

RECORDER'S CERTIFICATION
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ROBERT T. KELLY, DIRECTOR, RECORDER OF DEEDS

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1. **Title of Document:** Declaration of Covenants, Conditions and Restrictions
2. **Date of Document:** February 12, 2007
3. **Grantor:** City of Kansas City, Missouri
4. **Grantee:** City of Kansas City, Missouri
5. **Statutory Mailing Addresses:**
Grantor: 414 E. 12th Street, 14th Floor
Kansas City, Missouri 64106
Grantee: 414 E. 12th Street, 14th Floor
Kansas City, Missouri 64106
6. **Legal description:** See Exhibit A attached to the document.
7. **Reference(s) to Book(s) and Page(s):** Not applicable Pages 33
Trm 38

PLEASE RETURN DOCUMENT TO:

First American Title Insurance Company
National Commercial Services
911 Main, Suite 2500, Kansas City, MO 64106
Attention: Robert L. Patterson
FILE NO. 261841

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 12th day of February 2007 ("Effective Date"), by the **CITY OF KANSAS CITY, MISSOURI**, a constitutionally chartered municipal corporation of the State of Missouri ("Declarant").

RECITALS:

WHEREAS, Declarant owns certain real properties located within the area commonly known as Beacon Hill ("**Beacon Hill**"), which area is generally bounded by 22nd Street on the north, 27th Street on the south, Troost on the west, and The Paseo and Vine Street on the east ("**Property**"), which Property is legally described on Exhibit A attached hereto; and

WHEREAS, on November 30, 2001, the Property became subject to a development plan by Beacon Hill Developers, L.C., a Missouri limited liability company ("**Developer**", including its successors and assigns) filed with the City of Kansas City, Missouri ("**City**") which provided for the construction of a redevelopment project in Beacon Hill, as such development plan was amended and restated on May 22, 2002 (hereinafter together, "**Development Plan**"); and

WHEREAS, in furtherance of the redevelopment of Beacon Hill and Developer's Development Plan, Declarant desires to and does hereby declare that the portions of the Property owned by Declarant within the area described in Exhibit A shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens which shall run with such land and with the title to such land and shall be binding on all persons having or acquiring any right, title or interest therein or any part thereof, subject to the limitations herein provided, and shall inure to the benefit of each owner and his, her or its heirs, grantees, distributees, personal representatives, successors and assigns, the Beacon Hill Homeowner's Association, a duly formed Missouri non-profit corporation ("**Association**") or any successor thereof, charged with the duties and obligations set forth herein.

ARTICLE I Definitions

The following terms, when used in this Declaration, or in any supplemental Declaration made effective against the Property according to law, and when the first letters thereof are capitalized, shall have the following meanings (except as otherwise provided or unless the context otherwise requires):

1.01 ARC. "ARC" shall mean and refer to the Architectural Review Committee which shall have the duties and functions specified herein.

1.02 Assessable Property. "Assessable Property" shall mean and refer to the Property, together with all permanent structural improvements thereon, except such part or parts thereof as may from time to time constitute "Nonassessable Property."

1.03 Assessments. The term "Assessments" shall have the meaning specified herein and shall include Annual Assessments and Special Assessments as such terms are herein defined.

(a) **Annual Assessments.** An assessment levied by the Association to be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, and for the improvement and maintenance of the Common Area.

(b) **Special Assessments.** A levy to defray, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of Common Property Improvements including any capital improvement upon the Common Property, or the cost of any utility deemed necessary by the Association Board to serve the Property including the necessary fixtures and personal property related thereto, or any unexpected cost or expense of the Association, as the Association Board may determine.

1.04 Association Board. "Association Board" shall mean and refer to the Board of Directors of the Association.

1.05 Common Property. "Common Property" shall mean and refer to the improved or unimproved real property, together with any Structure and/or personal property located in Beacon Hill, in which the Association or the Declarant now or hereafter owns an interest for the common use and enjoyment of the Owners, in addition to any areas of City owned property within Beacon Hill which the Association or the Declarant, at all times subject to the approval of the City, desire to maintain at no expense to the City.

1.06 Completed Unit. "Completed Unit" shall mean and refer to a Living Unit upon which construction is completed and which has been or is, in fact, occupied.

1.07 Declaration. "Declaration" shall mean and refer to this Declaration as the same may from time to time be supplemented or amended in the manner prescribed herein.

1.08 Developer. "Developer" shall mean and refer to Developer and its successors and assigns.

1.09 Development Guidelines. "Development Guidelines" shall mean and refer to the rules, regulations and policy statements adopted, promulgated, revised and amended by the Developer in its Development Plan, specifically including Beacon Hill Development Handbook set forth as a part thereof, and enforced by the ARC pursuant to this Declaration.

1.10 Development Plan. "Development Plan" shall mean and refer to Developer's plans for the development of Beacon Hill which, as of the date hereof, contemplate both residential and commercial uses and which plans may from time to time be amended, expanded, changed, abandoned or implemented and include each and every plat, and all amendments thereto, which may be filed with respect to any portion of the land within the Development Plan.

1.11 Director. "Director" shall mean and refer to a member of the Association Board.

1.12 Easement Area. "Easement Area" shall mean that real property or portion of real property described within an easement on the urban redevelopment district plan approved by the City pursuant to that certain Second Committee Substitute for Ordinance No. 020443 passed on May

23, 2002, as such may be amended ("URD Rezoning"), and any and all plats or maps filed in accordance with the Development Plan.

1.13 Living Unit. "Living Unit" shall mean and refer to any Structure or portion of a Structure situated upon any Lot designated and intended for use and occupancy as a "Dwelling," as such term is defined by the City's zoning ordinance.

1.14 Lot. "Lot" shall mean and refer to any plot or parcel of land subject to a Parcel Development Agreement or any other lot or parcel of land constituting part of the Property and located within Beacon Hill.

1.15 Member. "Member" shall mean and refer to every person or entity holding membership in the Association, as set forth herein.

1.16 Neighboring Owner. "Neighboring Owner" shall mean each of the owners of each and every lot platted and recorded in that portion of Beacon Hill located between 27th Street on the north, Troost Avenue on the west, 31st Street on the south, and The Paseo on the east, in the City of Kansas City, Jackson County, Missouri, which area is commonly known as the "Beacon Hill-McFeters Neighborhood."

1.17 Nonassessable Property. "Nonassessable Property" shall mean and refer to all land designated "Common Property" or with a similar common property designation upon the Plat, any map or plats of any part of the Property.

1.18 Non-Residential Property. "Nonresidential Property" shall mean and refer to any Property or building or any portion of a building which has a nonresidential use and which is situated on Assessable Property.

1.19 Owner. "Owner" or "Owners" shall mean and refer to any person or entity holding record title to the fee interest of any Lot or Living Unit, but shall exclude a person having an interest merely as security for the performance of an obligation.

1.20 Parcel Development Agreement. Any parcel development agreement between an Owner and Developer.

1.21 Plat. "Plat" shall mean and refer to any one or more plats of the Property filed in the office of Recorder of Deeds for Jackson County, Missouri, respecting the Property.

1.22 Property. "Property" shall mean and refer to that certain real property described more particularly in Exhibit A attached hereto and made a part hereof.

1.23 Residential Property. "Residential Property" shall mean and refer to any Property or building or any portion of a building which has a residential use and which is situated on Assessable Property. Structures constructed with Living Units, such as swimming pools, shall be considered "residential property."

1.24 Restriction. "Restriction" shall mean and refer to any covenant, restriction, easement, charge, assessment, lien or other obligation created or imposed by this Declaration.

1.25 Right of Action. "Right of Action" shall have the meaning specified in Section 11.01 hereof.

1.26 Structure. "Structure" shall mean and refer to:

(a) any thing or object, trees and landscape, the placement, size, shape, color, height and quality of which upon any Lot may affect, in the opinion of the ARC, the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, greenhouse or bathhouse, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, fence, hedge, sign, appurtenance, or any temporary or permanent improvement to such Lot; and

(b) any excavation, fill, ditch, diversion dam, retention basin or thing or device which affects or alters the natural flow of waters from, through, under or across any Lot or which affects or alters the flow of any natural or artificial stream, wash or drainage channel from across any Lot; and

(c) any change in the grade of any Lot of more than six (6) inches.

ARTICLE II

Beacon Hill Homeowner's Association

2.01 Powers and Duties of the Association. The Association is organized to operate for the promotion of the common good and general welfare of the Members and Owners and consistent therewith, to acquire, own, improve, maintain, preserve, convey and control the Common Property, to administer and to enforce all covenants, restrictions, easements and charges against all or a portion of the Property contained in the Declaration and all liens created herein, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers (but not intended as affirmative obligations unless so stated) of the Association, including by way of illustration and not obligation or limitation, unless so stated:

(a) **Assessments.** The Association may levy Assessments on the Owner or Owners and enforce payment of such Assessments, all in accordance with the provisions of the Declaration set forth in Article III.

(b) **Right of Enforcement.** The Association shall also have the power and authority from time to time in its own name, on its own behalf or on behalf of the Declarant or any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory or prohibitive injunction or otherwise, all of the provisions hereof or to pursue its Right of Action as provided herein.

(c) **Common Property.** The Association may plan, design, acquire, improve, construct on, lease and equip the Common Property with, by way of example and not limitation or affirmative obligation, parks and other open space landscaping, playgrounds, pools and other recreational facilities (collectively, the "Common Property Improvements" which may be referred to herein with the Common Property as the Common Property). The Association may also enter into contracts, leases or rental

agreements deemed necessary in the reasonable discretion of the Association Board, for the purpose of providing such recreational facilities as deemed necessary or desirable by the Association Board and shall maintain, repair and replace the Common Property Improvements and provide adequate comprehensive insurance for the Common Property and Common Property Improvements, all as shall be determined to be necessary by the Association Board. Notwithstanding the foregoing, the Association may not enter into contracts, leases or rental agreements which exceed \$1,000.00 without a supporting vote of the Members of the Association.

(d) **Easements and Rights-of-Way.** The Association may grant and convey easements and rights-of-way in, on, over or under the Common Property for the purposes of constructing, erecting, operating or maintaining thereon, therein or thereunder any similar public or quasi-public improvements or facilities as may be considered necessary for the common good of the Property.

(e) **Employment of Agents.** The Association may employ the services of any person or corporation as manager (herein, "Manager"), together with other employees, to, as may be directed or delegated by the Association Board, to manage, conduct and perform the business, obligations and duties of the Association. The Association may enter into contracts for such purpose on terms and conditions reasonably necessary and related to the purposes of fulfilling the terms and conditions of this Declaration.

(f) **Insurance.** The Association shall obtain and keep in force such policies of insurance and surety bonds as are reasonably necessary to adequately insure and protect the operations thereon and of the Association and as deemed by the Association Board to be necessary and appropriate, which insurance shall include insurance of the Common Property and the Common Property Improvements.

(g) **Management of Improvements.** The Association shall manage and control for its Members all improvements within public right-of-ways and on the Common Property.

(h) **Landscape Maintenance.** The Association shall install, maintain, protect and replace all landscape plantings, as it best determines in the Common Property. All planted and grass areas within the Common Property shall be improved with underground sprinkler systems. The location of timers, controllers and heads shall require approval of the committee in charge of landscape maintenance of the Common Area and other portions of the Property, as such may be designated by the Association Board ("Committee"). All Owners shall submit landscape plans for consideration by the Committee, and all initial or material changes to existing landscape plans must be approved in advance by the Committee in writing. Notwithstanding the foregoing, no approval of the Association Board shall be required for seasonal plantings. Notwithstanding anything herein to the contrary, any landscape plan approved by the Association Board must be consistent with the Development Plan and the URD Rezoning.

(i) **Maintenance of Vacant Property.** The Association may mow, care for, maintain and remove rubbish from vacant or unimproved Property (except those Lots on

which construction has commenced), and do any other things necessary or desirable in the judgment of the Association Board to keep any vacant and unimproved Property neat in appearance and in good order.

(j) **Street Lighting.** The Association shall provide such lights as the Association may deem advisable on streets and sidewalks in Common Property, gateways, entrances, or other features, and on other Common Property or public property subject to the prior written approval of the ARC. Notwithstanding anything herein to the contrary, any street lighting approved by the Association Board shall be consistent with the Development Plan and URD Rezoning.

(k) **Snow Removal and Street Cleaning.** The Association may provide for the removal of snow from sidewalks, streets and alleys when the snowfall is in excess of two (2) inches, and the cleaning of streets, gutters, catch basins, sidewalks and pedestrian ways, and for repair and maintenance of sewers, storm sewers and appurtenant drainage facilities.

(l) **Signs.** The Association may erect and maintain signs after such signs are approved by appropriate public authorities and by the ARC, all of which signs shall be consistent with the requirements of the Development Plan and the URD Rezoning.

(m) **Security Protection.** The Association may employ duly qualified officers for the purpose of providing such security protection as the Association Board may deem necessary or desirable in addition to the protection rendered by public authorities; provided, however, the Association shall not be responsible for any security measures or any injury (including death) to persons or damage to property in, on or about the Property.

(n) **Acquisition of Real Estate.** The Association may acquire and own title to such real estate as may be reasonably necessary to carry out the purpose of the Association and promote the health, safety, welfare and recreation of Owners, the Development Plan and the URD Rezoning; pay taxes on real estate and facilities owned by it; and pay such taxes as may be assessed against the Common Property.

Consistent with the foregoing, the Association is authorized to exercise all powers which a corporation organized under the Nonprofit Corporation Law of Missouri may exercise.

2.02 Membership in the Association. Membership in the Association shall be governed by terms and conditions of the Association's Articles of Incorporation ("Articles") and By-Laws, as such may be made, amended or rescinded from time to time.

2.03 Board of Directors (Association Board).

(a) The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association in accordance with the Association Articles of Incorporation and By-Laws, and shall be controlled by a Board of Directors consisting of five (5) persons who shall be Members (the "Association Board"). The

Association Board, by a majority vote, shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association.

(b) Directors shall be elected and serve pursuant to the terms and conditions of the Articles and By-Laws.

(c) The initial members of the Association Board shall serve as the ARC (hereinafter defined) unless and until such ARC is appointed (as hereinafter provided).

2.04 Suspension of Voting Rights and Rights of Enjoyment. The Association Board may, upon not less than fifteen days' prior written notice and stating the reasons therefore, suspend the voting rights of Members and the rights of enjoyment of any Member or user of the Common Property and the services offered thereon who:

(a) is subject to a Right of Action by reason of having failed to take reasonable steps to remedy a violation or breach of the Declaration within the number of days specified in a written notice given by the Association Board after such violation or breach; or

(b) has allowed any Assessment levied by the Association pursuant to this Declaration to become delinquent; or

(c) has failed to pay any user fee or charge levied by the Association when due and payable; or

(d) has violated any rules and regulations adopted by the Association Board governing the use and enjoyment of the Common Property or services thereon.

Such suspension shall be for the balance of the period in which the conditions set forth in subsections (a), (b), and (c) of this Section 2.04 exist. Any Member who is subject to suspension may request an opportunity to be heard, not less than five days before the effective date of the suspension, by a committee established by the Association Board for this purpose.

2.05 Termination of Membership. No Owner shall continue to be a Member after he ceases to hold an ownership interest in any Lot within the Property. No member may avoid its obligations under this Declaration by declining to use Common Property, abandoning its Lot, or by any other act of abandonment or renunciation.

2.06 Notice of Meetings and Referendums. Proper notice shall be given by the Association Board of all meetings of the Association Board at least fifteen (15) days prior to the meeting date; and of all meetings of the Association Members, public hearings or referendums at least thirty (30) days prior to the hearing or referendum. The methods and procedures of such notice shall be determined by the Association Board in accordance with the By-Laws of the Association.

2.07 Common Area Encroachment on Private Property. The Association may encroach on private property within the Property for non-invasive purposes limited to planted green space and installing retaining walls. Such encroachment shall be constructed or installed prior to the

transfer of title from Declarant to a successor Owner. Maintenance of the non-invasive encroachment area shall be the responsibility of the Association.

ARTICLE III

Imposition of Assessments and Liens Upon Property

3.01 Covenants for Assessments and Creation of Liens. Each Owner, jointly and severally, for itself, its heirs, distributees, legal representatives, successors and assigns, by acceptance of ownership of any Lot which is Assessable Property, whether or not the covenants contained herein shall be expressed in any such Deed or other conveyance, hereby covenants and agrees that such Owner shall:

(a) pay to the Association all Assessments which may or shall be levied by the Association against Assessable Property owned by him in each year or any part thereof, and that he will pay to the Association the user fees and charges and all other duly authorized charges to be established as herein provided, if applicable, levied by the Association in each year and including Special Assessments levied pursuant hereto;

(b) be personally liable for all such Assessments and user fees and charges which become due while such Owner is the Owner of each Lot being assessed;

(c) all Assessments, together with the continuing obligation to pay each Assessment assessed in all future years, and all user fees and charges, together with all costs, expenses, interest and reasonable attorneys' fees incurred in the collection of delinquencies, shall become, upon the filing of this Declaration, and thereafter remain a charge against and be secured by a continuing lien upon the Assessable Property of such Owner; and

(d) said charge and lien shall be superior to any and all other charges, liens or encumbrances which in any manner arise or be imposed upon the Assessable Property following the imposition of such charge or lien (or the Nonassessable Property to the extent that it may later become Assessable Property) whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instruments, excepting only purchase money mortgages or deeds of trust given to finance the purchase of the Lot existing prior to the imposition of such lien and liens for taxes or other public charges as are made superior by applicable law.

3.02 Uniform Rate of Assessment.

(a) For the purpose of providing funds for the uses specified herein, the Association Board shall assess against the Assessable Property in each year a charge (referred to herein as "Assessment" or "Annual Assessment"), which shall be uniform with respect to all Assessable Property within each classification of Assessable Property, as hereinafter provided, and shall be in such amounts as determined by the Association Board. The Association may divide all Assessable Property into classifications, which classifications shall be based upon the character of ownership, nature of use, i.e., residential or commercial, and such other criteria as the Association Board may, in its reasonable discretion, deem pertinent. Lots owned by the Declarant shall not be subject to

Assessment until title to any such Lot is conveyed by Declarant to a successor in title. Lots which are owned by a builder shall be assessed at a rate to be determined by the Association Board.

(b) The classifications of Assessable Property are as follows:

- Apartment (if such is permitted by the Development Plan)
- Commercial
- Condominium
- Mixed-Use (commercial, institutional and residential contained in one building structure)
- Single Family Attached
- Single Family Detached
- Vacant Lot(s)

(c) Not later than ninety (90) days prior to the end of each fiscal year for the Association, the Association Board shall prepare an annual cash budget projecting anticipated revenues, cash receipts, cash expenditures, and net cash, surplus or deficit for the ensuing fiscal year (the "Association Budget"). The fiscal year for the Association shall be the calendar year. The proposed Association Budget will automatically be approved unless two-thirds (2/3) of the Members vote to not approve such Association Budget. Upon approval of the Association Budget, the Association Board will determine the manner in which Assessments are to be made; provided, however, that the Assessments will be made on a per Living Unit basis and not on market value or assessed value. The rate of Assessment for an individual Lot can change as the and nature of use of said Lot changes, which therefore changes the classification of Assessable Property for such Lot. During any given fiscal year, the applicable Assessment for such a Lot shall be prorated according to the rate required for each type of ownership in the event there is a change in the nature of use during such fiscal year.

3.03 Billing of Annual and Semi-Annual Assessments. At such time or times as the Association Board may determine, the Association shall levy the Annual Assessment. The Association shall send a written bill to each Owner stating the amount of the Assessment imposed against each Lot which is Assessable Property owned by the Owner, the time period for the payment thereof, and the interest rate to be charged for late payments thereof. Each Assessment shall be due and payable on a date established by the Association Board and shall become delinquent on a date established by the Association Board. The Association Board may establish payment procedures to allow payment of the Assessment in increments during the year the Assessment is made, provided that this privilege is extended to all Owners on an equal basis, and provided that reasonable notice is given of each payment date, of the interest to be charged for late payments, of the liens established by this Declaration, and of the suspension of membership rights as a consequence of the failure to pay.

3.04 Commencement of Assessments. The Assessable Property owned by Declarant shall become subject to the Assessments set forth herein at such time that title to such Assessable Property is conveyed by Declarant. Such Assessments shall be adjusted and prorated according

to the number of quarters remaining in the fiscal year of the Association as such fiscal year is set forth in the Association By-Laws.

3.05 Late Payments.

(a) The Association Board may from time to time establish or change the reasonable rate of interest which shall be charged for the payment after the delinquency date of any portion of an Assessment, provided that such interest rate shall not exceed the maximum interest rate permitted under Missouri law and provided that reasonable notice of such charge is given to the Members.

(b) In the event of default in the payment of any one (1) or more installments of the Annual Assessment established hereunder, the Association may declare any remaining balance of said Annual Assessment at once due and payable.

(c) In the event that an Owner shall fail to fully pay the Assessment by the delinquency date thereof, such unpaid amount shall become a binding personal obligation of such Owner, and the Association shall have the right and duty to take all appropriate actions and steps to collect any such unpaid Assessments, including the right to pursue its Right of Action as provided herein, together with all remedies whether at law or in equity and whether specified herein, and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys fees and damages and reasonable costs of collection, without foreclosing or waiving the lien hereinbefore provided. Each delinquency shall constitute a separate basis for a demand or claim of lien or liens, but any number of defaults may be included within a single demand or claim of lien or liens on account of prior delinquencies and shall be deemed to include subsequent delinquencies and amounts due on account thereof.

3.06 Certificate of Payment. Upon written demand by an Owner, the Association shall issue and furnish to such Owner, within a reasonable period of time, a written certificate stating that all Assessments, including interest and costs (if any), have been paid with respect to any specific Lot owned by said Owner as of the date of such certificate, or if all Assessments have not been paid, setting forth the amount then due and payable.

3.07 User Fees and Charges.

(a) In addition to the Annual Assessments, the Association Board may levy and collect reasonable charges and fees for the use of Common Property for the purpose of maintaining, refurbishing, replacing and repairing the Common Property and the Common Property Improvements, and operating services on Common Property.

(b) If any Owner or any other person obligated to pay shall fail to pay any user fee or charge when due and payable, the Association Board may immediately suspend such Owner's right of enjoyment of the Common Property or services thereon and may take whatever action it deems necessary to enforce such suspension, including pursuing its Right of Action as provided herein, together with all remedies whether at law or in equity and whether specified herein, and including but not limited to the remedy of injunctive

relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys fees and damages.

3.08 Additional Procedures. The Association Board shall have the right to adopt procedures for the purpose of making the Assessments, user fees, and charges provided for herein and for the billing and collection of the same, provided that such procedures are not inconsistent with the provisions hereof.

3.09 Special Assessments.

(a) In addition to the Annual Assessments authorized herein, the Association may levy in any year a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair, or replacement of Common Property Improvements including any capital improvement upon the Common Property, or the cost of any utility deemed necessary by the Association Board to serve the Property including the necessary fixtures and personal property related thereto, or any unexpected cost or expense of the Association, as the Association Board may determine.

(b) A special Assessment shall become effective upon written notice by the Association Board. Billing of Special Assessments shall be handled according to the procedures set out herein.

(c) Special Assessments shall not be imposed by the Association until after the Association Board first presents any such proposed Special Assessment to the Members at a meeting to be called for that purpose pursuant to Section 2.06 hereof. The Special Assessment shall be deemed to be approved by the Members unless two-thirds (2/3) of the Members vote not to approve such Special Assessment.

(d) Notwithstanding anything herein to the contrary, the Association shall not levy any Special Assessment against all or any portion of Common Property or Common Property Improvements during the period in which Declarant is the exclusive owner of such Common Property or Common Property Improvements.

ARTICLE IV
Assessment Proceeds

4.01 Purposes for Which Funds May Be Used. The Association shall apply all funds received by it pursuant to this Declaration and all other funds and property received by the Association, including the accumulated funds referred to in Section 4.02, to the following:

(a) the operating costs and expenses of the Association, including planning and implementation of community programs and Common Property Improvements, the costs of constructing, maintaining and replacing the Common Property Improvements;

(b) payment of all real and personal property taxes and assessments, if any separately levied upon or assessed against the Association or any property owned by the Association; and

- (c) payment of all premiums and charges for all policies of insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate.

4.02 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of Annual Assessments, or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessment in the succeeding year, but may carry forward from year to year such surplus as the Association Board may determine to be necessary or desirable for the greater financial security of the Association and the effectuation of its purposes, including accruing funds for the replacement of Common Property Improvements or related facilities.

4.03 Posting of Bond. The Association, acting through the Association Board, shall require that all persons or entities who handle the Association funds or monies, which funds and monies shall be deposited in federally insured banks or savings and loans, post bonds sufficient in amount to indemnify the Association from any loss.

4.04 Mortgaging of Common Property. Except as set forth in this Section and subject to the approval of any holder of an existing lien on the Common Property (the "Development Loan Lien"), the Association may mortgage any Common Property or Common Property Improvements to which it has clear title; provided, however, that any such mortgage shall be subject to the approval of two-thirds (2/3) of the Members who are present in person or by proxy and voting in a duly constituted Association election or meeting. The Association shall not mortgage any Common Property to the Declarant, or to any other entity or person to secure any conveyance, loan or advance made to the Association by the Declarant. The Declarant shall not take any action, the result of which may subject any Common Property to a judgment lien or otherwise jeopardize any Common Property, to satisfy a debt of the Declarant.

ARTICLE V Common Property

5.01 Conveyance of Common Property.

(a) The Declarant shall convey the Common Property to the Association and, from time to time, may convey to the Association such certain other property as the Declarant may determine, in accordance with the Development Plan, is appropriate for the common use and enjoyment of the Owners. The deed of conveyance may contain appropriate restrictions and assurances that such Common Property shall be reserved for the common use and enjoyment of the Owners and prohibit the construction thereon of buildings not consistent with the Development Plan.

(b) The Declarant may convey an interest in fee simple in any land intended to be used as Common Property either by gift or for a consideration to be paid by the Association, which consideration shall equal the cost of the land to be conveyed and the cost of such capital improvements on such Common Property at the time of conveyance. For the purposes of this Section 5.01, "cost" shall mean all costs and expenses incurred by Declarant with regard to the land and the construction of the Common Property

Improvements, if any, on the Common Property. Such consideration may be in whatever form agreed to by the Declarant and the Association Board at the time of sale.

(c) Each conveyance of Common Property to the Association by the Declarant shall be subject to the approval of a majority of the Association Board. The Association Board will review the financing proposal for such conveyance and will determine the extent to which Association Assessments and user fees and charges may be committed to finance the debt for such conveyance.

5.02 Use of Common Property.

(a) Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Common Property, and such easement shall be appurtenant to and shall pass with every Lot upon transfer. Any guest of a Member shall be entitled to a right or privilege of enjoyment of Common Property subject to such regulations as may be promulgated by the Association Board from time to time. Each such guest shall be accompanied by the Member sponsoring such guest at all times such guest is using the Common Property.

(b) All rights, easements and privileges conferred under this Article shall, however, be subject to the right of the Association Board to:

(i) establish, adopt, promulgate, amend and rescind reasonable rules and regulations pertaining to the use, operation and maintenance of Common Property which shall enhance the preservation of such facilities, promote the safety and convenience of the users thereof, and which shall serve to promote the best interests of the Members and the Property;

(ii) determine the use or uses to which Common Property may be put; provided, however, that any designation of use which is inconsistent with the use designated by the Declarant upon conveyance, shall be subject to the provisions of this Declaration and the Development Plan;

(iii) determine which, if any, Common Property may be used and enjoyed by, or conveyed or dedicated to the general public or a federal, state or local government body; provided, however, that Property shall not be conveyed to a public body unless the Association Board has obtained the prior approval of two-thirds (2/3) of the Members who are present in person or by proxy and voting at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after proper notice is given;

(iv) levy user fees and charges and to charge reasonable admissions or other charges or fees for the use of any recreational facility;

(v) borrow money for the purpose of acquiring, mortgaging, developing or improving Common Property including improvements thereon; provided, further, that any such encumbrance shall be subject to the approval of two-thirds (2/3) of Members who are present in person or by proxy and voting at an Association

meeting at which a quorum is present or voting in a referendum called for such purpose after the proper notice is given; and

(vi) apply for, accept and expend loans or grants from federal, state or local governments and to comply with any conditions required by such governments in order to obtain such loans or grants including conditions relating to the use and enjoyment of Common Property by the general public, provided that such conditions do not conflict with the Declaration or the Development Plan.

5.03 Damage or Destruction of Common Property by Owner. In the event any Common Property is damaged or destroyed by an Owner, or any of his or her guests, tenants, licensees, invitees, agents, or members of their families, such Owner does hereby authorize the Association to repair such damaged areas. The reasonable amount expended for such repairs shall be a Special Assessment and lien upon the Lot of said Owner and shall be enforceable as other Assessments.

5.04 Suspension of Rights. The Association shall have the right to suspend the right or privilege under this Article of any Member for any period during which the Assessments or user fees and charges assessed under Article IV hereof are and remain delinquent, and may suspend said right or privilege in connection with the enforcement of any rules and regulations relating to Common Property in accordance with the provisions of this Article.

5.05 Joint Use Agreement.

(a) Each Neighboring Owner, and any member of such Neighboring Owner's household, including guests thereof as permitted by the Association, shall have the right and privilege to enjoy and use the Common Property subject to such rules and regulations as may be enacted by the Association Board.

(b) The rules and regulations which may be imposed or enacted by the Association Board in respect of the Neighboring Owners' use and enjoyment of the Common Property shall not substantially interfere with their right to use, or privilege of enjoyment herein granted, but shall be enacted by the Association Board for the purpose of causing the Neighboring Owners to be governed by the same rules and regulations applicable to the Owners and for the purpose of protecting and preserving the Common Property and the Common Property Improvements in accordance with the intent of this Declaration and the Development Plan. Accordingly, all rights and privileges conferred hereunder are subject to the rights of the Association otherwise provided for in this Article.

(c) Notwithstanding the fact that the Neighboring Owners have the right to use and enjoy Common Property, in order to protect against those situations in which a Neighboring Owner violates the rules and regulations of the Association or of this Declaration, the Association shall be vested with and have the right to impose such restrictions on the use of the Common Property as the Association may deem reasonably necessary in order to give effect to its rights granted hereunder.

(d) The Association may charge a user fee for the use of the Common Property Improvements on any of the Common Property but no such fee shall be imposed as a

penalty but shall reflect the reasonable cost and expenses, on a proportionate basis, which may be incurred by the Association in owning and operating the Common Property and the Common Property Improvements. In no event shall any fees charged to the Neighboring Owners be greater than the fees charged and paid by the Owners for the same services or facilities.

(e) Upon the failure of a Neighboring Owner to pay the appropriate fees imposed by the Association or in the event of any violation of the rules and regulations of the Association or if any such Neighboring Owner causes any damage to any of the Common Property then the Association, in addition to the specific remedies herein provided, may pursue such remedies at law or in equity against such Neighboring Owner as the Association may pursue under Missouri law. In addition to the foregoing, the Association may suspend such Neighboring Owner's use of the Common Property and Common Property Improvements until any and all costs to the Association incurred as a result of such damage are recovered in full from such Neighboring Owner, which costs shall include reasonable attorney fees.

ARTICLE VI Architectural Review Committee

6.01 Purpose, Powers and Duties of the ARC. The purpose of the ARC is to assure that all proposed uses and any construction or alteration of any Structure which takes place on any Lot or any portion of the Property shall be performed in conformity with the objective of high quality environmental design and development as set forth in the Development Plan. To carry out that purpose, the ARC shall have all of the rights, powers and duties conferred upon it pursuant to the provisions of this Article, including the right to approve any and all proposed uses, site plans and Structures to be constructed on the Property, including the Common Property Improvements. The ARC shall also have the right to approve or disapprove any and all proposed external alterations or use changes for Lots or Common Property. Any and all such rights exercised by the ARC shall at all times be subject to the terms, conditions, requirements and objectives of the Development Plan and the ARC shall not take any action which would prevent the Developer from exercising its rights or fulfilling its obligations under the Development Plan.

6.02 Composition and Appointment. The ARC shall be comprised of three (3) members, each serving two (2) year terms. The initial members of the ARC shall be appointed by the Declarant, through its proxy, the City, or its designee. Thereafter the members shall be appointed by a majority vote of the Association Board.

6.03 Operations of the ARC.

(a) **Meetings.** Except as otherwise provided herein, the act of such majority of members of the ARC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ARC.

(b) **Activities.** The ARC shall adopt and promulgate and, as it deems appropriate, amend the Development Guidelines and will, as required, make findings, determinations,

rulings and orders with respect to the conformity with said Development Guidelines of plans and specifications to be submitted for approval to the ARC.

6.04 Development Guidelines.

(a) As contemplated by and pursuant to the provisions of this Article, the ARC may adopt, promulgate, amend, revoke and enforce design and development guidelines (hereafter "Development Guidelines"), for the purposes of establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of all proposed uses and with respect to all construction or alteration of any Structure on any Lot, Easement Area or Common Property. The Development Guidelines shall be consistent with the Development Plan and shall reflect the principles of traditional neighborhood design. The Development Guidelines shall encourage common design standards, terraces, smaller lots, and significant streetscape and sidewalk improvements. The Development Guidelines shall require that infill dwellings built on vacant lots within the Property conform to the late 19th Century architectural style of Beacon Hill.

(b) The ARC shall make a published copy of its Development Guidelines, as such may from time to time be amended, readily available to Members, prospective Members of the Association, and builders.

6.05 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced, unless plans and specifications (including a description of any proposed new use) therefore shall have been submitted to and approved in writing by the ARC and Developer. Such plans and specifications submitted to the ARC and Developer shall be in such form and shall contain such information as may be required by the ARC in the Development Guidelines.

6.06 Approval of Plans and Specifications. The ARC and Developer, together, are permitted to approve deviations from the Development Guidelines and from this Declaration when, in their judgment, such deviations are appropriate and further objectives of the Development Plan. Such approval must be granted in writing and when the ARC and Developer approve and grant a deviation from this Declaration, such approved deviation shall for all purposes amend this Declaration but only to the limited extent of such specifically approved deviation and only to the extent such deviation is substantially consistent with the Development Plan. No approved deviation shall be deemed to act as a precedent in respect of any other requests for approvals of deviations.

6.07 Disapproval of Plans and Specifications.

(a) The ARC and Developer shall have the right to disapprove any plans and specifications submitted hereunder as determined by the ARC and Developer in their judgment and discretion for any reason including, among others, failure of such plans or specifications to comply with this Declaration, the Development Guidelines and the Plan.

(b) In any case in which the ARC and Developer shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such approval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ARC and Developer shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

6.08 Inspection Rights. After reasonable notice and at any reasonable time or times, any agent of the Association or the ARC and/or Developer may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Structure thereon is in compliance with the provisions hereof. The Association, the ARC, the Developer or any agent thereof shall not be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in a reasonable manner and in accordance with the terms of this Section.

6.09 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with the plans and specifications approved by the ARC and the Developer pursuant to this Declaration, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. Upon written notice of the violation to the Owner from the Association Board or the ARC, as its designee, (which shall be deemed to have been delivered if sent by certified or registered mail, return receipt requested, postage paid), any such Structure so erected, placed, maintained or altered upon any Lot in violation hereof shall be removed or altered, and any such use shall be terminated, so as to extinguish such violation. If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within the time specified in such notice, the Association shall have the right to pursue its Right of Action as provided herein, together with all remedies whether at law or in equity and whether specified herein, and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorneys fees and damages. In addition to the foregoing, Developer may exercise its rights of enforcement pursuant to its Parcel Development Agreement with such Owner.

ARTICLE VII General Restrictions

7.01 Maintenance Required by Owner.

(a) Each Owner shall keep all of its Lots and all improvements thereon in good order and repair, including, but not by way of limitation, the seeding, watering and mowing of all lawns within the bounds of said Lots, the pruning and cutting of trees and shrubbery and the painting (or other appropriate external care) of all improvements, all in a manner and with such frequency as is consistent with safety and good property management and which is consistent with the Development Plan. The Association shall have the right, after written notice to the Owner of the affected Lot as hereinafter provided, to remove trash or rubbish and to cut grass, weeds, and vegetation and to trim or prune any hedge or

other planting that, in the opinion of the ARC, by reason of its location or height or the manner in which it is permitted to grow, is detrimental to adjoining Lots or is unattractive in appearance. The Association shall, further, have the right to care for vacant and unimproved Property, all at the cost and expense of the Owner thereof. Such cost and expense incurred by the Association shall be paid to the Association upon demand and, if not paid within ten (10) days thereof, shall become a lien upon the Lot affected, equal in priority to the liens provided for herein.

(b) In the event an Owner of any Lot in the Property shall fail to maintain the buildings and the improvements situated thereon in a manner satisfactory to the Association Board, the Association, after approval by two-thirds (2/3) vote of the Association Board, shall have the right, through its agents and employees, to enter upon said Lot and repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the Assessment to which such Lot is subject.

(c) The ARC shall give fifteen (15) days' written notice to the Owner in violation of a Restriction, setting forth the specific violation or breach of the Restriction and the action required to be taken by the Owner to remedy such violation or breach; if, at the end of such time, reasonable steps to accomplish such action have not been taken by the Owner, the ARC may pursue its Right of Action and shall have such other remedies at law or in equity as may then exist or as provided herein.

7.02 Land Use and Building Type. No building shall be erected, altered, placed or permitted to remain on any Lot unless it is a Structure approved pursuant to Article VI and no previously approved Structure shall be used for any purpose other than that for which it was originally approved. The Developer hereby reserves the exclusive right to use any of the Property for temporary use as an office or for model home purposes.

7.03 Landscape Restrictions. No tree or shrubbery shall be maintained in such a manner as to obstruct the view of vehicular traffic. In addition to the Restrictions provided in Section 9.01, no tree having a diameter of four (4) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot without the express written permission of the ARC. In all cases in which a tree is diseased, damaged or poses a dangerous condition, permission to remove the tree shall not be unreasonably withheld, conditioned or delayed. The ARC may adopt and promulgate rules and regulations regarding the requirement of planting trees, preservation of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Property. The ARC may mark certain trees, regardless of size, as not removable, without written authorization. Landscaping must conform to the area and the Design Guidelines, in the opinion of the ARC. Each Lot must be sodded with fine leafed turf-type tall fescues, ryes, or blue grasses, except in areas to be left in a natural state upon approval of the ARC. The ARC, the Association and its agents or designees may come upon any Lot (following reasonable notice) during reasonable hours for the purpose of inspecting and marking trees. Notwithstanding the foregoing, the ARC, in its sole discretion may grant written permission to an Owner to partially or completely grass seed a Lot in lieu of sodding. The grass seed and seeding procedure shall be approved by the ARC prior to commencement of

any seeding activities and such seeding shall be performed in strict compliance with seeding procedure as specified by the ARC.

7.04 New Construction and Rehabilitation. All Living Units and other Structures permitted hereby shall be either new construction or renovation of existing structures. No buildings shall be moved onto any Lot unless approved in advance in writing by the ARC and Developer. Any such moved buildings shall, in every such event, be historic buildings which are consistent with the design and construction standards of the Development Plan.

7.05 Uncompleted Structures. Construction of a Living Unit or any other Structure shall not commence until the ARC and Developer has approved the final plans and specification for such Living Unit or any other Structure. No Living Unit or other Structure shall be permitted to stand with its exterior in an unfinished condition for a period longer than six (6) months after commencement of construction. Extensions for periods beyond six (6) months may be granted by the ARC and Developer in their sole discretion. In the event of fire, windstorm or other damage, no Living Unit or other Structure shall be permitted to remain in a damaged condition for more than three (3) months. No Living Unit or other Structure shall be occupied until completed according to the plans and specifications approved by the ARC. An Owner's violation of this Restriction shall entitle the ARC to exercise its Right of Action and shall entitle Developer to exercise its right under the Parcel Development Agreement with such Owner.

7.06 Structures. No temporary building, trailer, tent, garage, barn or other building, whether in the course of construction or otherwise, shall be placed upon any Lot. No detached Structure for purely ornamental purposes, no above ground swimming pools, nor any permanently constructed stoves, grills or ovens may be erected on any part of any Lot without the consent of the ARC and Developer.

7.07 Fences. No fences or walls shall be placed on any Lot without permission of the ARC and Developer. The ARC and Developer may permit short lengths of fencing or walls as landscape features only. No chain link fence shall be erected on any Lot. Notwithstanding the foregoing, a privacy fence to enclose a hot tub, swimming pools, spa or private area will be permitted as required by municipal code and as may be permitted by the ARC and Developer. Except as may be required by City ordinance for swimming pools, the privacy fence (if permitted by the ARC and Developer) shall not exceed 4' in height in front yards and shall not exceed 6' in height in side yards and along alleys provided that any such fence is of wrought iron material or wrought iron in appearance. In the event such side yard or alley fence is constructed of material other than wrought iron or material which is wrought iron in appearance, such side yard and alley fence shall not exceed 4' in height. No front yard fence shall be placed beyond the front of the Living Unit located on the Lot. Any and all fencing constructing on a Lot shall be built in a pleasing architectural vernacular in relation to the walls or area to which it attaches. An element of landscape screening on the "outside" of the fence shall be required. The maximum distance from the building to the fence shall be limited to 14' dependent on the depth and topography of the Lot. Some Lots, such as Lots with an irregular configuration or topography, may require a different depth, and the ARC and Developer shall consider such variations from the standards set forth herein to accommodate such irregularly shaped Lots. The maximum fence width shall be 18' dependent on the depth and topography of the Lot. Some Lots, such as Lots with an irregular configuration or topography, may require

a different width, and the ARC and Developer shall consider such variations from the standards set forth herein to accommodate such irregularly shaped Lots. All care and maintenance of landscape or sod within the private fence area shall be the responsibility of the Owner.

7.08 Placement of Signs on Property. No sign, billboard or other advertising device of any nature shall be placed upon any Lot, including property identification signs, except (a) signs which identify the sale or lease of a Lot, (b) signs by the Developer, and (c) except as provided herein and as are approved by the ARC and Developer. The ARC may adopt and promulgate rules and regulations relating to signs which may be used within the Property.

7.09 Keeping of Animals on Lots. No animals or birds, other than customary household pets, shall be kept or maintained on any Lot except as specifically authorized by the ARC. In no event shall any such pets be kept, bred or maintained for any commercial purpose or in such a manner as to constitute a nuisance or cause unsanitary conditions. The ARC shall require that dogs shall not be permitted outside of any Lot except on a leash and accompanied by a responsible person. No dog run shall be permitted on any Lot. The ARC may from time to time publish and impose other regulations setting forth the type and number of animals that may be kept on Lot. With the exception of doghouses, no outside animal shelters of any type whatsoever shall be located within the yard of any Lot. The size, style and placement of a doghouse must be approved by the ARC.

7.10 Disposition of Trash and other Debris. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction for a period not to exceed one hundred eighty (180) days (commencing from day one of the first delivery of any such materials) unless extended by the ARC in its sole discretion, for any approved Structure, unless such materials are screened from view in a manner approved by the ARC. During the course of construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner. No burning of any trash, leaves, grass or weeds, and no accumulation or storage of litter of any kind shall be permitted on any Lot. If trash, recycling or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pickup is to be made, at such place on the Lot so as to provide access to persons making such pickup. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. All such containers shall be kept in a clean and sanitary condition. The ARC may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage on the Property.

7.11 Parking of Motor Vehicles, Boats and Trailers. No truck, commercial vehicle, trailer, commercial trailer house, recreational vehicle, all terrain vehicle, camper, motorcycle, non-operable automobile, mobile home, boat or boat trailer shall be brought upon, stored or habitually parked on any Lot in front of any Living Unit or garage, or between any residence or garage and abutting side street, or upon any alley or street abutting any Lot. This shall not be construed to prohibit the temporary (a maximum of twenty-four (24) hours): (a) standing or parking of a trailer, boat, trailer house, recreation vehicle, or mobile home for short periods in preparation to take same to some other location for use; or (b) standing or parking of a truck or

commercial vehicle for loading or unloading; or (c) the parking of any operational automobile on any driveway on any Lot. The Association, with the written approval of the ARC, may permit such parking for longer than twenty-four (24) hours. No such vehicle shall be openly stored in any area other than as may be designated by the ARC. No mechanical maintenance on any vehicle shall be permitted in front of any Living Unit or garage, or between any Living Unit or garage and an abutting side street, or upon any alley or street abutting any Lot. The use of portable or temporary buildings or trailers as field offices by contractors during actual construction must be specifically approved by the ARC prior to its being moved on site.

7.12 Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Lots or Living Units, nor shall anything be done thereon that may be or become a nuisance or annoyance to any other Owners. No exterior lighting shall be directed outside the boundaries of any Lot but shall be directed so as to avoid glare and excessive light spillage onto abutting or adjacent Lots. All exterior lighting installed shall be consistent with the requirements of the Development Plan. No noise, including loud music, shall exceed those limits as set forth by City ordinance.

7.13 Antennas, Poles and Projections. No facilities, including poles and wires for the transmission of electricity, television messages, CATV signals and the like shall be placed or maintained above the surface of the ground on any Lot.

No external or outside radio or television antennas or satellite dishes shall be permitted on any Lot or Living Unit unless subject to the following restrictions. No antenna or satellite dish may be erected, used or maintained outdoors and above the surface of the ground, or attached to a building or otherwise without the written approval of the ARC. However, one satellite dish, 18 1/2 inches in diameter or smaller may be installed and maintained on any residential lot so long as the location and manner of mounting is disguised to resemble the surroundings or, is, in fact, visually indistinguishable from the structures, devices or improvements otherwise allowed in the Property by this Declaration so as to so blend into the surroundings so as to draw as little attention as possible. If approved, the type of antenna and exact location of such antenna on the Lot or residence shall be determined by the ARC. In approving such requests, the ARC may require specific forms of screening as it deems appropriate in order to effectuate the intent of this section and so as to render the installation of such equipment as inoffensive as possible to other Owners.

No solar collector of any kind or type shall be maintained, except with the permission of the ARC. No flag poles shall be erected or maintained, except with the prior written permission of the ARC.

7.14 Penalties for Violation. If the ARC determines that provisions of this Article have been violated, the ARC may in its discretion seek appropriate relief at law or in equity to assure that the purposes of this Article and this Declaration are fulfilled.

7.15 Restrictions for Residential Lots; Leasing. No profession or home industry shall be conducted in or on any part of a Lot or in any improvement thereon in the Residential Areas without the specific written approval of the ARC, which consent shall not be unreasonably withheld, conditioned or delayed. The ARC, in its discretion upon consideration of the

circumstances in each case, and particularly in consideration of the effect on surrounding Property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry. No profession or home industry shall be permitted, however, unless it is considered by ARC to be compatible with the Development Plan and the rules and regulations promulgated by the Association Board. Except as provided herein, any Living Unit located on a Lot designated for residential use within the Property shall be occupied by the Owner of the Living Unit. Notwithstanding the above, however, leasing of single family or townhouse units will be allowed provided that the Owner first provides information concerning such proposed lessee to the Association, to the extent such information may be required by the Association. The Owner shall file with the Association a copy of the proposed lease agreement, prior to the commencement of the lessee's occupancy of the Living Unit. Any leasing of a Living Unit shall also be subject to the following restrictions: (i) the lease shall mandate compliance with this Declaration, the Development Plan, any rules and regulations promulgated by the Association, and all other documentation associated with the Property; (ii) the lease shall require that the lessee indemnify the Association and other Owners harmless from any costs arising out of or related to lessee's violation of the Declaration, the Development Plan, any rules and regulations promulgated by the Association, and all other documentation associated with the Property; and (iii) the names of all people who will occupy the Living Unit shall be given to the Association, not less than ten (10) business days prior to such lessee's moving into the Living Unit. All such lessees shall be subject to the terms and conditions of this Declaration. The Declarant and/or the Association shall have the right to check references and conduct ordinary screening activities, including credit and criminal background inquiries, with regard to such lessees, at the cost of the Owner proposing the lease, and the Declarant and/or the Board, as applicable, shall have the right to reject any such lessees at its reasonable discretion, subject to any limitations imposed by law. Subject to the Association's approval of a lessee and the Owner's applicable lease, the Owner shall provide a fully executed copy of the lease to the Association for its records.

7.16 Lot Use for Model Home or Real Estate Office. All else herein to the contrary notwithstanding and as expressly limited herein, any residential Lot may be used for a model home or for a real estate office by the Developer. Such right shall be limited to the Developer and shall extend to no other person, builder, Owner or other developer except as may be permitted by a majority vote of the Association Board.

7.17 Use of Machinery. No machinery shall be operated upon any Lot (except such machinery used in the maintenance of a private residence) except with the written permission of the ARC. No machinery shall be placed, parked or stored upon any Lot unless such machinery is placed, parked or stored within an approved Structure. No hoisting devices shall be permitted upon any Lot; except, however, with the prior written approval of the Association, subject to review and written approval of the ARC.

7.18 Provisions Applicable to Lots Designated for Single-Family Residences. Lots in the Property shall be subject, in addition to the general provisions set forth herein, to the following use restrictions:

- (a) **Land Use.** None of said Lots may be improved, used or occupied for other than residential purposes (except for model homes used by the Developer) and no flat or

apartment house, although intended for residential purposes, may be erected or operated thereon.

(b) **Square Footage Requirements.** The following minimum square footages shall apply to the Living Units within the Property:

- (i) Townhome: 1,000 square feet
- (ii) Single Family Home: 1,800 square feet
- (iii) Granny Flat: 500 square feet

All such Living Units shall have such foundation plantings as may be determined by the ARC and Developer pursuant to plans and specifications, which plans and specifications shall be consistent with the terms and conditions of the Development Plan and the URD Rezoning. Exterior fireplace chimneys must be masonry, brick or other siding material approved by the ARC and Developer in accordance with the Development Plan. All exterior chases must have a poured concrete foundations or footings. Exterior fireplace chimneys must be masonry, brick, stone or stucco, if on the front elevation.

(c) **Building Materials.** All building materials shall be in compliance with the requirements of the Development Guidelines.

ARTICLE VIII

Party Walls

8.01 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the buildings upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions of the Owners to such party wall shall apply thereto.

8.02 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

8.03 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

8.04 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by its negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

8.05 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

8.06 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

Construction on Lots

9.01 Construction Standards.

- (a) Commencement of construction on a Lot shall start within ninety (90) days following recording of the deed from the Declarant to the purchaser. Construction shall proceed in a timely and orderly manner to a prompt completion, all in accordance with and pursuant to the Parcel Development Agreement, execution of and compliance with by such purchaser of a Lot from Declarant shall be a condition of such title transfer.
- (b) No Lot is to be cleared nor shall construction commence on any Lot until plans and specifications for such construction have been approved by the ARC and Developer and until a building permit therefore is granted and the conveyance of the Lot has occurred.
- (c) No dumping or open burning of construction materials, waste or trash shall occur on any building Lot.
- (d) Loud music will not be permitted on any construction site.
- (e) No construction signs are permitted identifying the home builder, subcontractors or suppliers, unless provided by the Declarant.
- (f) All plantings and trees within the subject Lot which are mature, healthy trees and identified as plantings or trees to be retained, whether in the Development Plan or the purchaser's plan and specifications, shall be protected from damage during construction.
- (g) Erosion control measures shall be employed on Lots with steep grades. The ARC may, at its sole discretion, require the builder to place erosion control materials such as straw bales or fencing on any portion of a Lot that appears to be in an erodible condition due to construction activities even if such Lot does not vary in grade.
- (h) Purchasers of a Lot or Lots will be held accountable for the actions of their builders, contractors, and workers as well as those of the subcontractors or such builders, contractors and workers.
- (i) No changes in plans during the construction period will be permitted without prior written approval of the ARC and Developer.

(j) No exterior construction work shall begin before 6:00 a.m. nor continue after 7:00 p.m.

(k) Excess excavation materials must be timely hauled away from the Lot and from the Property.

(l) Concrete suppliers and contractors shall clean their equipment only at locations designated by the Declarant for that purpose.

(m) Builders shall clean up all trash and debris on the construction site at the end of each day. Trash and debris shall be removed from each construction site at least once a week to a dumping site located off the Property. Builders and the subcontractors will be responsible for removing all construction debris and keeping the construction sites in a well-maintained appearance at all times.

ARTICLE X Duration and Amendment

10.01 Duration. This Declaration shall run with, burden and bind the Property, shall inure to the benefit of and shall be enforceable by the Declarant, the Association, the Developer and any Owner and their respective legal representatives, heirs, successors and assigns for a period of twenty-five (25) years following the Effective Date ("Initial Declaration Period"); after which time the Declaration shall be automatically renewed for successive periods of ten (10) years unless, prior to the commencement of any such renewal period, an instrument terminating this Declaration contained herein shall be executed by the proper Association officers and recorded in the appropriate Office of the Recorder of Deeds or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the total number of Members, which resolution shall have been approved within six (6) months prior to the expiration of the Initial Declaration Period, or the end of any such ten (10) year extension period.

10.02 Amendment. Except as hereinafter specifically provided, this Declaration may not be amended, terminated or modified in any respect except by recording an instrument executed by the proper Association officers and authorized by the Members, subject to the rights, if any, of any lien holders of liens on the Property to consent to or approve of such amendment, termination or modification, pursuant to a resolution to such effect approved in writing by not less than two-thirds (2/3) of the total number of Members.

ARTICLE XI Enforcement

11.01 Right of Action.

(a) In the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice to the Owner setting forth in reasonable detail, the nature of such violation or breach and the specific action or actions which shall be taken by the Owner to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30)

days of the date of such written notice, then the Association may pursue its Right of Action. The term "Right of Action" as used herein, shall mean the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot as to which a violation, breach or other condition to be remedied exists, and take the actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof. Such entry or action, or both, shall not be deemed to be a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section. All costs and expenses including reasonable attorneys' fees incurred by the Association or on its behalf in enforcing such Right of Action, shall be a binding personal obligation of such Owner enforceable at law, as well as a lien on such Owner's Lot enforceable in accordance herewith. The lien provided under this Section shall not be valid against a bona fide purchaser (or bona fide lien holder) of the Lot in question unless a notice of such lien shall have been filed in the appropriate office of the Recorder of Deeds prior to the recordation of the Deed in the said office (or lien instrument) conveying the Lot in question to such purchaser (or subjecting the same to such lien). "Right of Action" shall mean and encompass the right to pursue all remedies herein specified, together with all remedies at law or in equity.

(b) For so long as the Declarant owns all or a portion of the Property, the Declarant may pursue its Right of Action in such cases where, in the judgment of the Declarant, the Association has abused its discretion in electing not to exercise its Right of Action to enforce the provisions of the Declaration and has thereby jeopardized the performance of the obligations of the Declarant pursuant to the Development Plan. The Declarant's Right of Action shall be subject to the following limitations:

(i) the Declarant shall give written notice to the Association identifying the violation which Declarant seeks to correct and the steps Declarant will take to remedy the condition; and

(ii) the Declarant may not commence to exercise its Right of Action less than thirty (30) days nor more than sixty (60) days after giving written notice to the Association.

11.02 Specific Performance. Nothing contained herein shall be deemed to affect or limit the rights of the Declarant (so long as it is an Owner), the Association, the Members or the Owners, or any one of them, to enforce any of the terms, covenants or conditions of this Declaration by appropriate judicial proceedings. However, the Declarant hereby declares that it is impossible to measure in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform, any of the obligations provided by this Declaration. Therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof. In any and all such actions, whether at law or in equity, any such beneficiary hereof who is entitled to relief shall also be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in enforcing such rights.

11.03 Enforcement of Liens.

(a) The Association shall have a lien for Assessments, user fees and charges (herein collectively "Assessment" or "Assessments") and shall have a lien for the cost of exercising the Right of Action. The amount which may be recovered by the Association shall include the Assessment or costs, together with the cost of such enforcement proceedings, including reasonable attorneys' fees and interest. Suits to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiving the lien provided for in Section 3.01 hereof.

(b) If any demand for payment or claim of lien or liens is not paid when due, the Association Board or its duly authorized representative may thereafter elect to file and record a claim of lien on behalf of the Association against the Lot of the defaulting Owner in the appropriate Office of the Recorder of Deeds. Such claim of lien shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

- (i) the name of the delinquent Owner;
- (ii) the legal description and street address of the Lot against which the claim of lien is made;
- (iii) the total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs and reasonable attorney's fees (with any proper offset allowed);
- (iv) that the claim of lien is made by the Association pursuant to this Declaration; and
- (v) that a lien is claimed against said Lot in an amount equal to the amount stated; together with all other amounts becoming due from time to time in accordance with this Declaration.

(c) Upon such recordation of the duly executed original or copy of such a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment or cost was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except for tax liens or real property taxes and assessments on any Lot in favor of any municipal or other governmental unit and except as provided in Section 3.01 hereof.

(d) Any such lien may be foreclosed by appropriate action at law or in the manner provided by law for foreclosure of mortgages or sale by a judgment creditor or in any other manner permitted by the laws of Missouri. The Association Board is hereby authorized to appoint any attorney or any officer or director of the Association for the purpose of conducting such proceedings.

(e) The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners and shall secure payment of all sums set forth in the claim of lien, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said claim of lien.

(f) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association Board and the payment of all sums secured by the lien created by the recordation of such claim of lien, the Association Board shall within fifteen (15) business days (upon payment by such Owner of reasonable costs by the Owner of the Lot subject to the lien) cause an officer of the Association to file and record an appropriate release of such claim of lien in the appropriate Office of the Recorder of Deeds.

(g) No Owner may waive or otherwise escape liability for the Assessments provided for in this Declaration by nonuse of the Common Area, or any part thereof; or any part of the Property, or abandonment of its Lot. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose or otherwise realize on the lien created by recordation of the claim of lien, until the expiration of thirty (30) days after a copy of said claim of lien, showing the date of recordation thereof, has been mailed to the Owner of the Lot which is described in such claim of lien.

(h) Each Owner does hereby waive to the extent legally possible, all defenses to any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, and the benefit of any exemption laws of the State of Missouri now in effect, or in effect from time to time hereafter.

11.04 No Waiver. The failure of the Declarant, the Association, any Owner, his or its respective legal representatives, heirs, successors and assigns to enforce this Declaration shall in no event be considered a waiver of the right to do so thereafter as to a similar violation or breach occurring prior or subsequent thereto.

11.05 Additional Rules. The Association Board, and the ARC, each by a majority vote, to the extent specifically provided herein, may adopt, amend, modify, promulgate and rescind or revoke reasonable rules, regulations and procedures regarding the administration, interpretation and enforcement of the provisions of this Declaration; for the ARC in particular, this includes the right of modification, amendment, revocation or rescission of the Development Guidelines. In so adopting, amending, modifying, promulgating, rescinding, or revoking such rules, regulations and procedures, or in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association and the ARC shall take into consideration the best interests of the Owners of the Property to the end that the Property shall be preserved and maintained in a high quality manner and shall seek to achieve the development of the Property in accordance with the standards and objectives set forth in the Development Plan.

11.06 Declarant's Release. The Declarant has made and delivered this Declaration to provide for the development and use of the Property in accordance with the provisions of this Declaration and the Development Plan. Upon the transfer, sale or assignment of all of the Declarant's ownership interest in the Property, the Declarant shall be released from any duties or obligations

under this Declarant, provided that the Property shall remain subject to the terms and conditions of this Declaration.

ARTICLE XII **Miscellaneous**

12.01 No Reverter. No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

12.02 Invalidity. The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof, and to the extent that any term, covenant or condition contained in this Declaration is in conflict with any applicable laws, this Declaration shall be deemed to be amended so as to comply with applicable laws.

12.03 Violation and Nuisance. Any act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined abated, whether or not the relief sought is for negative or affirmative action, by the Declarant, the Association or any Owner of a Lot.

12.04 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Property is hereby declared to be a violation of the Declaration and subject to any and all of the enforcement procedures set forth herein.

12.05 Remedies Cumulative. Each remedy set forth in this Declaration shall be in addition to all remedies whether available at law or in equity and all such remedies whether or not set forth in this Declaration, shall be cumulative and not exclusive.

12.06 Limitations. For so long as Declarant owns all or a portion of the Property, the Association may not use its resources or take a public position in opposition to the general Development Plan. Nothing in this Section shall be construed to limit the rights of Members acting as individuals or in an affiliation with other members of groups.

12.07 No Personal Liability. No member of Association Board, officer of the Association, member of the ARC, member of any committee of the Association, whether such committee is specifically described in this Declaration or hereafter created by the Association, or Manager, if any, or the Declarant shall be personally liable to any Owner, member or to any other party for any damage, loss or prejudice suffered or claimed on account of any act, (including any oral representation regarding any aspect of a Lot whatsoever), omission, error, failure to act, or negligence of any such Association Board member, officer or committee member of the Association, Manager, if any, the Declarant, or any member of the ARC and, further, neither ARC nor any member thereof shall be liable to the Association, any Owner or to any party for any damage, loss or prejudice suffered by or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work upon the Property, (c) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, or (d) any other act, action or conduct of such committee. Such limitation of liability shall apply in all cases.

12.08 Assignability.

(a) The Association shall be empowered to assign its rights, or any part thereof, to any successor public body, authority, agency, district or nonprofit corporation (hereinafter referred to as the "Successor Entity"), and upon such assignment the Successor Entity shall have those rights and be subject to those duties assigned thereby and shall be deemed to have agreed to be bound by the appropriate provisions hereof to the same extent as if the Successor Entity had been an original party to the Declaration. Any such assignment shall be accepted by the Successor Entity under a written agreement pursuant to which the Successor Entity expressly assumes the duties and obligations thereby assigned.

(b) If for any reason the Association shall cease to exist without having first assigned its rights hereunder to a Successor Entity, the covenants, restrictions, easements, charged and liens imposed hereunder shall nevertheless continue and run with the land and any Owner may petition a court of competent jurisdiction to have a trustee appointed for the purpose of organizing a nonprofit corporation and assigning the rights hereunder with the same force and effect, and subject to the same conditions, as provided in this Section with respect to an assignment and delegation to a Successor Entity.

(c) Any assignment or delegation of rights shall be approved by two-thirds (2/3) of the Members voting in person or by proxy at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after proper notice is given.

(d) The Declarant may assign any or all of its rights under this Declaration to the City or a designee of the City.

12.09 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

12.10 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

12.11 Effect of Violation of Declaration on Mortgage. No violation of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in possession or any purchaser at any foreclosure sale or any person in a similar position shall be bound and subject to this Declaration as fully as any other Owner of any portion of the Property.

12.12 Delivery of Notice and Documents.

(a) Any written notice or other documents addressed to the Association, the Association Board, the ARC, the Declarant or the Developer relating to or required or permitted by the Declaration may be delivered either personally or by certified, registered mail, return receipt requested, or by overnight delivery by a reputable delivery service. If by certified or registered mail, it shall be deemed to have been given, delivered and received upon receipt thereof by the addressee.

(b) Any written notice or other documents relating to or required or permitted by the Declaration may be delivered to an Owner or Member either personally or by mail unless other requirements are specifically made in any provision hereof. If by mail, it shall be deemed to have been given, delivered and received seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to such Owner or Member, to the address of any Lot or Living Unit owned, whether in whole or in part, by such Owner or Member, or to any other address last furnished by such Owner or Member to the Association. Each Owner or Member shall file his correct mailing address with the Association and shall promptly notify the Association in writing of any subsequent change of address. Any notice given or required to be sent pursuant to this Section shall be deemed to have been properly given, unless other requirements are specifically made in any provision hereof, when mailed, postage prepaid, to the last known address of the person to whom notice is to be given.

12.13 Local Laws Not Superseded. This Declaration shall not be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any government body, or by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases or this Declaration shall govern and control.

12.14 Court Approval. The execution, delivery and recording of this Declaration has been approved by the Order entered by Judge Gary E. Fenner on November 29, 2006 in the case entitled *The City of Kansas City, Missouri v. Housing and Economic Development Financial Corporation, et al.*, Case No. 05-00368-CV-W-GAF filed in the United States District Court for the Western District of Missouri.

12.15 Imposition of Declaration on Property Not Owned by Declarant. At such time that an Owner of property within the Beacon Hill "Redevelopment Area" (as such term is defined in the Development Plan) which is not owned by the Declarant on the Effective Date hereof desires to participate in the benefits and subject itself to the obligations of the Association and this Declaration, such Owner shall, in writing, subject such property within the Redevelopment Area to this Declaration by filing in the Office of the Director of Records of Jackson County, Missouri, at Kansas City, a "Notice of Imposition and Assumption Agreement" the form of which shall be substantially similar to that Notice of Imposition and Assumption Agreement attached and incorporated by reference as Exhibit B.

IN WITNESS WHEREOF, the undersigned, on behalf of the CITY OF KANSAS CITY, MISSOURI, has executed this Declaration of Covenants, Conditions and Restrictions this 6th day of February, 2007.

DECLARANT:

Thomas G. Coyle, AICP
Director, City Planning and Development

By: 

Thomas G. Coyle

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 12th day of February, 2007, before me, a Notary Public in and for the County and State aforesaid, personally appeared Thomas G. Coyle, in his capacity as Director of the Planning and Development Department for the City of Kansas City, Missouri, who, being duly sworn, did execute the foregoing instrument by virtue of the authority vested in him in his capacity as the Director, and he acknowledged the said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year last above written.

Mary Alice Nelson

Notary Public

My Commission expires:

MARY ALICE NELSON
~~Notary Public - Notary Seal~~
STATE OF MISSOURI
Clay County
Commission #04410015
My Commission Expires: September 25, 2008

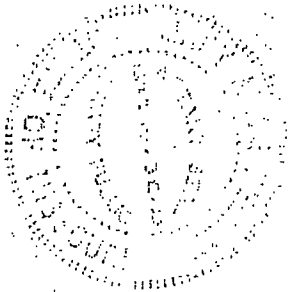


EXHIBIT A

Legal Description of Property

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Tract designations, street addresses, plat numbers and parcel numbers are for convenience purposes only.

EXHIBIT A

Legal Description of City Properties subject to the Covenants, Conditions and Restrictions

**Tract I: 2321 Troost and 2327 Troost
Plat and Parcel Number: 179-187, 6 & 5
APN: 29-630-08-08 and 29-630-08-10**

TRACT I:

The East 147.5 feet of the West 157.5 feet of Lot 2, Block 1, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

TRACT II:

All that part of the Northwest Quarter of the Southwest Quarter of Section 9, Township 49, Range 33 in Kansas City, Jackson County, Missouri, being more particularly described as follows: Beginning at a point 101.5 feet North of the Northeast corner of 24th Street and Troost Avenue; thence North along the East line of said Troost Avenue 50 feet; thence East 185 feet; thence South 50 feet; thence West 185 feet to the point of beginning.

TRACT III:

The West 157 ½ feet of Lot 1, Block 1, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, except the West 10 feet thereof in Troost Avenue, according to the recorded plat thereof.

**Tract 2: 2318 Forest and 2324 Forest,
Plat and Parcel Number: 179-19 & 179-189 & 179-188
APN: 29-630-08-16 and 29-630-08-15**

TRACT I:

All that part of the Northwest Quarter of the Southwest Quarter of Section 9, Township 49, Range 33, Kansas City, Jackson County, Missouri, more particularly described as follows: Beginning on the West line of Forest Avenue in Kansas City, Missouri, as the same is now established, at a point 208 ½ feet South of the South line of 23rd Street; thence South 50 feet; thence West 150 feet; thence North 50 feet; thence East 150 feet to the point of beginning in Kansas City, Jackson County, Missouri, AND all of Lots 5, 6, 7, 8 and 9, CONTINUATION OF BLOCK 1, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, EXCEPT that part conveyed to the State of Missouri for Bruce R. Watkins Drive in the Warranty Deed recorded September 11, 1996 as Document No. K-0041587 in Book K-2895 at Page 870.

TRACT II:

All that part of the Southwest Quarter of Section 9, Township 49, Range 33 in Kansas City, Jackson County, Missouri, more particularly described as follows to wit: Beginning at a point on the West line of Forest Avenue 288.5 feet South of the North line of said Quarter Section; thence South along the West line of Forest Avenue 50 feet; thence West 120 feet; thence North 50 feet; thence East 120 feet to beginning, EXCEPT that part in street, if any, and EXCEPT that part conveyed to the State of Missouri for Bruce R. Watkins Drive in the Warranty Deed recorded September 11, 1996 as Document No. K-0041587 in Book K-2895 at Page 870, if any.

**Tract 3: 2326 Forest and 1112 E 24th St.
Plat and Parcel Number: 179-2 & 179-1
APN: 29-630-08-14 and 29-630-08-13**

TRACT I:

The East 37.5 feet of Lot 1 and the East 37.5 feet of Lot 2, Block 1, CORRECTED PLAT OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

TRACT II:

The West 37.5 feet of the East 75 feet of Lots 1 and 2, Block 1, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 4: 1108 E. 24th St
Plat and Parcel Number: 179-4
APN: 29-630-08-11

The West 45 feet of the East 157 ½ feet of Lots 1 and 2, Block 1, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 5: 2405 Troost Ave.
Plat and Parcel Number: 179-8
APN: 29-630-09-03

Lot 2, Block 3, except that part thereof in Troost Avenue, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 6: 2415 Troost Ave., 2419 Troost Ave, 2425 Troost
Plat and Parcel Number: 179-9-1, 11 & 13
APN: 29-630-09-34; 29-630-09-06; 29-630-09-07

Lots 3, 4, 5, 6, 7 and the North 2.16 feet of Lot 8, Block 3, CORRECTED PLAT OF BEACON HILL, EXCEPT that part in Troost Avenue, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 7: 2427 Troost Ave.
Plat and Parcel Number: 179-14
APN: 29-630-09-08

Lot 8, Block 3, CORRECTED PLAT OF BEACON HILL, except the North 2.16 feet thereof and that part now in Troost Avenue, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 8: 2445 Troost
Plat and Parcel Number: 179-190
APN: 29-630-09-36

Lots 11-12, EXCEPT that part in Troost Avenue, Block 3, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 9: 1111 E. 25th St.
Plat and Parcel Number: 180-1
APN: 29-630-20-02

The East 42 feet of Lots 1 and 2 and the East 42 feet of the North 25 feet of Lot 3, Block 5, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof; commonly referred to as the 4 unit building located at 1111 East 25th Street, Kansas City, Jackson County, Missouri.

**Tract 10: 2619 Troost Ave. and 2629 Troost Ave.
Plat and Parcel Number: 180-22-1 & 23-1
APN: 29-630-33-05 and 29-630-33-06**

TRACT I:

The South 22 feet of Lot 8, all of Lot 9 and the North 28 feet of Lot 10, Block 7, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, EXCEPT that part in Troost Avenue, according to the recorded plat thereof.

TRACT II:

The East 60 feet of the North 19 feet of the South 41 feet of Lot 8, Block 7, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

TRACT III:

Lot 7 and the North 28 feet of Lot 8, EXCEPT the East 60 feet of the North 19 feet of the South 41 feet of said Lot 8, and EXCEPT the West 10 feet thereof in Troost Avenue, Block 7, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

**Tract 11: 2626 Forest and 2628 Forest
Plat and Parcel Number: 180-27 & 28
APN: 29-630-33-11 and 29-630-33-10**

TRACT I:

The North 40 feet of Lot 17 and the South 10 feet of Lot 18, Block 7, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

TRACT II:

The North 15 feet of Lot 15 all of Lot 16 and the South 10 feet of Lot 17, Block 7, BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

**Tract 12: 2639 Troost Ave.
Plat and Parcel Number: 180-24
APN: 26-630-33-07**

The South 22 feet of Lot 10, all of Lot 11, and the North 28 feet of Lot 12, Block 7, EXCEPT that part taken for widening of Troost Avenue, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to recorded plat thereof.

Tract 13: 2701 Troost Ave.
Plat and Parcel Number: 287-1
APN: 29-720-08-02

Lot 1, EXCEPT that part therein in Troost Avenue, Block 9, CONTINUATION OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 14: 2515 Tracy
Plat and Parcel Number: 180-75
APN: 29-630-22-08

The South 30 feet of the North 40.5 feet of Lot 3, Block 2, PORTER PARK, together with the West ½ of the vacated alley lying East of and adjoining said lot, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 15: 2449 Forest Ave.
Plat and Parcel Number: 179-112-1
APN: 29-630-10-41

Lots 13 and 14, BLOCK 3, HALL'S HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 16: 2519 Forest Ave.
Plat and Parcel Number: 180-43
APN: 29-630-21-12

The North 50 feet of Lot 7, Block 1, PORTER PARK, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 17: 2458 Forest
Plat and Parcel Number: 179-44
APN: 29-630-09-16

Lot 18, Block 3, SUBDIVISION OF SOUTHERN PART OF BLOCK 3 OF BEACON HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Tract 18: 2440-2442 Tracy
Plat and Parcel Number: 179-123
APN: 29-630-10-28

The North 12.5 feet of Lot 21 and the South 37.5 feet of Lot 22, Block 3, HALL'S HILL, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

EXHIBIT B

NOTICE OF IMPOSITION AND ASSUMPTION

THIS NOTICE OF IMPOSITION AND ASSUMPTION ("Notice") is effective as of the _____ day of _____, 200__ ("Effective Date"), by _____ ("Owner").

Recitals

A. Owner is the owner of that certain real property legally described on Exhibit A, a copy of which is attached and incorporated by reference ("Property").

B. The Property is located within the Beacon Hill Redevelopment Area ("Redevelopment Area"), which Redevelopment Area is described on Exhibit B, a copy of which is attached and incorporated by reference.

C. Pursuant to that certain Declaration of Covenants, Conditions and Restrictions dated _____, 2007 and recorded in the Office of the Director of Records of Jackson County, Missouri, at Kansas City on _____, 2007 as Document No. _____ ("Declaration"), Owner may, in furtherance of the "Development Plan" (as that term is defined in the Declaration), among other things, subject the Property to the terms, conditions, covenants, and requirements of the Declaration and assume the rights, benefits, privileges, and obligations contained in the Declaration by filing a notice of such subjection and assumption with the Office of the Director of Records of Jackson County, Missouri, at Kansas City.

NOW, THEREFORE, in consideration of the Declaration and other good and valuable consideration, Owner hereby declares as follows:

Owner, without reservation or condition, hereby subjects the aforescribed Property to each and every term, condition, covenant and requirement of the Declaration and hereby expressly assumes all rights, benefits, privileges and obligations of the Declaration upon the Effective Date hereof.

IN WITNESS WHEREOF, the Owner has caused this Notice to be duly executed as of the date provided in the first paragraph.

[insert signature block and modify notary block if not an individual]

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this ___ day of _____, 200____, before me, the undersigned, a Notary Public within and for said County and State, personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that s/he executed the same as his or her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in _____, the day and year last above written.

Notary Public in and for said
County and State

(Type, print or stamp the Notary's
name below his or her signature)

My Commission Expires:

**Exhibit A to the Notice of Imposition and Assumption
Legal Description of the Property**

**Exhibit B to the Notice of Imposition and Assumption
Redevelopment Area**

PERIMETER DESCRIPTION OF THE PROPOSED REDEVELOPMENT AREA

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF 27TH STREET WITH THE CENTERLINE OF TROOST AVENUE, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE NORTH ALONG THE CENTERLINE OF TROOST AVENUE TO THE CENTERLINE OF 23RD STREET; THENCE NORTH ALONG THE CENTERLINE OF RELOCATED TROOST AVENUE TO THE CENTERLINE OF 22ND STREET; THENCE EAST ALONG THE CENTERLINE OF 22ND STREET TO THE NORTHERLY PROLONGATION OF THE EAST LINE OF THE WEST THREE AND ONE HALF FEET OF LOT 21, MOUNT PROSPECT ADDITION A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI; THENCE SOUTH ALONG THE AFORESAID NORTHERLY PROLONGATION AND EAST LINE OF THE WEST THREE AND ONE HALF FEET OF SAID LOT 21 TO THE SOUTH LINE OF LOT 25, SAID MOUNT PROSPECT ADDITION; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 25, AND THE WESTERLY PROLONGATION OF SAID SOUTH LINE TO THE CENTERLINE OF LYDIA AVENUE; THENCE SOUTH ALONG SAID CENTERLINE TO THE CENTERLINE OF 23RD STREET; THENCE WEST ALONG THE CENTERLINE OF SAID 23RD STREET TO THE CENTERLINE OF TRACY AVENUE, SAID POINT ALSO BEING THE CENTERLINE OF THE 23RD-24TH STREET CONNECTION; THENCE SOUTHWESTERLY ALONG THE CENTERLINE OF SAID CONNECTION TO THE CENTERLINE OF BRUCE WATKINS DRIVE; THENCE SOUTHEASTERLY ALONG SAID BRUCE WATKINS DRIVE TO THE CENTERLINE OF "THE PASEO"; THENCE SOUTH ALONG THE CENTERLINE OF "THE PASEO" TO THE CENTERLINE OF 25TH STREET; THENCE EAST ALONG THE CENTERLINE OF 25TH STREET TO THE CENTERLINE OF BRUCE WATKINS DRIVE; THENCE SOUTH ALONG THE CENTERLINE OF BRUCE WATKINS DRIVE TO THE CENTERLINE OF 27TH STREET; THENCE WEST ALONG THE CENTERLINE OF 27TH STREET TO THE NORTHERLY PROLONGATION OF THE EAST LINE OF LOT 1, BLOCK 9, CONTINUATION OF BEACON HILL, A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI; THENCE SOUTH ALONG SAID NORTHERLY PROLONGATION AND EAST LINE OF SAID LOT 1, TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 1 AND WESTERLY PROLONGATION THEREOF, TO THE CENTERLINE OF TROOST AVENUE; THENCE SOUTH ALONG THE CENTERLINE OF TROOST AVENUE TO A POINT 180 FEET SOUTH OF THE CENTERLINE OF 27TH STREET; THENCE WEST ALONG A LINE 180 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF 27TH STREET, A DISTANCE OF 40 FEET TO A POINT ON THE EAST LINE OF AN UNLABELED TRACT IN BLOCK 10, SAID CONTINUATION OF BEACON HILL, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF TROOST AVENUE; THENCE CONTINUING WEST ALONG A LINE 180 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF 27TH STREET, A DISTANCE OF 150 FEET, TO A POINT ON THE EAST LINE OF LOT 13, SAID BLOCK 10; THENCE NORTH, ALONG THE EAST LINE OF LOTS 13, 14, 15 AND THE NORTHERLY PROLONGATION THEREOF, 180 FEET TO THE CENTERLINE OF 27TH STREET; THENCE EAST ALONG THE CENTERLINE OF 27TH STREET, A DISTANCE OF 190 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

NOTICE OF IMPOSITION AND ASSUMPTION

THIS NOTICE OF IMPOSITION AND ASSUMPTION ("Notice") is effective as of the _____ day of _____, 200__ ("Effective Date"), by _____ ("Owner").

Recitals

A. Owner is the owner of that certain real property legally described on Exhibit A, a copy of which is attached and incorporated by reference ("Property").

B. The Property is located within the Beacon Hill Redevelopment Area ("Redevelopment Area"), which Redevelopment Area is described on Exhibit B, a copy of which is attached and incorporated by reference.

C. Pursuant to that certain Declaration of Covenants, Conditions and Restrictions dated _____, 2007 and recorded in the Office of the Director of Records of Jackson County, Missouri, at Kansas City on _____, 2007 as Document No. _____ ("Declaration"), Owner may, in furtherance of the "Development Plan" (as that term is defined in the Declaration), among other things, subject the Property to the terms, conditions, covenants, and requirements of the Declaration and assume the rights, benefits, privileges, and obligations contained in the Declaration by filing a notice of such subjection and assumption with the Office of the Director of Records of Jackson County, Missouri, at Kansas City.

NOW, THEREFORE, in consideration of the Declaration and other good and valuable consideration, Owner hereby declares as follows:

Owner, without reservation or condition, hereby subjects the aforescribed Property to each and every term, condition, covenant and requirement of the Declaration and hereby expressly assumes all rights, benefits, privileges and obligations of the Declaration upon the Effective Date hereof.

IN WITNESS WHEREOF, the Owner has caused this Notice to be duly executed as of the date provided in the first paragraph.

[insert signature block and modify notary block if not an individual]

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this ___ day of _____, 200____, before me, the undersigned, a Notary Public within and for said County and State, personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that s/he executed the same as his or her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in _____, the day and year last above written.

Notary Public in and for said
County and State

(Type, print or stamp the Notary's
name below his or her signature)

My Commission Expires:

**Exhibit A to the Notice of Imposition and Assumption
Legal Description of the Property**

**Exhibit B to the Notice of Imposition and Assumption
Redevelopment Area**

PERIMETER DESCRIPTION OF THE PROPOSED REDEVELOPMENT AREA

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF 27TH STREET WITH THE CENTERLINE OF TROOST AVENUE, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT; THENCE NORTH ALONG THE CENTERLINE OF TROOST AVENUE TO THE CENTERLINE OF 23RD STREET; THENCE NORTH ALONG THE CENTERLINE OF RELOCATED TROOST AVENUE TO THE CENTERLINE OF 22ND STREET; THENCE EAST ALONG THE CENTERLINE OF 22ND STREET TO THE NORTHERLY PROLONGATION OF THE EAST LINE OF THE WEST THREE AND ONE HALF FEET OF LOT 21, MOUNT PROSPECT ADDITION A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI; THENCE SOUTH ALONG THE AFORESAID NORTHERLY PROLONGATION AND EAST LINE OF THE WEST THREE AND ONE HALF FEET OF SAID LOT 21 TO THE SOUTH LINE OF LOT 25, SAID MOUNT PROSPECT ADDITION; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 25, AND THE WESTERLY PROLONGATION OF SAID SOUTH LINE TO THE CENTERLINE OF LYDIA AVENUE; THENCE SOUTH ALONG SAID CENTERLINE TO THE CENTERLINE OF 23RD STREET; THENCE WEST ALONG THE CENTERLINE OF SAID 23RD STREET TO THE CENTERLINE OF TRACY AVENUE, SAID POINT ALSO BEING THE CENTERLINE OF THE 23RD-24TH STREET CONNECTION; THENCE SOUTHWESTERLY ALONG THE CENTERLINE OF SAID CONNECTION TO THE CENTERLINE OF BRUCE WATKINS DRIVE; THENCE SOUTHEASTERLY ALONG SAID BRUCE WATKINS DRIVE TO THE CENTERLINE OF "THE PASEO"; THENCE SOUTH ALONG THE CENTERLINE OF "THE PASEO" TO THE CENTERLINE OF 25TH STREET; THENCE EAST ALONG THE CENTERLINE OF 25TH STREET TO THE CENTERLINE OF BRUCE WATKINS DRIVE; THENCE SOUTH ALONG THE CENTERLINE OF BRUCE WATKINS DRIVE TO THE CENTERLINE OF 27TH STREET; THENCE WEST ALONG THE CENTERLINE OF 27TH STREET TO THE NORTHERLY PROLONGATION OF THE EAST LINE OF LOT 1, BLOCK 9, CONTINUATION OF BEACON HILL, A SUBDIVISION IN KANSAS CITY, JACKSON COUNTY, MISSOURI; THENCE SOUTH ALONG SAID NORTHERLY PROLONGATION AND EAST LINE OF SAID LOT 1, TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 1 AND WESTERLY PROLONGATION THEREOF, TO THE CENTERLINE OF TROOST AVENUE; THENCE SOUTH ALONG THE CENTERLINE OF TROOST AVENUE TO A POINT 180 FEET SOUTH OF THE CENTERLINE OF 27TH STREET; THENCE WEST ALONG A LINE 180 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF 27TH STREET, A DISTANCE OF 40 FEET TO A POINT ON THE EAST LINE OF AN UNLABELED TRACT IN BLOCK 10, SAID CONTINUATION OF BEACON HILL, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF TROOST AVENUE; THENCE CONTINUING WEST ALONG A LINE 180 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF 27TH STREET, A DISTANCE OF 150 FEET, TO A POINT ON THE EAST LINE OF LOT 13, SAID BLOCK 10; THENCE NORTH, ALONG THE EAST LINE OF LOTS 13, 14, 15 AND THE NORTHERLY PROLONGATION THEREOF, 180 FEET TO THE CENTERLINE OF 27TH STREET; THENCE EAST ALONG THE CENTERLINE OF 27TH STREET, A DISTANCE OF 190 FEET TO THE POINT OF BEGINNING.