

DRAFT

**TOWN COUNCIL FOR THE TOWN OF ZIONSVILLE
FILE #**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT
OF REAL PROPERTY MADE IN CONNECTION
WITH A PLANNED UNIT DEVELOPMENT (PUD)**

In accordance with IND. CODE § 36-7-4-1015, **EC New Vision of Indiana, LLC, an Indiana Limited Liability Company**, (hereinafter collectively “**Owner**”) represents and warrants that Owner owns certain real estate located in Zionsville, Boone County, Indiana, which real estate is described in Exhibit “A” attached hereto (the “**Real Estate**”). Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make the following **COMMITMENTS** concerning the use and development of the Real Estate.

STATEMENT OF COMMITMENTS

Owner voluntarily agrees and commits that the approval of a PUD Ordinance 2025 – an Ordinance of the Zionsville Town Council establishing The Courtyards at Heritage Trail Planned Unit Development is conditioned upon the following Commitments:

1. 1.0 Age Restriction

≥ 80% of homes shall comply with **HOPA (55+)** standards.

2. Infrastructure Improvements

Epcon shall design, permit, and construct the following improvements at its sole cost, subject to governmental approvals, weather, and force majeure:

- 2.1 **Right-turn lanes** at all community entrances on existing roads to be completed within six (6) months of construction plan approval for each entrance, subject to weather and force majeure.
- 2.2 **One (1) left turn lane** at an entrance to be designated by the Town, to be completed within six (6) months of construction plan approval, subject to weather and force majeure.
- 2.3 **Sports-park parking lot:** approximately 200 car spaces (expandable by the Town) under the power lines as approximately shown in Exhibit C with accel/decel lanes on Whitestown Road to be constructed within six (6) months after construction plan approval for the sports-park improvements or another mutually agreed milestone – subject to weather

and force majeure. If the sports park construction plans are not approved prior to the approval of the last section of Courtyards at Heritage Trail, this requirement becomes void.

- 2.4 **Utilities:** extend water and sewer mains within five (5) feet of the park boundary no later than six (6) months after approval of the last section of Courtyards at Heritage Trail, or another mutually agreed milestone, subject to weather and force majeure.
- 2.5 **Stormwater:** engineer and construct a joint master detention pond serving both the community and the sports park at full buildout.
- 2.6 **Buffering:** construct edge mounding and privacy fencing along the southern boundary.
- 2.7 **Road Commitments:** beyond the above turn lanes and ordinance-required items, no additional off-site road commitments shall be required by the Town.

The **COMMITMENTS** contained herein shall be effective upon a favorable recommendation by the Zionsville Plan Commission and the adoption of an Ordinance by the Zionsville Town Council approving the Courtyards at Heritage Trail Planned Unit Development.

These **COMMITMENTS** shall be promptly recorded in the Office of the Boone County Recorder, Boone County, Indiana, and shall be considered a covenant running with the land described herein as the Real Estate, including any portion thereof.

These **COMMITMENTS** shall be binding on Owner, subsequent owners of the Real Estate or any portion thereof, and any and all other person or entities acquiring an interest in any portion of the Real Estate (hereinafter collectively the "Owners"). Owner shall have an affirmative duty to inform any third parties with whom Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Real Estate, or any portion thereof, of the existence of these **COMMITMENTS**. In the event any sale, lease, assignment, mortgage or transfer occurs, Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party. In the event Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from Owner and from each third party, jointly and/or severally, any and all damages which arise from this failure and shall be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by decision of the Zionsville Town Council made after a Public Hearing for which proper notice is given, and upon recommendation as required by the Zionsville Plan Commission.

These **COMMITMENTS** may be enforced jointly and/or severally by the Town of Zionsville, Zionsville Plan Commission, the Director of Planning for the Town of Zionsville (or a position

created for the Town of Zionsville which is analogous thereto), the Town (including any successor city or municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Plan Commission and the Town (including a successor city or municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" or "Town of Zionsville" shall also include any successor city, municipality, or other governmental body having land use, planning, and/or zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction and Owner and/or any subsequent Owners are found to be in violation of these **COMMITMENTS**, such Owner and/or Owners shall pay all reasonable costs and expenses the Town and the Zionsville Plan Commission and other authorized representative(s) incur in the enforcement of these **COMMITMENTS**, including reasonable attorney fees, expert witness fees, and court costs.

Owner and all subsequent Owners of all or a portion of the Real Estate shall be obligated hereunder, jointly and/or severally, to indemnify the Town of Zionsville Plan Commission and/or the Town and hold said entities and their respective authorized representative(s), including the Director of Planning for the Town, harmless from any and all liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations hereunder and/or to comply with the terms and conditions of these **COMMITMENTS**.

Any controversy arising under or in relation to these **COMMITMENTS** shall be litigated exclusively in the applicable state courts of Indiana without regard to conflicts of law principles. Owner irrevocably consents, for him and herself and all subsequent Owners, to service, jurisdiction, and venue in such state courts for any and all such litigation and hereby waives any other venue to which Owner or subsequent Owners might be entitled by virtue of domicile, habitual residence, or otherwise.

Owner shall be responsible, at owner's expense, for recording these **COMMITMENTS** in the Office of the Recorder of Boone County, Indiana, after approval by the Zionsville Town Council and approval by the Mayor for the Town of Zionsville of a PUD Ordinance 2025 _____, an Ordinance of the Zionsville Town Council established the Courtyards at Heritage Trail Planned Unit Development. These **COMMITMENTS** shall be recorded within 30 days of Owner closing on the Real Estate and Owner shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent for the Development Plan and Platting approval, together with any Improvement Location Permit and/or Building Permit for the Real Estate.

The undersigned, by executing these **COMMITMENTS**, represents and warrants that at the time of executing this document, EC New Vision of Indiana, LLC, an Indiana Limited Liability

Company is the sole owner of the Real Estate, that execution of these **COMMITMENTS** is being voluntarily undertaken and requires no authorization of a third party, and that these **COMMITMENTS** shall be binding upon the undersigned as to all the particulars herein and shall be considered a **COVENANT** running with the land described herein as the Real Estate, including any portion thereof. By affirming his or her signature below to these **COMMITMENTS**, the undersigned each further represents and warrants that he/she has full capacity and authority to execute these **COMMITMENTS**.

IN WITNESS WHEREOF, EC New Vision of Indiana, LLC as the sole owner of the Real Estate, has executed these **COMMITMENTS** this _____ day of _____, 2025.

OWNER:

EC New Vision of Indiana, LLC, by:

_____,
Member/Manager

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared _____, **Member/Manager of EC New Vision of Indiana, LLC**, as the owner of the Real Estate described above, who acknowledged voluntarily executing the foregoing instrument and who, having been duly sworn, stated that any and all representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, 2025.

_____, Notary Public

Commission Number: _____

My Commission Expires: _____
County of Residence: Boone

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. Michel J. Andreoli

**This instrument prepared by Michael J. Andreoli, Attorney at Law,
1393 West Oak Street, Zionsville, Indiana 46077, (317) 873-6266.**

Exhibit “A”