other appurtenances owned by the Homeowners Association; and no lot or parcel in Foxx Creek Estates Subdivision Second Addition, as amended, shall have any vote with respect to other matters, nor shall any such lot or parcel be assessed for any Homeowners Association or Developer cost not related to said drainage facilities, easements, subdivision fences, berms, landscaping, entrance improvements and subdivision signs, public areas or other appurtenances maintained by the Homeowners Association.

For purposes of these Covenants and Restrictions and for purposes of membership in the Foxx Creek Homeowners Association, the term "lot" or "parcel" or "lot owner" shall refer to ownership of property constituting any lot, or lot of record, or portion thereof, under a single contiguous ownership, whether owned by a trust, a partnership, a corporation, an individual or individuals, including ownership in tenancy, in common joint tenancy and tenancy by the entirety except as otherwise provided herein. Any developer and each such contractor or builder shall be entitled to one vote per lot owned and shall be assessed separately on each lot for payment of costs, fees and expenses of the Homeowners Association. The owner of owners of any individual duplex dwelling unit or multi-family dwelling unit shall be entitled to one vote in the matter of the Homeowners Association, provided, however, that if

the single lot upon which a duplex or multi-family dwelling unit is located shall be under single ownership, then that lot shall be entitled to only one vote.

The Homeowners Association and the Developer shall be entitled to recover reasonable costs and attorneys' fees incurred in the enforcement of these Covenants and Restrictions, or any other right or duty contained herein against any lot owner of record against whom enforcement of these restrictions is required. Each owner of a lot against whom enforcement is required shall be jointly and severally liable for reimbursement of costs and attorneys' fees which shall become a lien against said owner's lot at the time of filing a notice of lien thereof in the office of the Recorder of Deeds, Sangamon County, Illinois.

13. DEVELOPER'S RIGHT AND DUTIES. Prior to the formation of the Homeowners Association, Developer shall be responsible for the maintenance and upkeep duties required by the Homeowners Association under these covenants and restrictions and may assess each lot subject to these covenants and restrictions for its pro-rata share of such costs on a monthly, quarterly or annual basis as the Developer may deem appropriate; such assessment shall be based on a reasonable estimate of the cost of maintenance and upkeep. Funds shall be deposited by the Developer in a special account and used to defray costs arising out of the Developer's maintenance of the public areas, easements and appurtenances described herein. The Developer may make additional assessments on each lot as required as necessary to defray the costs of maintenance of the easements and public areas described herein. Upon request, Developer shall furnish any lot owner with information substantiating the amount of such assessment. After the formation of a Homeowners Association, the owner shall have one vote with respect to the conduct of the duties of said association for each lot of record to which the owner holds title at the time of any action or vote taken by the Homeowners Association.

14. ADDITIONAL PLATS. The Developer shall be allowed to include additional plats in the Foxx Creek Estates Subdivision under the covenants and restrictions in accord with the provisions contained herein and in accord with the provisions of the Covenants and Restrictions for Foxx Creek Estates Subdivision First Addition recorded in the office of Recorder of Deeds, Sangamon County, Illinois on October 26, 1994 as document number 94-42426. The Developer, at any time, retains the right to amend these covenants and restrictions to resolve any ambiguity, conflict, scrivener's error or similar reformation of this instrument without the consent of any owner of property within Foxx Creek Estates Subdivision, all plats. Such amendment shall be effective upon recording said corrective document with the office of Recorder of Deeds, Sangamon County, Illinois and shall be binding on the owners of lots or parcels in Foxx Creek Estates Subdivision, all plats. This language shall apply to all owners and all properties located





personally known to me to be said officers, respectively, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary they signed, sealed and delivered the foregoing instrument and caused the corporate seal of the corporation to be affixed thereto as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, pursuant to the authority of its board of directors.

Given under my hand and notarial seal this 28<sup>th</sup> day of August, 1995.

Shirley J Pitchford  
Notary Public



Prepared by and Return to:

James D. Kelly  
Presney, Kelly & Presney  
726 South Second Street  
Springfield, Illinois 62704  
(217) 525-0016

Exhibit "A"

LEGAL DESCRIPTION OF FOXX CREEK  
ESTATES SECOND ADDITION

Exhibit "A"

Part of the Southeast Quarter of Section 1, Township 14 North, Range 6 West of the Third Principal Meridian; described more particularly as follows:

Commencing at an iron pin marking the Southwest corner of the Southeast Quarter of the aforementioned Section 1, thence South 89 degrees 58 minutes 16 seconds East along the section line a distance of 1732.50 feet to an iron pipe marking the true point of beginning, thence North 00 degrees 02 minutes 10 seconds East a distance of 117.90 feet to an iron pipe marking the beginning of a 45.00 foot radius curve to the left, thence Northeasterly along said curve having a long chord with a course of North 11 degrees 56 minutes 01 seconds East and a distance of 70.99 feet to an iron pipe marking the beginning of a 20.00 foot radius curve to the right, thence Northwesterly along said curve having a long chord with a course of North 20 degrees 16 minutes 42 seconds West and a distance of 13.59 feet to an iron pipe, thence North 00 degrees 25 minutes 15 seconds West a distance of 85.59 feet to an iron pipe marking the beginning of a 360.00 foot radius curve to the left, thence Northwesterly along said curve having a long chord with a course of North 12 degrees 52 minutes 28 seconds West and a distance of 155.28 feet to an iron pipe, thence North 25 degrees 19 minutes 48 seconds West a distance of 73.72 feet to an iron pipe, thence North 89 degrees 57 minutes 50 seconds West a distance of 66.40 feet to an iron pipe, thence North 25 degrees 19 minutes 48 seconds West a distance of 286.77 feet to an iron pipe marking the beginning of a 360.00 foot radius curve to the right, thence Northwesterly along said curve having a long chord with a course of North 12 degrees 29 minutes 33 seconds West and a distance of 159.97 feet to an iron pipe, thence North 00 degrees 20 minutes 42 seconds East a distance of 459.49 feet to an iron pipe, thence South 89 degrees 42 minutes 08 seconds East a distance of 702.68 feet to an iron pin, thence South 00 degrees 27 minutes 41 seconds East a distance of 208.76 feet to an iron pin, thence South 89 degrees 39 minutes 39 seconds East a distance of 417.47 feet to an iron pin on the Westerly Right-of-Way Line of Illinois Route 4, thence South 00 degrees 33 minutes 30 seconds East along said right-of-way line a distance of 168.42 feet to a right-of-way marker, thence South 02 degrees 19 minutes 32 seconds West along said right-of-way line a distance of 199.93 feet to a right-of-way marker, thence South 00 degrees 07 minutes 46 seconds East along said right-of-way line a distance of 103.30 feet to a right-of-way marker, thence South 00 degrees 28 minutes 07 seconds East along said right-of-way line a distance of 168.91 feet to an iron pin, thence South 04 degrees 27 minutes 42 seconds West along said right-of-way line a distance of 278.80 feet to a right-of-way marker, thence South 00 degrees 20 minutes 48 seconds East along said right-of-way line a distance of 104.64 feet to an iron pipe, thence North 89 degrees 16 minutes 16 seconds West a distance of 64.95 feet to an iron pin, thence South 00 degrees 21 minutes 49 seconds West a distance of 141.95 feet to an iron pin on the section line, thence North 89 degrees 58 minutes 16 seconds West along the section line a distance of 752.40 feet to the point of beginning. Said tract contains 29.158 acres, more or less, all in the County of Sangamon, State of Illinois.

Basis of bearing is South 89 degrees 58 minutes 16 seconds East along the section line.