

FOR CHANGED AMENDMENTS SEE MISC. RECORD 112 PAGE 423

5608.

1. This Indenture Made this 25th day of May 1916 by and between Wildwood Park Company, a corporation organized under the Laws of the State of Indiana, having its principal place of business in the City of Fort Wayne, Allen County, Indiana (hereinafter called the Seller or Company) and Lee J. Nide of Allen County, Indiana (hereinafter called the Buyer), Witnesseth, That,

2. Whereas, the Seller owns a tract of land in Allen County, Indiana, known as Wildwood Park Addition, as shown on the recorded plat thereof, in the Recorder's Office of Allen County, Indiana, And,

3; Whereas, the Seller intends to develop and improve said tract of land, and open up and lay out the streets shown on said plat, and after re-conveyance to it of said property to offer for sale the lots and parcels of land included in said tract, and desires to subject the lots and parcels shown on said plat by numbers one (1) to ninety-nine (99) both inclusive, to certain covenants, agreements, easements, restrictions, conditions, limitations and charges, as hereinafter set forth, and to make said covenants, agreements, easements, restrictions, conditions, limitations and charges binding and of full force and effect upon all said lots, and upon the present and future owners and occupants of the same.

4. Now, Therefore, the said Wildwood Park Company Conveys and warrants to the said Lee J. Nide, for and in consideration of One dollar (\$1.00) the receipt whereof is hereby acknowledged, the following described real estate in Allen County, State of Indiana, to-wit:-  
Lots One (1) to Ninety-nine (99) both inclusive, in Wildwood Park Addition adjoining the City of Fort Wayne, Indiana, according to the recorded plat thereof.

5. Lots numbered One (1) to Ninety-five (95) both inclusive, except Lot No. Fifty-eight (58) being subject to the following covenants, agreements, easements, restrictions, conditions limitations and charges which it is hereby covenanted and agreed shall be binding upon the Seller, its successors and assigns and upon the Buyer, his heirs, executors, administrators, grantees and assigns, and upon all the said premises.

6. Easements and rights of way are hereby expressly reserved in and over the rear five (5) feet of each of said lots, and also in and over a five (5) foot strip lying next the side line of any lot, when such line is at the same time the rear line, or a part thereof, of any other lot, and in and over the tracts of ground used, or to be used, for parks, parkways, play grounds and other tracts used for community purposes, for the following purposes:-

7;- For the erection, construction and maintenance of poles, wires and conduits, and the necessary or proper attachments in connection therewith, for the transmission of electricity and for telephone and other purposes; also, for the construction and maintenance of drains, sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public utility or function, maintained, furnished or performed by or in any method beneath the surface of the ground.

8;- Like easements and rights of way are hereby expressly reserved in and over the front

twenty feet of each of said lots, and also in and over a four (4) foot strip lying next the side line of any of said lots; and in and over tracts of ground used or to be used for parks, parkways, play grounds and other tracts used for public or community purposes for the construction and maintenance of drains, sewers, pipe lines for supplying gas, water or heat, wires and conduits, or for any other public or quasi-public utility or function, maintained, furnished or performed by or in any method beneath the surface of the ground.

9. The Company, or any municipal, public or quasi-public corporation, engaged in supplying any one or more of the above utilities will have the right at any time to enter upon said strip of land for any purpose for which said easements or rights of way are reserved, using care, however, to restore said premises to the same condition in which they may exist at the time of such entry.

10. Said lots, or any part thereof, shall never be used, or be permitted to be used, for other than residence purposes; provided, however, that parks and playgrounds may be laid out and maintained in the locations designated in said plat, and in any other locations approved in writing by the Company, and that the Company shall have the right to designate such lots, or parcels of ground as it may deem best, to be used for the location of schools, churches, clubs, public garages, or for recreative, educational, religious or philanthropic purposes.

11. No building, or parts thereof, not including open porches, shall ever be erected or maintained on any of said lots nearer to the front or side property line thereof than is specified in the schedule of set backs hereinafter set out in Paragraph 47

12. No buildings shall ever be constructed or maintained upon any of the lots numbered from One (1) to ten (10) both inclusive, Twenty (20) to twenty-two (22) both inclusive, twenty-four (24) to thirty-one (31) both inclusive, seventy-four to seventy-four to seventy-six (76), both inclusive, seventy-nine (79) to Ninety-five (95), both inclusive costing less than sixty-five hundred dollars (\$6500.00); or constructed or maintained upon any of the lots numbered thirteen (13) thirty-seven (37) thirty-eight (38) fifty (50) fifty-three (53) fifty-nine (59) sixty-one (61) costing less than six thousand dollars (\$6000.00) or constructed or maintained upon any of the lots numbered sixty (60), sixty-seven (67) and sixty-eight (68) costing less than fifty-five hundred dollars (\$5500.00) or constructed or maintained upon any of the lots numbered eleven (11) twelve (12) fourteen (14) to Nineteen (19) both inclusive, twenty-three (23) thirty-two (32) to thirty-six (36) both inclusive, thirty-nine to Forty-nine (49) both inclusive, Fifty-one (51) Fifty-two (52) Fifty-four (54) to fifty-seven (57) both inclusive, sixty-two (62) to sixty-six (66) both inclusive, sixty-nine (69) to seventy-three (73) both inclusive, seventy-seven (77) and seventy-eight (78) costing less than Five thousand dollars (\$5,000.00); or constructed or maintained upon any of the lots numbered sixty-nine (69) to seventy-three (73) both inclusive, and sixty-two (62) to sixty-six (66) both inclusive, costing less than

Forty-five Hundred Dollars (\$4500.00)

13. Nor shall any building ever be constructed or maintained upon any of said lots for other than the purpose of a single, private dwelling house, and the out buildings appurtenant thereto, and used in connection therewith, as hereinafter more specifically limited and set forth, nor shall there ever be constructed or maintained more than one dwelling house on any one of said lots.
14. No stables or other outbuildings shall be erected on any part of said premises, unless designated by the Seller as above set forth, except private garages for the sole use of the respective owners or occupants of the lots upon which such garages are erected, and the exterior of any garage erected shall be of the same material as the exterior of the dwelling to which it may be appurtenant.
15. No fences shall be constructed upon any lot or upon any part thereof, nearer to the front property line than the buildings line of said lot, as shown in said schedule of set backs, nor shall any bill boards, or other advertising signs or devices, except Real Estate Sale or Rent signs approved by the Company, be erected on any part of said premises; and any fences erected thereon shall be wire fences, not more than 3-1/2 feet in height, except that lattice fences not more than seven feet in height may be erected on the rear portion of lots around the laundry or service yard.
16. No hedge shall be maintained or permitted to grow upon any lot more than three feet in height.
17. No buildings shall be commenced, erected or maintained, nor shall any addition to, or change or alteration therein be made, upon any of said lots, until the plans and specifications, showing the exterior architecture of the buildings; the grading of the lot upon which such building is to be erected; the location of the building upon such lot; and the approximate cost of such structure, shall have been submitted to, and approved in writing, by the Company. The Company shall have the right to refuse to approve any such plans, which are not suitable or desirable, in its option, for aesthetic or other reasons, and it shall have the right to take into consideration the suitability of the proposed building or structure, and of the materials of which it is to be built, and the site upon which it is purposed to erect the same, the harmony thereof with the surroundings, and the effect of the building or other structure, as planned, on the out look from the adjacent or neighboring property.
18. No tree exceeding four inches in diameter at the ground shall be cut down upon any part of said premises, including trees upon any lots therein, whether owned by the Company or by purchasers thereof, unless the previous consent of the Company shall have been obtained therefor in writing.
19. The Company shall have the right to make reasonable rules and regulations for the maintenance, use and control of all parks, parkways, play grounds, or other tracts or structures used for public or community purposes; to plant and protect trees and shrubbery upon such tracts, or portions of said premises to make and enforce rules and regulations.

for the disposal of garbage and ashes, the use of drains, and the cleaning, lighting and use of streets, and for the purpose of carrying out such objects, may establish and collect a maintenance tax as hereinafter more fully set out.

20. All the said lots numbered from One (1) to Ninety-five (95) both inclusive, excepting Lot No. Fifty-eight (58) and excepting parks, parkways, or other tracts used for public or community purposes, and with the further exception hereinafter mentioned, whether owned by the Company, or by others, shall be subject to an annual maintenance charge at the rate not to exceed Twenty cents (20¢) per hundred square feet of area for each year, commencing with January 1st, 1917 for the purpose of creating a fund to be known as The Maintenance Fund, and such charge shall be paid by the respective owners of the land included in said Addition to the Company, or to the Improvement Association hereinafter referred to, in advance on the 1st day of January of each year.

21. Such charge may be adjusted from year to year by the Company, or, after the formation of the Improvement Association, herein provided for, by such Association, as the needs of the property may, in the Company's judgment, or in the judgment of such Association, require, but in no event shall such charge be raised above twenty cents (20¢) per hundred square feet to area.

22. The Company agrees to pay its proper proportion into said fund for the land owned by it on January 1st of each year, and to apply the total fund arising from said charge, as far as the same may be sufficient, towards the payment of the so-called Maintenance Expenses, incurred for such of the following purposes as the Company may elect to provide.

23. For lighting, improving and maintaining and cleaning the streets and parks maintained for the general use of owners and occupants of land included in said tract, including all grass and planted areas within the boundaries of such streets and parks.

24. For operating and maintaining any storm-water or sanitary drains <sup>now</sup> or hereafter constructed in said tract;

25. For collecting and disposing of garbage, ashes and rubbish, etc.

26. For employing policeman and watchman for fire protection;

27. For caring for vacant and unimproved land included in said tract on which said Maintenance Charge is being paid, removing the grass and weeds therefrom, and doing any other thing necessary or desirable, in the opinion of the Company, to keep the property neat and in good order, or which, in the opinion of the Company, may be of general benefit to the owners or occupants of the land included in said tract;

28. For expenses incident to the examination and approval of plans as herein provided, and to the enforcement of the restrictions, conditions, covenants, easements, charges and agreements herein contained.

29. For taxes and assessments, if any, that may be levied by any public authority upon the streets or parks now or hereafter opened, laid out or established for the general use of the owners of land included in said tract.

30. It is expressly agreed that the maintenance charges referred to in Paragraphs twenty

(20) to twenty-nine (29) inclusive, hereof, shall be held to be liens or encumbrances on all the said premises, and may be enforced by the Company, or by the Improvement Association herein referred to, after the organization of the same, by foreclosure proceedings in the same manner as real estate mortgages are foreclosed, and by the acceptance of title to said premises or of any portion thereof, by the grantee or any subsequent grantees, such grantee shall be held to have covenanted and agreed to pay to the Company, and after the organization of the same, to the said Association, all charges provided for in said paragraphs, both charges due and unpaid at the time of acquiring title to said premises and all charges thereafter falling due as long as he shall hold such title, together with interest thereon at the rate of six per cent (6%) per annum from the date when due, and attorney fees. A certificate in writing signed by an officer of the Company, or, after the organization of the same, of said Association, shall be given on demand to any buyer or owner, setting forth the status of such buyer or owner, on any part of said premises, with respect to said charges; such certificate in favor of any one relying thereon to his damage shall be binding on the Company or Association.

31. Subject to modification or abolishment by the Company as hereinafter more specifically set forth, all conditions, restrictions, limitations, and charges herein contained shall be valid and binding and continue in force in perpetuity; provided, however, that such conditions, restrictions, and charges, or any of them, may be changed or abolished in any or all particulars, by the then owners of the lots in said Addition, whenever two-thirds or more of the resident owners shall unite in signing and executing an agreement or resolution to that effect, provided further that such signers shall number not less than thirty, which agreement or resolution shall upon being recorded in the proper record in the Recorder's Office of Allen County, Indiana, be valid and binding upon the Company, and the owners of any or all the lots, and upon all other persons, but nothing in this paragraph shall be construed as applying in any manner to the easements and rights of way reserved herein as above set forth in Paragraphs 6 to 9 both inclusive.

32. By the term "Owners" as used herein, shall be deemed to be meant all persons who appear to be the owners at any time according to the last tax duplicate or record of transfer kept by the Auditor of Allen County.

33. The Company expressly reserves the following rights:-

34. At any time, so long as the Company shall own any of the lot or lots in said Addition to annul, waive, change or modify any of the restrictions, conditions, covenants and agreements herein contained; provided, however, that upon no lot or portion of said Addition shall there ever be erected, maintained or operated, any saloon, hospital, asylum, grave yard, factory, cattle yard, hog pen, fowl yard, nor shall any dangerous or offensive thing, trade or business be permitted or maintained upon any lot or portion of said Addition.

35. To design and install all municipal improvements, including water and sewerage system gas mains, and lighting distribution system, including ornamental lighting, pavement, sidewalks, or to procure the designing and installation of the same by other persons or

corporations or by the municipal authorities of the City of Fort Wayne, or other public bodies and authorities.

36. To dispose, at any time, in whole or in part, of such water, sewerage, gas and lighting, or other public improvements system, to any estate, county, municipal or other public corporation, or to any private or quasi-public corporation, or to the Improvement Association herein referred to; provided, that it shall not dispose of such sewerage system to any private or quasi-public corporation or Association in whole or in part except upon terms that will furnish the owners of land in said Addition with such public service or facilities at rates not exceeding those charged by the Company; and provided further that after the disposal or transfer of any of such improvement systems, the obligation of the Company to maintain or supply the service for which the system or systems disposed of were constructed shall cease and determine.

37. To appoint a board of arbitrators to consist of an architect, an engineer, the President of the Company, and one resident owner in said Addition, to pass upon plans and specifications or buildings or improvements, erected or to be erected in said Addition, whenever any dispute in relation thereto shall arise between the Company and any owner, or owners, and to settle and determine all questions with reference to violations or alleged violations by owners of any lots in said Addition of the restrictions, limitations, conditions and agreements herein contained, and the finding of such committee or board shall be binding upon the owner or owners of any lot in said Addition.

38. The Company hereby covenants and agrees:-

39. To care for, maintain and operate, if and when constructed, parks, parkways, streets, drainage system, collection and disposal of garbage, ashes and rubbish, and in general, to keep the unimproved premises included in said Addition neat, and in good order; provided, however, that in no event, shall the Company be obliged to expend in said work more than the amount arising from the annual maintenance charge heretofore referred to. The obligation to provide such care and maintenance shall continue upon said Company for the period of not more than ten years from January 1st, 1916 or until organization of an Improvement Association as hereinafter described, if such Association is organized prior to the end of said period.

40. To encourage and assist so far as it is possible in the organization of an Improvement Association to be known as Wildwood Park Improvement Association, or by some other appropriate title, which shall consist of such owners of lots in said Addition as shall join therein. Such Association shall be organized for the purpose of maintaining and caring for the general interests of said Addition and for carrying on the various obligations imposed upon the Company as herein set forth, and after being organized shall be vested with the same rights and powers herein conferred upon or reserved to the Company.

41. The owner, or owners of any lot, in said Addition or of any one or more of the lots

into which Lots 58,96,97,98 and 99 or any of them, may be sub-divided, shall be entitled to membership in said Association at any time during the life thereof immediately upon making written application therefor, and delivering same to the Secretary or President or any officer or trustee of such Association, provided, however, that in order to render valid any acts or proceedings of such Association, there must be at the date thereof, at least ten resident owners, of lots in said Addition who are members of such Association and provided further that where any lot or portion of lot is owned by two or more persons as joint tenants, tenants in common, or by entirety, such owners shall have only one vote in the proceedings of such Association.

42. Such Association shall be deemed to have been organized whenever ten or more resident owners shall have met for the purpose of forming such an Association; shall have adopted and subscribed to a constitution, by-laws or other set of rules for their government and setting forth the object of the Association to be the carrying out of the provisions of this instrument, and shall have elected officers and given the Company written notice of such facts, or if a majority of the resident owners, not less than ten in number, shall so elect, such Association may be organized as a body corporate under the corporation laws of the State of Indiana, but not for pecuniary profit.

43. The Company reserves the right to re-plot or sub-divide Lot #58 and any or all of the blocks or lots in said Addition, except said lots numbered one (1) to ninety-five (95) and to convey the same, subject to such restrictions, conditions, limitations, and charges as it may see fit, provided, however, that the Company shall convey no portion of said Addition excepting subject to the restrictions that there shall never be erected, maintained or operated thereon, or on any part thereof, any saloon, hospital, asylum, graveyard, factory, cattle yard, hog pen, fowl yard, nor shall any dangerous or offensive thing trade or business be permitted or maintained thereon, or on any portion thereof, and provided further that all said lots and blocks or sub-division thereof, shall be conveyed subject to their proportionate share of the maintenance charges herein referred to, upon assuming which they shall be entitled to their proportionate share of the maintenance of sewers and other public services provided for Lots One (1) to Ninety-five (95) as above set out.

44. The Company reserves title to all parks, parkways, play grounds and other tracts used for public or community purposes, in said Addition, and shall have the right to dedicate to public use, and the right to convey to any public authority, or to any corporation having the power to acquire the same, all its rights, title and interest in and to such parks, parkways, play grounds and tracts used for public and community purposes, subject only to the rights of the owners of any lot or lots in said Addition to the reasonable use and enjoyment of such tracts.

45. The Company shall have the authority to make and enforce reasonable rules and regulations for the use of parks, parkways, play grounds and tracts used for public or

community purposes and also for the protection and preservation of all trees and shrubbery in the same, and the right of any purchaser or owner of any lot in said Addition, or of any other person, to make use of such tracts, shall be conditioned upon his conforming to such rules and regulations. Such authority shall continue in the Company during such period as it continues to care for said tracts, as set forth above, and if and when the said Improvement Association shall be formed and take over said powers and duties the same authority shall be vested and continue in it.

46. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all lots in said Addition, and they shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Company or by the owner or owners of any land or lot included in said tract, their respective legal representative, heirs, successors, grantees, and assigns, and it is expressly agreed that if the said Grantee, his heirs, legal representatives, grantees or assigns shall ever violate, or permit to be violated, any of the easements, restrictions, limitations, or conditions above set forth, then this deed shall become null and void, and all interest of said Grantee, his heirs, legal representatives, grantees or assigns shall at once revert to said Company, its successors, grantees or assigns, and it may at once re-enter, recover, own and control said premises, or any part thereof, free from any claims of said Grantee, his heirs, legal representatives, grantees or assigns and the failure by the Company or any land owner in said tract to enforce any easements, restrictions, limitations and conditions herein contained, shall, in no event, be deemed a waiver of the right to do so thereafter as to the same breach, or as to one occurring prior or subsequent thereto; but these easements, restrictions, limitations, and conditions shall not effect the interest of any person holding a lien upon said premises, except for the violation thereof after said lien shall have ripened into a possessory title.

In Witness Whereof, said Wildwood Park Company as hereinunto caused it name to be subscribed and its corporate seal to be affixed and attested by its Secretary, this 25th day of May 1916.

Reg. stamps \$.50

Wildwood Park Company  
By Lee J. Ninde, President

Attest; Victor V. Miller, Secretary

State of Indiana, County of Allen, SS:

Personally appeared before me, this 26th day of May 1916 Wildwood Park Company, by Lee J. Ninde, known by me to be its President, and Victor V. Miller, known by me to be its Secretary and acknowledged the execution of the foregoing instrument for the uses and purposes therein contained.

Witness my hand and Notarial Seal.

(Notary Seal) Fred B. Shoaff, Notary Public.  
My commission expires Dec. 3, 1916



Duly entered for taxation May 26, 1916  
Will Johnson, Auditor Allen Co., Ind.  
Recorded May 26, 1916 at 10:15 A.M.

Cullen Hurd Recorder Allen Co., Ind.

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5609.

This Indenture Witnesseth, That Owen N. Heaton and Kate Russell Heaton his wife, in consideration of One 00/100 dollars the receipt whereof is hereby acknowledged, convey and quit-claim to Pearl Bright, her heirs and assigns forever, the following Real Estate in Allen County, in the State of Indiana and described as follows, to-wit;

The North thirty-three (33) feet of the South Ninety-nine (99) feet of the East half (1/2) of Lillies Out Lot thirty-seven (37) now in the City of Fort Wayne, as shown by the recorded plat thereof.

together with all the privileges and appurtenances to the same belonging.

In Witness Whereof, The Grantors have hereunto set their hands and seals this 7th day of February 1911.

Owen N. Heaton, (Seal)  
Kate Russell Heaton, (Seal)

State of Indiana, Allen County, SS;

Before the undersigned, a Notary Public in and for said County and State personally came Owen N. Heaton and Kate Russell Heaton, his wife, grantors in the above conveyance and acknowledge the same to be their voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and notarial seal this 9th day of February A.D. 1911

(Notary Seal)  
My commission expires Apr. 22, 1913

Pearl Cahill, Notary Public

Duly entered for taxation May 26, 1916  
Will Johnson, Auditor Allen Co., Ind.  
Recorded May 26, 1916 at 11:00 A.M.

Cullen Hurd Recorder Allen Co., Ind.

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