

Cross Reference: Document No. 13070462
Document No. 16060201

**AMENDMENT TO
AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
OF CRYSTAL BAY & CRYSTAL COVE**

RECITALS

WHEREAS, Hamilton Hills, LLC, an Indiana limited liability company (“Developer”) desires to replat Lot 198 within Crystal Cove and to subdivide Lot 198 by recording an amendment known as the Plat of Hamilton Hills at Crystal Cove (“Hamilton Hills plat”), which plat will subdivide Lot 198 into twelve (12) lots with all dimensions being shown in feet and decimals of a foot on the plat and along with all streets, easements and Common Areas, with such streets being specifically dedicated to public use for their usual and intended purposes, which plat is attached hereto as **Exhibit A** and incorporated herein by reference.

WHEREAS, the Developer desires to annex the Hamilton Hills plat into the Crystal Bay & Crystal Cove Homeowner’s Association, Inc. (“Association”) and to subject the real estate within the Hamilton Hills plat to the certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens set forth in the Amended and Restated Covenants, Conditions, Easements, and Restrictions of Crystal Bay & Crystal Cove Homeowners Association, Inc. recorded on July 17, 2013 as Document No. 13070462 in the Office of the Recorder of Steuben County, Indiana as amended by the First Amendment to Crystal Bay & Crystal Cove, Second Amended and Restated Architectural Standards recorded on June 13, 2016 as Document No. 16060201 in the Office of the Recorder of Steuben County, Indiana, which are attached hereto as **Exhibit B** and incorporated herein by reference (“Crystal Bay & Cove Covenants”), except as other provided herein.

WHEREAS, Association hereby has submitted this Amendment to the members of the Association and this Amendment has been approved by the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Eligible Votes pursuant to Section 12.2(a) of the Crystal Bay & Cove Covenants and the Association has accepted the subdivision of Lot 198 and the annexation of the Hamilton Hills plat into the Association, subject to the terms of this Amendment.

WHEREAS, the twelve (12) Lots within in the Hamilton Hills plat shall remain in the Crystal Cove Plat and the Lots in the Hamilton Hills plat shall be subject to the Crystal Bay & Cove Covenants (as defined below) with respect to the use and development of such Lots in the Hamilton Hills plat, except as expressly and otherwise provided herein.

WHEREAS, the Lots within the Hamilton Hills plat shall be subject to and impressed with the covenants, agreements, restrictions, easements and limitations hereinafter set forth, and these covenants, agreements, restrictions, easements and limitations shall be considered a part of every conveyance of land in the Hamilton Hills plat, without being written therein.

WHEREAS, the provisions herein contained are for the mutual benefit and protection of the owners present and future of any and all land in the Hamilton Hills plat, the Crystal Bay plat, and the Crystal Cove plat, and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners of land included therein, their respective legal representatives, successors, grantees and assigns.

WHEREAS, all capitalized terms used herein shall have the same meaning ascribed to them in the Crystal Bay & Cove Covenants, except as the context otherwise dictates.

NOW, THEREFORE, the Developer and the Association, with the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Eligible Votes, pursuant to Section 12.2 of the Crystal Bay & Cove Covenants, hereby declare that all of the Lots and Common Areas within the Hamilton Hills plat shall be annexed into the Association and all of the real estate within the Hamilton Hills plat shall be owned, held, transferred, sold, mortgaged, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to run with the land and to be in furtherance of the plan for preservation and enhancement of the Hamilton Hills plat, the Crystal Cove plat, the crystal Bay plat and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the subdivision as a whole and of each of the Lots situated in the Hamilton Hills Plat, the Crystal Cove plat and the Crystal Bay plat.

1. **Incorporation of the Crystal Bay & Cove Covenants.** Except as expressly set forth in this Amendment, the covenants, conditions, easements, restrictions and assessments of the Crystal Bay & Cove Covenants, all of which are attached hereto as **Exhibit B**, and which are incorporated herein by reference as if fully set forth herein, shall run with and govern the Lots and Common Areas within the Hamilton Hills plat. Every Owner of a Lot in the Hamilton Hills plat shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot in the Hamilton Hills plat, which is subject to assessment under the Crystal Bay & Cove Covenants. The Owner of any Lot in the Hamilton Hills plat shall be a member of the Association so long as such Owner continues to be the Owner of a Lot. Membership in the Association shall pass with the transfer of title to any Lot in the Hamilton Hills plat.

2. **Amendment of Section 2.5(m) the Crystal Bay & Cove Covenants.** Notwithstanding Section 2.5(m) of the Crystal Bay & Cove Covenants, each Lot may have one (1) accessory outbuilding which may not exceed eighty percent (80%) of the first floor square footage of the dwelling unit on the Lot. Such accessory outbuilding shall be of one story with no livable space and shall have the same exterior color and materials as the dwelling unit on the Lot. Plans for such accessory outbuilding shall be approved in the manner promulgated the Development Control Committee pursuant to Article X of the Crystal Bay & Cove Covenants.

3. **Hamilton Hills Group Pier Association.** There has been, or will be, organized in connection with the development of the Hamilton Hills plat an incorporated nonprofit corporation known as the Hamilton Hills Group Pier Association (the "Group Pier Association") that will maintain the Group Pier and trailway for the twelve (12) lots in Hamilton Hills plat.

- a. Membership and Voting Rights. Every Owner of a Lot in the Hamilton Hills plat shall be a member of the Group Pier Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot in the Hamilton Hills plat, which is subject to assessment under this Paragraph 3.

- b. Classes of Membership. The Group Pier Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners of Lot 1 through 12 in the Hamilton Hills plat, exclusive of the Developer. Owners shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest on any Lot, all such persons shall be member(s). The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member(s) shall be the Developer. The Developer shall be entitled to five (5) votes for each Lot owned in the Hamilton Hills plat. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) when title to all Lots in the Hamilton Hills plat, have been conveyed; or (b) on [a date 10 years from execution of covenants], 2035.

- c. Continuing Memberships. The Owner of any Lot in the Hamilton Hills plat shall continue to be a member of the Group Pier Association so long as such Owner continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

- d. Transfer of Membership Rights and Privileges in the Group Pier Association. Each Owner, and in lieu thereof, (and with the written consent of such Owners to the Group Pier Association) each lessee of a Lot shall be a member of the Group Pier Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee of Lot, will pass with the lease, except if the Owner withdraws his/her consent in writing to the Group Pier Association. The Owner may withdraw his/her membership assignment to any lessee in his/her discretion by issuing a sixty (60) day notice in writing to the Group Pier Association. No assignment of membership shall relieve an Owner of the Lot from the obligation to pay any Group Pier Assessment authorized by this Paragraph 3. Notwithstanding anything herein to the contrary, no boat dock or boat slip may be leased separately from any Lot and the Lot and the applicable boat dock or boat slip must be leased together.

- e. Creation of the Lien and Personal Obligation of Group Pier Assessments. In addition to the Assessments or Special Assessments charged by the Association under the Crystal Bay & Cove Covenants, each Owner of any Lot, excepting the Developer, by acceptance of a deed of a Lot in the Hamilton Hills plat, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Group Pier Association: (1) annual Group Pier assessments or charges and (2) special Group Pier assessments or charges (collectively "Group Pier Assessments"). Such Group Pier Assessments shall be established and collected as hereinafter provided. The annual Group Pier Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot in the Hamilton Hills plat against which each such Group Pier Assessments is made. Each Group Pier Assessments, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot in the Hamilton Hills plat at the time when the Group Pier Assessments fell due. The personal obligation for delinquent Group Pier Assessments shall not pass to an Owner's successors in title unless expressly assumed by them. The exception providing that the Developer shall not be required to pay the above-listed Group Pier Assessments, shall not be modified without the express written consent of the Developer. For the avoidance of doubt, the Group Pier Assessments shall be in addition to any

Assessments or Special Assessments charged by the Association under the Crystal Bay & Cove Covenants.

- f. Purpose of Group Pier Assessments. The annual Group Pier Assessments levied by the Group Pier Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners in the Hamilton Hills plat, including, but not limited to, the improvement and maintenance of the railway, as shown on the Hamilton Hills plat, the Group Pier, and the payment of insurance and taxes related to the railway and the Group Pier, and all other things necessary or desirable in the opinion of the Board of Directors of the Group Pier Association in connection with the railway and the Group Pier.
- g. Maximum Annual Group Pier Assessment. Until January 1 of the year immediately following the conveyance by the Developer of the first Lot in the Hamilton Hills plat to an Owner, the maximum annual Group Pier Assessment shall be Three Thousand and 00/100 Dollars (\$3000.00) per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot in the Hamilton Hills plat to an Owner, the maximum annual Group Pier Assessment may be increased each year not more than ten percent (10%) above the maximum Group Pier Assessment for the previous year without a vote of the membership from the Group Pier Association. From and after January 1 of the year immediately following the conveyance of the first Lot in the Hamilton Hills plat to an Owner, the maximum annual Group Pier Assessment may be increased above ten percent (10%) by the affirmative vote of each class of members in the Group Pier Association. The Board of Directors of the Group Pier Association may fix the annual Group Pier Assessment at an amount not in excess of the maximum.
- h. Special Group Pier Assessments or Charges. In addition to the annual Group Pier Assessments authorized above, the Group Pier Association may levy, in any assessment year, a special assessment or charge applicable to that year only for the purpose of defraying, in whole or in part, (1) the cost of any construction, repair or replacement of the walkway or the Group Pier, including any personal property related thereto; (2) any budget shortfall of the Group Pier Association; or (3) the emergency needs of the Group Pier Association, provided that any such assessment shall have the vote or written assent of fifty-one percent (51%) of each class of members of the Group Pier Association.
- i. Notice and Quorum for Any Action Authorized Under Section 3(g) and 3(h). Any action authorized under Sections 3(g) and 3(h) and requiring an affirmative vote or written assent of a certain percentage of the Group Pier Association membership shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.
- j. Uniform Rate of Assessment. Group Pier Assessments must be fixed at a uniform rate for all Lots in the Hamilton Hills Plat and may be collected on a monthly, quarterly or yearly basis as the Board of Directors of the Group Pier Association may determine from time to time.
- k. Date of Commencement of Annual Group Pier Assessments: Due Date. The annual Group Pier Assessments provided for herein shall commence as to all Lots in the Hamilton Hills plat (excepting Lots owned by the Developer) on the first day of the month following the construction of the Group Pier and the first conveyance of a Lot in the Hamilton Hills plat. The first annual Group Pier Assessment

shall be adjusted according to the number of days remaining in the calendar year. The Board of Directors of the Group Pier Association shall fix the amount of the annual Group Pier Assessment against each Lot in the Hamilton Hills plat for each annual assessment period. Written notice of the annual Group Pier Assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors of the Group Pier Association. The Group Pier Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Group Pier Association setting forth whether the Group Pier Assessments on a specified Lot in the Hamilton Hills plat have been paid.

- l. Effect of Nonpayment of Group Pier Assessments or Charges: Remedies of the Group Pier Association; Administrative Fee for Preparation of Group Pier Association Letter. Any Group Pier Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. The Group Pier Association may bring an action at law against the Owner in the Hamilton hills plat personally obligated to pay the same, or foreclose the lien against the Lot in the Hamilton Hills plat. In any successful action, the Group Pier Association shall be entitled to recover all of its costs and expenses, including attorney's fees. No Owner may waive or otherwise escape liability for the Group Pier Assessments provided for herein by non-use of the Group Pier or walkway, or abandonment of the Owner's Lot in the Hamilton Hills plat. If any Owner in the Hamilton Hills plat shall fail, refuse, or neglect to make any payment of any Group Pier Assessment when due, the Board of Directors of the Group Pier Association may in its discretion declare the entire balance of unpaid Group Pier Assessments to be due and payable, with interest as aforesaid, and file a written Notice of Lien against said Owner's Lot in the Hamilton Hills plat in the Office of the Recorder of Steuben County, Indiana, which Notice of Lien shall perfect the lien of the Group Pier Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney's fees, title expenses, interest, and any costs of collection. Should any Owner in the Hamilton Hills plat request that the Group Pier Association prepare a letter or invoice for current balance of Group Pier Assessments for a particular Lot in the Hamilton Hills plat, then the Group Pier Association may charge an administrative cost in the amount of Fifty Dollars (\$50.00) to prepare letter. Such administrative charge may be increased in the future by authorization of the Group Pier Association and notification of the same at the annual members' meeting.
- m. Subordination of the Lien to Mortgages. The lien of the Group Pier Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot in the Hamilton Hills plat shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien for such Group Pier Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot in the Hamilton Hills plat from liability for any Group Pier Assessments thereafter becoming due or from the lien thereof.

4. Except as expressly modified or amended by this Amendment, all other terms and provisions of the Crystal Bay & Cove Covenants remain unchanged and shall be in full force and effect against the Lots and Common Areas in the Hamilton Hills plat. The Recitals are hereby incorporated by reference and made a material part of this First Amendment.

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[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, HAMILTON HILLS, LLC, a limited liability company organized and existing under the laws of the State of Indiana, Owner of the real estate described in said Plat, has hereunto set its hand by its duly authorized officer.

Dated this ____ day of _____, 2025.

HAMILTON HILLS, LLC

By: _____
_____, Member

STATE OF INDIANA)
) §§:
COUNTY OF _____)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared _____, known by me to be the duly authorized and acting Member of HAMILTON HILLS, LLC, an Indiana limited liability company, and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Company for the purposes and uses therein set forth. In witness whereof, I have hereunto subscribed my name and affixed my official seal this ____ day of _____, 2025.

My Commission Expires:

Notary Public
Printed: _____
County of Residence: _____

IN WITNESS WHEREOF, the Crystal Bay & Cove Homeowners Association, Inc., having received the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Eligible Votes, has hereunto set its hand by its duly authorized officer.

CRYSTAL BAY & CRYSTAL COVE HOMEOWNERS
ASSOCIATION, INC.

Printed Name: _____

Title: _____

STATE OF INDIANA)
) §§:
COUNTY OF _____)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared _____, known by me to be the duly authorized and acting _____ of CRYSTAL BAY & COVE HOMEOWNER'S ASSOCIATION, INC., an Indiana nonprofit corporation, and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Company for the purposes and uses therein set forth. In witness whereof, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 2025.

My Commission Expires:

Notary Public

Printed: _____

County of Residence: _____

This instrument prepared by **ROBERT W. EHERENMAN**, #16703-53, Attorney at Law, HALLERCOLVIN PC, 444 East Main Street, Fort Wayne, Indiana 46802; telephone: (260) 426-0444; fax: (260) 422-0274. I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by Law.
/s/ Robert W. Eherenman

EXHIBIT A

HAMILTON HILLS PLAT

EXHIBIT B

CRYSTAL BAY & COVE COVENANTS