

**DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR**

**PLATTE 38**

**A SUBDIVISION IN PLATTE COUNTY, MISSOURI**

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INDEX

ARTICLE		PAGE
I	Definitions	2
II	Property Subject to this Declaration Addition Thereto	5
III	The Cliffs Homes Association, Inc.	6
IV	Powers and Duties of the Association	8
V	Method of Providing Funds	11
VI	Limitation on Expenditures	12
VII	Liens on Real Estate	13
VIII	Termination of Liens	13
IX	Right to Enforce	14
X	Area Associations	16
XI	Property Rights in the Common Areas	17
XII	Design Review Committees	18
XIII	Use Restrictions	25
XIV	Duration of Restrictions	34
XV	Notice	34
XVI	Dedication of Homesites	34
XVII	Covenants Running with the Land	35
XVIII	Modification, Amendment and Termination	35
XIX	Assignment by the Association	36
XX	No Personal Liability	36
XXI	Reservation of Easements	37
XXII	Dedication	38
XXIII	Association to Notify Members of Address	38
XXIV	Land or Person not Bound, If Any	39
XXV	Severability	39
XXVI	Cessation of Declarant's Rights and Obligations	39

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FOR  
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A SUBDIVISION IN PLATTE COUNTY, MISSOURI

THIS DECLARATION is made this 3<sup>rd</sup> day of January, 2024, by PARKVILLE 38, LLC, a Missouri Limited Liability Company (hereinafter called "Declarant").

WHEREAS, the Declarant is the owner of the real property described in Exhibit A and desires to create thereon the subdivision of The Cliffs of Parkville; and

WHEREAS, the Declarant desires to provide for the preservation and enhancement of the property values, amenities, and opportunities in said subdivision contributing to the personal and general health, safety, and welfare of residents and for the maintenance of the land and improvements thereon, and to this end subjected the real property described in Exhibit A, to the covenants, restrictions, easements, charges, and liens set forth in the Declaration, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth and the intents and requirements of the County of Platte, the Declarant has deemed it desirable to create under the laws of this state an Association as a Missouri not-for-profit corporation; and

NOW, THEREFORE, the Declarant hereby declares that the real property described in Exhibit A, shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

## ARTICLE I

### Definitions

"Approval" shall mean and refer to the issuance of written approval, any written waiver of approval rights, a letter of "no objection" by the Design Review Committee or any public agency.

"Assessable Unit" shall mean and refer to any real property within the Properties which is subject to assessments, as provided in Article V.

"Association" shall mean and refer to The Cliffs Homes Association, Inc., its successors and assigns.

"Builder" shall mean and refer to a person or entity who or which acquires a portion of the Properties for the purpose of improving such portion in accordance with the Development Plan for resale to future Owners.

"Common Area" shall mean and refer to all real property, improvements, facilities and utilities owned or leased by the Association, together with any easement rights the Association has for maintenance or for use and enjoyment of the Members (excepting Lots and Living Units thereon), including any and all extensions, replacements, additions and improvements to any such property, improvements, facilities or utilities now or hereafter owned by the Association.

"Declaration" shall mean and refer to the covenants, conditions, and restrictions and all other provisions herein set forth in this entire document, as they may from time to time be amended.

"Declarant" shall mean and refer to Parkville 38, LLC, a Missouri limited liability company, and its successors and assigns, subject to Article XVII of the Declaration.

"Development Plan" shall mean and refer, collectively to the configuration and location of Lot ownership, boundaries, streets, roads, utilities, Common Areas and easements as shown on all plats of land now subject or which may, in the future, become subject to this Declaration, provided that such plats have been or hereafter are approved by the applicable governmental authority pursuant to all applicable laws, codes and ordinances.

"Effective Date" shall mean the date set forth at the beginning of this Declaration.

"First Mortgagee" shall mean and refer to an institutional lender who holds the first deed of trust on a Lot or Living Unit.



"Founding Documents" shall mean and refer to the Articles of Incorporation of the Association, this Declaration, Supplementary Declarations (if any) and the Association Bylaws, all as initially drawn by the Declarant and filed and recorded as the case may be, and all as may be duly amended from time to time.

"Governing Documents" shall mean and refer collectively as severally to the Founding Documents and the Rules and Regulations, as such may be amended from time to time.

"Living Unit" shall mean and refer to any portion of a structure situated upon the Properties and designed and intended for use and occupancy as a residence by a Single Family.

"Lot" shall mean and refer to any lot as shown as a separate lot on any recorded subdivision plat of the Properties, with the exception of Common Areas as herein defined.

"Members" shall mean and refer to members of the Association, which shall consist of all Owners.

"Notice" shall have the meaning set forth in Article XV of the Declaration.

"Operating Expenses" shall mean the operating expenses of the Association shown in its books and records.

"Operating Revenue" shall mean the operating revenue of the Association shown in its books and records.

"Owner" shall mean and refer to the record holder of the fee simple title to any Lot, whether one or more persons or entities.

"Properties" shall mean and refer to all real property which is hereby subjected to the Declaration, together with such other real property as may from time to time be annexed thereto under the provisions of Article II hereof.

"Quorum of Members" or "Quorum of Owners" shall mean and refer to representation in person or by proxy of Members who hold at least thirty percent (30%) of the total number of votes of all Members. Whenever a majority (or other specified percentage) vote of a Quorum of Members or Quorum of Owners is required by this Declaration, such shall mean the affirmative vote of a majority (or other specified percentage) of the Members voting at a meeting at which a Quorum of Members is present in person or by proxy.

"Registered Notice" shall mean and refer to any Notice which has been signed for by a recipient or has been certified by the U.S. Postal Service or other entity as having been delivered (or the delivery of which has been certified by the Postal Service or other entity to have been attempted) to the address of the intended recipient. Failure by refusal of an

intended recipient to acknowledge such Notice shall nevertheless constitute receipt when such refusal is witnessed by two other people, or by one person if that person is a Postal Service representative.

"Rules & Regulations" shall mean and refer to the document containing the rules, regulations, and policies of the Association as they may from time to time be amended.

"Single Family" shall mean and refer to a single housekeeping unit of one family which includes not more than three (3) adults together with their children. In the event of a dispute as to the application of this section, the Association Board of the Association in its sole discretion shall resolve such dispute.

"Supplemental Declaration" or "Supplementary Declaration" shall mean and refer to any declaration of covenants and restrictions which may have been executed and recorded by the Declarant to extend the provisions of this Declaration.

"Zoning Order" shall mean the provisions pertaining to "planned Development District" contained in applicable zoning ordinances of applicable city or county zoning authorities, as amended from time to time and as such shall be applicable to the Properties.

NOTE - Unless otherwise noted, the following terms are defined in the specified Article and Section of the Declaration:

"Association Board" (Article III, Section 3)

"Directors" (Article III, Section 3)

"General Account" (Article VI, Section 1)

"General Assessment" (Article V, Section 1)

## ARTICLE II

### Property Subject to this Declaration Additions Thereto

Section 1. The "Properties." The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Platte County, Missouri, and is more particularly described in Exhibit A and represents the Subdivision known as Cliffs of Parkville.

Section 2. Additions to the Properties. Additional Properties may become subject to this Declaration in the following manner:

- a. Additions by the Declarant. Prior to the date on which the Declarant's rights and obligations cease (as set forth in Article XXVI), the Declarant shall have the right (but not the obligation) to subject to this Declaration any or all of the properties shown on Exhibit B by the Supplemental Declaration as and when the development of those properties shall occur. Any properties described on Exhibit B which are developed, but not subjected to the

Declaration, shall not constitute part of the Properties entitled to the benefit of this Declaration and shall have no rights in or to the Common Areas.

- b. Other Additions. Additional land (other than that described on Exhibit B) may be made subject to this Declaration by the Declarant with the written approval of the Association Board.

The additions authorized under subsections (a) and (b) above shall be made by complying with the requirements of any applicable zoning order, by filing a Supplementary Declaration of covenants and restrictions with respect to the additional properties, and by filing with the Association a copy of the recorded plat for such additions.

Section 3. Merger. In accordance with its Articles of Incorporation, the property, rights, and obligations of the Association may, by operation of the law, be transferred to another surviving or consolidated association similar in corporate nature and purposes, or, alternatively, the property, rights, and obligations of an association similar in corporate nature and purposes may by operation of law be added to the property, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change, or addition to the covenants established by this Declaration within the Properties except as hereinafter provided. Such a merger or consolidation shall require the approval of the Association Board and, during the Class "B" Period, the Declarant.

### ARTICLE III

#### The Cliffs Homes Association, Inc.

##### Section 1. Organization.

- a. The Association. The Association is a nonprofit, nonstock corporation organized and existing under the laws of this state and charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as such may be amended from time to time, provided no other Governing Documents than this Declaration shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.
- b. Institutional Plan. As the operation and responsibilities of the Association expand from those related to the Properties as originally constituted to those required by the fully developed Development Plan of Platte 38, this Declaration and the Governing Documents shall guide the controlled and orderly evolution of the Association into a comprehensive community institution.
- c. Subsidiary Corporations. The Association shall have the right to form one or more subsidiary corporations, for any purpose or purposes deemed



appropriate by a majority vote of the Association Board. Without limiting the generality of the foregoing, one or more subsidiary corporations may be formed for the operation and maintenance of any specific area or to perform any function within the Properties; however, such subsidiary corporation shall be subject to this Declaration and may not take any action to lessen or abate the rights of Members.

- d. Exercise to Vote. If fewer than twenty percent (20%) of the total number of votes of those Members who are not the Declarant are cast in an election for any elective office, the Association Board may declare the results of such election invalid and require that another election be held.

## Section 2. Membership and Voting Rights in the Association

2.1 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot or Living Unit. If a Living Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Association Board regulation and the restrictions on voting, if any, set forth herein and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association. For purposes of determining membership and voting rights, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not also be counted.

2.2 Voting. The Association shall have two classes of membership, Class "A" and Class "B."

a. Class "A". Class "A" Members shall be all owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Living Unit in which they hold the interest required for membership under Section 2.1. All Class "A" votes shall be cast as provided in Article IV, Section 2, of the By-Laws. The consent of a Mortgagee shall not be required for any Member to exercise his vote, and all Mortgagees holding Mortgages which are subordinate to this Declaration waive their right, if any, to require such consent privileges, any terms in the Mortgages notwithstanding.

b. Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint a Majority of the members of the Association Board during the Class "B" Period which shall continue until the first to occur of the following:



- i When 100% of the total number of Lots permitted by the Development Plan for the property described on Exhibit A, as it may be hereafter amended from time to time by any amendment hereto or any Supplemental Declaration, have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders; or
- ii When, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right in writing which shall be recorded in the Public Record by the Association.

The Class "B" membership shall terminate upon the earlier of:

- i two years after expiration of the Class "B" Period; and
- ii. when in its discretion, the Declarant so determines and declares in an instrument recorded in the Public Records.

Upon termination of the Class "B" Membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Living Unit which it owns.

### Section 3. Board of Directors.

- a. The affairs of the Association shall be managed by a Board of Directors (the "Association Board") composed of three (3) directors ("Directors"). The number of Directors may be increased to seven upon approval of the Declarant, during the Class "B" Period, or a majority of a Quorum of the Owners, after the Class "B" Period. During the Class "B" Period, a majority of the Directors shall be appointed by the Declarant, and a minority of the Directors shall be elected by a majority of a Quorum of the Members. After the Class "B" Period, Directors shall be elected by a majority of a Quorum of the Members, and each must be a Member in good standing in order to be elected and remain as a Director. In the event of the death, disqualification or resignation of an elected Director, his or her successor shall be selected by the remaining Directors and shall serve the unexpired term of his or her predecessor; provided, however, that during the Class "B" Period, any such Director shall be replaced by the Declarant if such Director was originally appointed by the Declarant.

The terms of office of the Directors shall be staggered terms of three years each. The intent of this section is to create and maintain staggered terms for Directors. Directors may serve more than one term.

## ARTICLE IV

### Powers and Duties of the Association

Section 1. The Association shall have the following powers and duties:

- a. To maintain the quality and condition of the Common Areas and provide for the care and maintenance of all Common Areas owned by the Association, which may include, but are not limited to landscaping, open spaces, ornamental features, signage, street lights and other facilities now existing or which may be erected or created in the future on the affected property; and to make special charges or service fees or to charge dues to Members for the use of such Common Areas.
- b. To levy assessments on the Owners of Lots or Living Units and to enforce payment of such assessments, all in accordance with the provisions of the Declaration set forth in Articles V and VII.
- c. To employ, at its discretion, the services of any person or corporation as manager (herein, "Manager"), together with other employees, to, as may be directed and delegated by the Association Board, to manage, conduct and perform the business, obligations and duties of the Association and to enter into contracts for such purpose; provided, however, that no management contract shall exceed a term of one (1) year and such contract shall be cancelable for good cause shown by either party upon thirty (30) days written notice. Such employees shall have the right of ingress and egress over such portions of the Property as is reasonably necessary for the purpose of performing such business, duties and obligations.
- d. To employ at its discretion 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.
- e. To maintain insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate, including but not limited to:
  - i. Fire and appropriate extended coverage and other appropriate physical loss and damage insurance on all improvements located in or upon the Common Property;
  - ii. Comprehensive liability insurance insuring the Association Board and Members, including the Declarant, against liability to, and claims of, the public, Members or the Association Board and Association; provided, however, that the coverage in favor of the Declarant shall not extend to the Declarant's operation or activities in its capacity as a Declarant and builder; and
  - iii. Such other insurance, including workmen's compensation insurance, to the extent necessary to comply with any applicable law and then-



current insurance practices, and indemnity, faithful performance, fidelity and other bonds as the Association Board shall deem necessary, appropriate or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or property; and

- f. To enforce the decisions of the Design Review Committee.
- g. To enter into one or more agreements from time to time with other organizations, persons or governmental or quasi-governmental entities (including, without limitation, The City of Parkville, Public Utilities) with respect to any Common Areas or property held by the Association or any such entities.
- h. At its discretion to do all other things not inconsistent with this Declaration that the Association Board of the Association may from time to time determine to be either necessary or desirable for the Association for its Members, or for the protection, care or development of the Common Areas and of other affected property.
- i. The Association Board shall prepare and review at least annually a reserve budget for capital items of the Common Area. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Association Board shall include in the Association's budget a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

**J. Safety and Security.**

Each Owner and occupant of a Living Unit or Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Platte 38. The Association may, but shall not be obligated to, maintain or support certain activities within Platte 38 designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. The Association shall not in any way be considered insurer or guarantor of safety or security within Platte 38 nor shall it be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or Platte 38, including any mechanism or system for limiting access to Platte 38, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Living Unit that the Association, its Association Board and committees,

are not insurers, or guarantors of security or safety and that each Person within assumes all risks of personal injury and loss or damage to property, including Living Units and the contents of the Living Units, resulting from acts of third parties.

## ARTICLE V

### Method of Providing Funds

Section 1. For the purpose of providing funds to enable the Association to perform the duties and to discharge the obligation imposed upon it, all of the Properties and Members owning the same shall be subject to an annual general fund assessment to be paid to the Association by the Owners in such amounts and payable on such terms that a majority of a Quorum of the Members shall determine (the "General Assessment"). The General Assessment shall be prorated as follows:

- a. One hundred percent (100%) on each Lot for which a building permit has been issued to the Owner or his or her agent.
- b. Fifty percent (50%) on each Lot owned by a party other than the Declarant for which a building permit has not been issued.
- c. Zero percent (0%) on each Lot for which a building permit has not been issued and that is owned by the Declarant.
- d. Zero percent (0%) on each Lot(s) purchased by a builder for a maximum of three (3) years from the purchase date. If builder owns the Lot(s) more than three (3) years, the Assessment rate shall be fifty percent (50%).

Section 2. The amount of the general fund assessment provided for in Section 1 of this Article may be increased not to exceed 10% in any given year from the prior year by a majority vote of the Association Board.

#### Section 3.

- a. For the purpose of enabling the Association to pay for capital costs of repairs, replacements, construction and extension of the Common Areas, the Association Board may assess each Lot a special assessment at an annual rate in an amount not exceeding the total General Assessment for the year that such special assessment is approved ("Special Assessment"). For purposes of this Section 3, the determination of whether an item of cost is a capital item shall be made in accordance with GAAP. The Special Assessment against each Lot shall be prorated as set forth in Article V, Section 1.
- b. A Special Assessment may be levied by the Association Board, but, if enacted after the Class "B" Period, shall only be effective upon approval by



a majority of a Quorum of the Members at a regular annual meeting or a specially called meeting of the Members.

- c. If required, notice of any such meeting for approval of one or more Special Assessments shall be given as provided in Article I not more than thirty (30) days nor less than ten (10) days prior to the meeting. Such notice shall set forth the purpose for which the sums derived from the Special Assessment(s) are to be used, together with the estimated cost of the proposed project(s), and the proposed time and method of payment. The sums paid to the Association on account of the Special Assessment shall be set aside and used for the specific purpose for which the Special Assessment is made, unless otherwise authorized by the affirmative vote of a majority of a Quorum of Members at a regular meeting or specially called meeting of Members.

Section 4. The assessments made pursuant to Sections 1, 2, and 3 above shall be on a calendar year basis and may be paid in twelve (12) monthly installments beginning January 1<sup>st</sup> of each year. Such monthly payments shall be in default if not paid on or before the 15<sup>th</sup> day of each month. Any assessment not paid when due shall bear interest at the maximum annual rate determined by the Association Board.

Section 5. In addition to the General and Special Fund Assessments, the Association Board may levy and collect charges and fees for the use of Common Property, regulating the use of Common Property and the services offered thereon. Any out-of-pocket costs incurred by the Association to bring an Owner or his Lot into compliance with the provisions of this Declaration relating to the Lot shall be a charge against the Lot payable to the Association by the Owner of the Lot.

## ARTICLE VI

### Limitation on Expenditures

Section 1. General Assessments. The General Assessments shall be deposited in a separate account controlled by the Association Board (the "General Account"). The Association shall not enter into any contract that binds the General Assessments of any future year to pay for any such obligations without the affirmative vote of a majority of the Directors.

## ARTICLE VII

### Liens on Real Estate

Assessments, fees and other charges levied by the Association as herein provided shall become a lien on the real estate against which it is levied as soon as it is due and payable; provided, however, that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing which may hereafter be placed on said real estate

by any First Mortgagee. Once such assessments, fees and charges become delinquent, the payment of both principal and interest at the maximum rate allowed by law, together with the costs of collection thereof, may be enforced as a lien on said real estate in proceedings in any court in Platte County, Missouri, having jurisdiction of suits for the enforcement of such liens. The Association shall have the right, at its sole discretion, to bring suits to enforce such liens before expiration thereof. The Association may at its discretion file certificates of nonpayment of assessments in the office of the Recorder of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property described therein a fee that shall be periodically set by the Directors which fee is hereby declared to be a lien upon the real estate described in said certificate, provided that such lien shall be inferior and subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectible in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

Such liens shall continue for a period of five (5) years from the date of delinquency and no longer, unless within such time, suit shall have been instituted for collection of the assessment, in which case, the lien shall continue until termination of the suit and until sale of the property under execution of the judgment establishing the same.

## **ARTICLE VIII**

### Termination of Liens

The liens of the assessments herein before provided for shall continue for a period until paid. The Association may file in the Office of the Recorder of Deeds of the county an itemized notice of such delinquency setting forth the date of default or delinquency and the amount due and the Association may institute an action in a court of competent jurisdiction for the collection of the Assessment, plus costs and attorneys' fees, in which case the lien shall continue until the amount due the Association is paid.

## **ARTICLE IX**

### Right to Enforce

The restrictions set forth herein shall run with the land and bind the affected property, the present owners, their heirs, administrators, executors, successors and assigns, and all persons claiming by, through or under them shall be taken to hold, agree and covenant with the owners of said lands, their heirs, administrators, executors, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said lands and the construction of improvements thereon. The Association and those persons bound by this Agreement shall have the right to sue for and obtain an injunction,



prohibitive or mandatory, to prevent the breach of or to enforce the observance of the provisions hereof or to maintain an ordinary legal action for damage.

The failure of the Association to enforce any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. In the event the Association is the prevailing party in any legal action, it shall be entitled to recover its attorneys' fees in such action.

Each Member shall pay to the Association the assessments, fees and charges which are fixed and established from time to time as herein provided. If a Member shall fail to pay such assessments, fees or charges, they shall become delinquent, and, upon Notice to such Member such assessments, fees or charges, together with accrued interest thereon and costs of collection, shall become a binding personal obligation of such Member, and the Association shall have the right to enforce the payment of such obligation in accordance with Article VII hereof. If any Member shall fail to pay a user fee or charge when due and payable, such Resident shall have breached this Declaration and the Association Board may suspend the voting rights and rights of enjoyment of such Member; the Association shall not refund any portion of any user fees or charges which such Member may have paid for the use of other Common Property from which such Member is barred while his rights of enjoyment are suspended.

If any Member shall fail to pay any user fee or charge when due and payable, the Association Board may immediately suspend such user's right of enjoyment of the Common Area or services thereon and may take whatever action it deems necessary to enforce such suspension.

In addition to the foregoing remedies, the Association may enforce this Declaration, its Bylaws and its Rules and Regulations in the following manner:

(a) The Association Board may impose sanctions for violation of the Declaration after notice and a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot. (In the event that any occupant, guest, or invitee of a Lot violates the Declaration and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Association Board, the Owner shall pay the fine upon notice from the Association Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area;

(iv) suspending any services provided by the Association to an Owner or the Owner's Living Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Declaration in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot in violation of the Declaration and to restore the Living Unit to its previous condition and, upon failure of the Owner to do so, the Association Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article VII and the Design Guidelines from continuing or performing any further activities in Platte 38; and

(viii) levying Special Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Declaration.

In addition, the Association Board may take the following enforcement procedures to ensure compliance with the Declaration without the necessity of compliance with the procedures set forth in the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Special Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Declaration shall be cumulative of any remedies available at law or in equity. In any action to enforce the Declaration, if the Association



prevails, it shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Association Board's discretion, except that the Association Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Association Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources.

## ARTICLE X

### Area Associations

Section 1. Purpose. Certain areas of the Properties may encompass common facilities not intended by the Declarant for use generally by the Members of the Association requiring the creation of a localized association for maintenance and operational purposes. In such cases the Declarant may designate any area shown on any subdivision plat as an Area Association.

Section 2. Membership. Any Member of the Association who owns a Lot or Living Unit within an Area Association shown on any subdivision plan shall by virtue of such ownership also be a member of the Area Association created for such area and entitled to vote as from time to time provided in the Bylaws of the Area Association.

Section 3. Title to Common Facilities and Members' Easements. Each Area Association shall take title to (by conveyance from the Declarant) and hold, maintain, improve, and beautify for the common benefit of the members thereof such common facilities (such as but not limited to parks, green areas, parking areas, swimming pools and club houses) as from time to time may be conveyed to it; and each Area Association member shall have a right and easement of enjoyment in and to such common facilities and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit in the Area Association. The extent of such easement shall be the same as is set forth in Article III.

The provisions of Article XI, Section 2, are hereby made applicable to and incorporated in this Article X as if fully set forth herein.

## ARTICLE XI

### Property Rights in the Common Areas

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Article XI, Section 3, every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Areas. The Declarant may retain the legal title to the Common Areas (or portion thereof) until the end of the Class "B" period or such earlier time, in the Declarant's sole discretion, after it has substantially completed all improvements thereto, at which time the Declarant shall convey such Common Area to the Association not later than sixty (60) days thereafter by special warranty deed, free and clear of any mortgages, deeds of trust or other monetary liens, and subject only to utility and other easements that are consistent with the intended use of such Common Area by the Association and the Owners. For purposes of the foregoing, an easement in favor of the Declarant shall be deemed consistent with the intended use of such Common Area by the Association and the Owners if the easement is consistent with an easement granted to such party under an agreement in effect with the Association as of the Effective Date.

Section 3. Extent of Member's Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

- a. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said Common Areas. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to the right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the members, and, if necessary, to the enjoyment of such properties to a wider public until the mortgage debt is satisfied whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;
- b. The right of the Association to take such steps as are reasonable and necessary to protect the Properties against foreclosure;
- c. The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member for any period during which

any assessment remains unpaid, and for any period not to exceed thirty (30) days for any one infraction of its published rules and regulations;

- d. The right of the Association to charge reasonable admission and other fees for the use of the Common Areas; and
- e. The right of the Declarant during the Class "B" Period to dedicate, transfer, or sell all or any part of the Common Areas or to grant additional easements subject to such conditions as may be approved by the Association Board.

## ARTICLE XII

### Design Review Committees

#### Section 1. General.

No structure or thing shall be placed, erected, or installed upon any Lot and no improvements or other work (including staking, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within Platte 38, except in compliance with this Article and the Design Standards.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild or to replace a roof in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her residence without approval. However, modifications to the interior of screened porches, patios, and similar portions of a residence visible from outside the structure shall be subject to approval.

#### Section 2. Design Standards and Procedures for Single Family Residential Construction.

(a) The Design Review Committee shall adopt and enforce the Design Standards and procedures for Single Family Residential Construction, for the purposes of:

(i) governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions of this Article.

(ii) governing the procedures for such submissions of plans and specifications; and



(iii) establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of proposed uses and with respect to all construction or alteration of any structure including landscaping, on any Lot, Living Unit, Easement or Common Area.

(b) The Association Board shall make a published copy of current Design Standards and Procedures for Single Family Residential Construction readily available to members and prospective members of the Association and to Builders.

(c) The Design Standards are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Design Review Committee in considering applications. The Design Standards are not the exclusive basis for decisions of the Review Committee and compliance with the Design Standards does not guarantee approval of any application.

### Section 3. Purposes, Power and Duties of the Review Committee.

(a) Design Review Committee. The purpose of the Design Review Committee ("DRC") is to assure that all proposed uses and any initial construction of any structure which takes place on any Lot or any other property affected by the Declaration, single family residential, shall be performed in conformity with these covenants and restrictions and the "Design Standards and Procedures for Single Family Construction" at Platte 38. To carry out that purpose, the DRC shall have all of the Rights, Powers and Duties conferred upon it pursuant to the provisions of this Article XII.

(b) The DRC shall have authority over changes or alterations in residences, landscaping, exterior colors or other matters with respect to a Lot or Living Unit that are proposed to occur or occur after the completion of the initial construction of the residence.

### Section 4. Composition and Appointment.

(a) The DRC shall be comprised of a minimum of two persons (who need not be Members of the Association). One member of the DRC shall be a member of the Association Board and who is appointed to serve on the DRC by the Association Board. One member of the DRC shall be a representative of the Declarant appointed by the Declarant. All other members, if any, of the DRC shall be appointed by the Declarant and shall be members of professions involved in residential community design and development, with at least one being a registered architect and at least one being a professional involved in the field of landscape architecture.

(c) Conflict of Interest. No member of the DRC may participate in any decision of the DRC on a matter in which he has a direct or indirect financial interest or



in which he has personally provided professional consulting services for a fee to the party whose application is before the reviewer, provided, however, that the fact that the member of the DRC has in the past been or currently is an owner, officer, director, trustee, employee or other representative of the Declarant or any of its affiliates or has in the past or currently provides services to the Declarant shall not be considered such a conflict of interest.

#### Section 5. Operation of the Review Committee: Meetings

(a) The DRC shall hold regular meetings on such schedule as may be determined by the members of the DRC. Regular and special meetings shall be held at such time and such place as the members of the DRC shall specify, and the Chairman of the DRC shall give advance written notice of all special meetings to all other members of the DRC. At least the following members of the DRC must be present for the transaction of business: the Association board member, the Declarant's representative and a design professional. The DRC shall maintain a written record of votes and minutes of each of its meetings.

At each meeting, the DRC shall consider and act upon written and complete applications that have been submitted to it for approval in accordance with this Declaration. In making its decisions, the DRC may consider any and all aspects and factors that the individual members of the DRC, in their discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Properties, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed exterior structure. All decisions of the DRC shall be in writing and delivered to the applicant, who shall be responsible for keeping the same. The DRC may establish in advance and change from time-to-time certain procedural guidelines and conditions that it intends to follow in making its decisions, but it shall be subject in all respects to the Design Standards promulgated by the Association Board. If any written application complete with appropriate drawings and other information is not acted upon by the DRC within 60 days after the date on which it is filed, the applicant may give the DRC and the President of the Association written notice of such failure to act, and if no decision is made within 10 days after such notice, the application shall be deemed to have been approved.

The DRC shall make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval.

#### Section 6. Appeals.

(a) Any applicant for approval, permit or authorization may, within 10 days after receipt of notice of any decision of DRC which he deems to be

unsatisfactory, file a written appeal to have the matter reviewed by the DRC. The DRC shall review such appeal within 30 days after receipt of the written appeal.

(b) Any applicant who is dissatisfied with a decision of the DRC shall have the right to appeal such decision to the Association Board provided such appeal is filed in writing with a member of the Association Board within ten days after the date the DRC renders its written decision. In making its decisions, the Association Board may consider any and all aspects and factors that the individual members of the Association Board, in their discretion, determine to be appropriate to establish and maintain the quality, character and aesthetics of the Properties, including, without limitation, the building plans, specifications, exterior color scheme, exterior materials, location, elevation, lot grading plans, landscaping plans and use of any proposed exterior structure. Any decision rendered by the Association Board on appeal of a decision of the DRC shall be final and conclusively binding on all parties and shall be deemed to be the decision of the DRC for all purposes under this Declaration. The Association Board from time to time may adopt, amend and revoke rules and regulations respecting appeals of decisions of the DRC, including, without limitation, requiring payment of a reasonable fee by the appealing party.

Section 7. Submission of Plans and Specifications. No structure shall be commenced, erected, placed or moved on to or permitted to remain on any Properties, nor shall any existing structure upon any Properties be altered in any way which materially changes the exterior appearances, thereof nor shall any new use be commenced, unless plans and specifications (including a description of any new use) therefore shall have been submitted to and approved in writing by the DRC.

Plans for construction of a new home or additions to existing homes shall be designed by an Architect licensed to practice under the laws of the states of Kansas or Missouri. Upon receiving plans and specifications, an authorized representative of the DRC shall provide a written receipt.

Section 8. Approval of Plans and Specifications. Upon approval by the DRC of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited as a permanent record with the DRC and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant submitting the same.

Approval for use in connection with any Lot or Living Unit of any plans and specifications shall not be deemed a waiver of the DRC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for



use in connection with any other Lot or Living Unit. Approval of any such plans and specifications shall be final and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. The DRC, in its sole discretion is permitted to approve deviations from the Design Standards and Procedures and from this Declaration when, in its judgment, such deviations will result in a more commonly beneficial use, or when such deviations do not detract from the value or enjoyment of surrounding Properties. Such approval must be granted in writing. When the DRC approves and grants 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.

Section 9. Disapproval of Plans and Specifications.

(a) The DRC shall have the right to disapprove any plans and specifications submitted hereunder for any of the following reasons, among others:

(i) the failure to include information in such plans and specifications as may have been reasonably requested;

(ii) the failure of such plans or specifications to comply with this Declaration or the Design Standards and Procedures;

(iii) objection to the exterior design, appearance or materials of any proposed Living Unit or improvements;

(iv) incompatibility of any proposed improvements or use with existing Living Units or uses upon surrounding properties;

(v) objection to the site plan of improvement on grounds of incompatibility with surrounding properties;

(vi) objection to the grading plan;

(vii) objection to the color scheme, finish, proportions, style, architecture, height, bulk, safety or appropriateness of any proposed home or improvement;

(viii) failure to satisfy minimum floor area requirements.

(ix) objection to the proposed parking areas based on, inter alia:

(1) incompatibility with surrounding Properties;

(2) insufficiency of size of the parking area in relation to the proposed use; or

(3) undesirable alteration of the flow of water;

(x) any matter not included in the Design Standards and Procedures, if such matter, in the judgment of the DRC, would lower the value of or otherwise damage the Properties;



(xi) any other matter which, upon the judgment of the DRC, would render a proposed improvement or use inharmonious with the Design Standards for Platte 38 or as set forth in the Development Plan.

(b) In any case in which the DRC shall disapprove any plans and specifications submitted hereunder or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the DRC 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.

Section 10. Failure to Act. In the event that the DRC shall fail to take action on any plans and specifications within 60 days of presentation to the DRC, together with the fees authorized by this Article, and consistent with such other requirements as called for by the Design Standards and Procedures, the applicant may give the DRC and the President of the Association written notice of such failure to act, and if no decision is made within 10 days after such notice, the same shall be deemed to have been approved as submitted, and no further action by the DRC shall be required for the applicant to begin construction. Such approval shall be placed in writing on the plans and specifications and shall be returned to the applicant.

Section 11. Inspection Rights. After reasonable notice and at any reasonable time or times, any designated agent of the Association or the DRC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Living Unit thereon is in compliance with the provisions hereof, and neither the Association, nor the DRC nor any such agent shall 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 accordance with the terms of this Section.

Section 12. Violations. If any Living Unit shall be erected, placed, maintained or altered upon, any Lot, or any new use commenced on any Lot, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article without the approval required herein.

If, in the opinion of the DRC, such violation shall have occurred, the DRC shall notify the Association. If the Association Board shall agree with the determination of the DRC with respect to the violation, then upon Notice of the violation to the Owner from the Association Board, any such Living Unit or improvement 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 enforce its rights of action as provided in this declaration together with all remedies whether at law or in equity and including but not limited to the remedy of injunctive relief and obtaining a monetary judgment for all costs, expenses, including reasonable attorney fees, and damages.

Section 13. Expenses and Fees. The Declarant shall be responsible for all fees and expenses payable to the Declarant-appointed members of the DRC in connection with the review of applications relating to the new construction of residences. The Declarant shall be entitled to charge and collect application fees for such new residential construction applications. After the Declarant's rights and obligations have terminated (as provided for in Article XXVII of the Declaration), the Association Board shall be entitled to charge and collect application fees for such new residential construction applications.

Section 14. Nondiscrimination by DRC. The DRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, national origin, family composition or marital status. Further, the DRC, in the exercise of its power granted pursuant to this Declaration shall not take any action which is intended to or does, in effect, discriminate against persons of a particular race, color, sex, religion, national origin, family composition or marital status.

Section 15. Public Approvals. All pertinent requirements of public agencies must be followed in the development of this property, and all plans must be approved by the appropriate governmental entity in Platte County. Each potential owner should verify code requirements prior to purchase of a Lot or Living Unit. Although based on local zoning and subdivision regulations, the community development criteria may be more restrictive in land use, site development standards, landscape requirements or other matters. In every case in which these criteria are a variance with public agency requirements, the more restrictive regulations shall govern. Final legal approvals permitting development and occupancy of property will be made by applicable governmental authorities' governmental entity.

### **ARTICLE XIII**

#### Use Restrictions

Section 1. General Provisions. In addition to any Design Standards established pursuant to this Declaration, all of the existing properties and all additional lands which shall be subject to this Declaration under Article II above shall be subject to the following use restrictions:



- a. Land Use. No building or structure shall be used for a purpose other than that for which the building or structure was originally designed, without the approval of the DRC;
- b. Obstruction of Traffic. No fence, wall, tree, hedge or shrub planting shall be maintained in such a manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no tree of a diameter of more than four inches measured two feet above ground level, lying without the approved building, driveway and parking areas, shall be removed without the approval of the DRC;
- c. Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. All exterior lighting shall have a concealed light source;
- d. Grades. No structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas and grading of each lot or other parcel and all improvements in them shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible;

All final grading of each Lot shall be in accordance with any master grading plan approved by applicable governmental entity, any related grading plan furnished by the Declarant for the development phase containing the Lot and any specific site grading plan for the Lot approved by the DRC. No landscaping, berms, fences or other structures shall be installed or maintained that impede the flow of surface water. Water from sump pumps shall be drained away from adjacent residences (actual and future). No changes in the final grading of any Lot shall be made without the prior written approval of the DRC and, if necessary, the applicable governmental entity. The Association, its committees and the Declarant shall have no liability or responsibility to any builder, Owner or other party for the failure of a builder or Owner to final grade or maintain any Lot in accordance with the master grading plan or any approved lot grading plan or for the DRC or the Declarant not requiring a lot grading plan or compliance therewith or for the quality or composition of any soil. The Declarant and the DRC do not represent or guarantee to any Owner or other person that any grading plan for the Lots that the Declarant or DRC may approve or supply shall be sufficient or adequate or that the Lots will drain property or drain to any Owner's or other person's satisfaction.



- e. Drainage. Builders must include between-property swales on lots where needed to facilitate drainage interrupted by construction. Swales should be about four feet wide and should be sufficiently deep to allow street runoff to enter unobstructed. (Lawns within swales must not be installed above the level of the street.) Homes sited on down slopes may need gentle berms to divert runoff away from foundations. Grading should accommodate runoff from empty adjacent lots as well as the runoff that can be expected when homes are built on those lots. Grading should not cause drainage problems for neighbors, or for future neighbors (empty lots). Any water collection device (catch basin, drain pipe, swale, etc.) must feed the concentrated water into drainage at property boundaries in such a manner as to continue the flow without placing water directly onto non-boundary portions of neighboring lots.
  
- f. Fences. No fence of any kind shall be erected, begun, or permitted to remain upon any portion of the Properties unless approved by the DRC;
  
- g. No Business Structure. No business structure shall be erected on any lot; however, limited home occupations shall be permitted subject to the following restrictions and limitations:
  - a. Prior to commencing any home occupation on any lot, the Owner shall furnish to the Association Board a written description of such home occupation. In the event the Association Board in its sole discretion, deems such home occupation to be non-detrimental to the properties or to other Owners, written permission to conduct such home occupation shall be given to such Owner. Such written permission shall always be subject to revocation upon thirty (30) days written notice and the owner shall thereupon cease such home occupation. In no event will permission be granted for (a) wholesale or retail selling from inventory located or exhibited at the premises, (b) rental of equipment or personal property stored or exhibited at the premises, (c) medical, dental or related health care services, (d) automobile or other vehicle repair services;
  
  - b. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than twenty-five percent (25%) of the floor area of any one floor of the Living Unit shall be utilized for a home occupation;

- c. All materials or equipment used in the home occupation shall be stored within an enclosed structure;
  - d. No alteration of the exterior of the principal Living Unit shall be made which changes the character thereof a residence;
  - e. No sign shall be permitted;
  - f. At least one person occupying such Living unit as his or her residence shall be engaged in such home occupation;
  - g. No equipment shall be utilized that creates a nuisance due to noise or electrical interference;
  - h. In no event shall fewer than two (2) off-street parking spaces be provided.
- h. Livestock. No hogs, cows, horses, rabbits, chickens, goats, poultry, birds, livestock, or animals of any kind, other than domesticated house pets (except house pets with vicious propensities), shall be brought onto or kept on the Properties; and no more than two dogs, cats or other such pets may be kept or maintained on any Lot or Living Unit and further provided that they are not kept, bred or maintained for any commercial purpose or as a steady hobby of the Owner;
- i. Parking of Motor Vehicles, Boats and Trailers. No trucks or commercial vehicles, boats, house trailers, boat trailers, and trailers of every other description shall be permitted to be parked or to be stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure approved by the DRC except only during periods of approved construction on the Lot. This prohibition of parking shall not apply to temporary parking, such as for pick-up delivery, and other commercial services.

For the purpose of this covenant, a  $\frac{3}{4}$  ton or smaller vehicle, commonly known as a pickup truck and which is not used for commercial purposes, and not bearing a commercial sign, shall not be deemed to be a commercial vehicle or truck. The Association Board, by adoption of rules and regulations, is authorized at its discretion, to issue a waiver of not more than forty-eight (48) hours in a thirty (30) day period for recreational vehicles and boats;

- J. Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the

ground on the Properties without the consent in writing by the DRC established hereby;

- k. Laundry Poles. No permanent poles for attaching wires or lines for the purpose of hanging laundry thereupon shall be erected, installed or constructed on the Properties;
- l. Antennas. No outside radio or television antenna or dish shall be erected, installed or constructed on any Lot, without the written consent of the said DRC;
- m. Fuel Tanks. No above ground fuel tank or container of any nature shall be placed, erected, installed or constructed on any Lot;
- n. Temporary Structures. No structure of character of a trailer, basement, tent, shack, garage, barn or other out buildings shall be used on the Properties at any time as a residence either temporarily or permanently;
- o. Signage. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot; provided, however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each lot which shall not be more than five (5) square feet in size and may be used for the sole and exclusive purpose of advertising for sale the lot or tract upon which it is erected;
- p. Drilling and Quarrying. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon any Lot;
- q. Dumping of Rubbish. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in containers, or other equipment for the storage or disposal of such material, which equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition and out of view;
- r. Sewage Disposal. No individual sewage treatment system shall be permitted on any Lot. All sanitary sewer lines shall connect with the central sewage disposal system. Each owner shall maintain continual electrical service to the sewage grinder pump serving his Living Unit as of the date said grinder pump is installed. Water from downspouts, sump pumps of any surface water shall not be permitted to drain into the sanitary sewer system.



- s. Water Supply. No individual water supply system shall be permitted on any Lot, except for use in air conditioners and sprinkler systems;
- t. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved to the Association. Such easements shall include the right of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any structure installed in accordance with said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of said Lot;
- u. Care and Appearance of Premises. The structure and grounds on each Lot shall be maintained in a neat and attractive manner. The Association shall have the right (upon ten (10) days notice to the Owner of the Lot involved, setting forth the action intended to be taken, and if at the end of such time such action has not been taken by the Owner), at the expense of the Owner, 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 DRC or by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property, upon like notice and conditions, to care for vacant or unimproved property, and to remove grass, weeds and rubbish there from and to do any and all things necessary or desirable in the opinion of the DRC to keep such property in neat and good order, all at the cost and expense of the Owner. Such costs and expenses incurred by the Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall become a lien upon the property affected. Such action shall not be a trespass on an Owner's lot.
- v. Exterior Colors and Landscaping. The exterior colors, materials and all landscape planting with mature height above three (3) feet and decoration shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC;
- w. Limitation on Leasing. No residence or portion of residence located on a Lot may be leased or subleased for less than a three month period or leased or subleased more than twice in any 12 month period. The Association Board may adopt the rules on leasing, including but not limited to the following:

- a. Each lease shall be in writing
- b. The lease shall mandate compliance with the Declaration, the Bylaws and Rules and Regulations of the Association.
- c. The names of all people who will occupy the house shall be given to the Association within 5 days of moving into the house.
- d. The owners shall be obligated to screen renters according to the industry standards of residential tenancies.
- e. A copy of the extended lease shall be furnished to the Association prior to the commencement of tenant's occupancy of the home.
- f. Owner shall be liable for any tenant violations of the Declaration and Rules and Regulations of the Association.

Section 2. Provisions Applicable to Lots Designated for Single Family Dwellings.  
 Any Lot subject to this Declaration designated on a recorded plat for single-family dwelling purposes shall be subject, in addition to the General Provisions, to the following use restrictions:

- a. Land Use. None of said Lots may be improved, used or occupied for other than private residence purposes (except for model homes used by the Declarant or a Participating Builder) and no flat or apartment house, although intended for residential purposes, may be erected thereon. Any residence erected or maintained on any of said Lots shall be designed for occupancy by a single family. Servants or guest quarters are permitted if designed as an integral part of the structure;
- b. Height Limitation. Any residence erected on said Lots shall not be more than two (2) stories in height with a maximum height of 35'.
- c. Minimum Size Requirements. Minimum square footage requirements will be set forth as follows:

Lots 1 – 25 and 33 – 37

2 Story	2,600 square feet with 1,200 square feet on the first floor
1-1/2 Story	2,500 square feet with 1,600 square feet on the first floor
1 Story	1,750 square feet

Lots 26 - 32

2 Story	3,000 square feet with 1,500 square feet on the first floor
1-1/2 Story	2,800 square feet with 2,000 square feet on the first floor
1 Story	2,600 square feet

Footage requirements are computed on outside measurements of the residence and shall not mean or include any unfinished areas in basements, garages, porches or attics.



- d. Building Lines. Minimum front, back and side yard setback requirements will be set forth by the Declarant. The requirements, unless designated differently by the Declarant by a Supplemental Declaration, shall be as set forth in the remainder of this subsection. No part of any residence shall be located on any Lot nearer than twenty-five (25) feet to the property line which is adjacent to a street; nor shall any part of a residence be located on any Lot nearer than ten (10) feet to a side property line nor nearer than thirty (30) feet to the rear property line. However, in unique circumstances a residence or any part of a residence may be located on any Lot nearer to a front street line, side property line or rear property line with recommended approval of the DRC and the written consent of the Association Board (which consent of the Association Board shall not be unreasonably withheld, delayed or conditioned).

Provided however, the following enumerated parts of any residence may project over the above described front, side and rear lines, for the distance shown to wit:

- i. Window Projections. Bay, bow or oriel, dormer and other projecting windows not exceeding one story in height may project a distance not to exceed two (2) feet.
  - ii. Miscellaneous Projections. Roof, overhangs, cornices, spoutings, chimneys, brackets, pilasters, grillwork, trellises and other similar projections for purely ornamental purposes, may project a distance not to exceed two (2) feet.
  - iii. Vestibule Projections. Any vestibule not more than one story in height may project a distance not to exceed two (2) feet.
  - iv. Porch Projections. Unenclosed, uncovered porches, balconies and porte cocheres may project beyond the front building line not to exceed six (6) feet.
- e. Damaged Structures. In the event of fire, windstorm or other damage, no building shall be permitted to remain with its exterior in a damaged condition longer than six (6) months. The DRC shall have the right at its discretion to grant extensions for a period of no more than two (2) months. Extensions shall be subject to renewal by the DRC but in no event shall the exterior of any building on any lot be permitted to remain in a damaged condition for more than twelve (12) months. In the event an owner fails to



comply with the time limitation set forth herein, liquidated damages of \$100 per day shall accrue against such Owner and shall become a lien upon such Owner's Lot.

- f. Garages. All garages must have a capacity for a minimum of two (2) cars and must be attached to the main dwelling house unless otherwise approved by the DRC. All garages shall be side or rear entry unless the site will not accommodate such entry in which case an alternate entry must be approved by the DRC. All garages must be equipped with doors which shall be kept closed as much as practicable to preserve the appearance of the house fronting the street.
- g. Frontage. All dwelling houses shall present a good frontage to any street or adjacent property.
- h. Foundation Exposure. No concrete on common concrete blocks shall be exposed over one (1) foot above ground level on any elevation of a structure.
- i. Driveways. Any portion of any driveway within street right of way must comply with standards established by the DRC.

#### ARTICLE XIV

##### Duration of Restrictions

The restrictions set forth shall continue and be binding upon the parties hereto, their heirs, administrators, successors and assigns, for a period of twenty (20) years from date hereof and shall automatically be continued thereafter for successive periods of ten (10) years each, unless the same shall be modified, amended or terminated as set forth in Article XVIII.

#### ARTICLE XV

##### Notice

A written or printed notice personally delivered or deposited in the United States mail with postage thereon prepaid and addressed to the respective Owners, Members and other persons entitled to a notice at the last address as shown on the records of the Association shall be deemed to be sufficient and proper notice of any matter to which any Member or other interested person may be entitled under the terms of this Agreement. Notice of an assessment may be made by a billing mailed to the Members as herein provided.

## ARTICLE XVI

### Dedication of Homesites

The Owners of one or more contiguous or adjoining lots susceptible to being used as a single homesite may file with the Association an executed and acknowledged agreement dedicating such lots as one single homesite and renouncing the right ever to erect any more than one residence thereon as to lease, rent or convey the Lots separately and upon the same being approved by the Association and the dedication being filed of record in the County in which said property is located; said composite homesite shall thereafter be assessed as one homesite and shall be treated for all purposes under this Declaration as a single Owner of a single Lot; provided that such approval by the Association in no way interfere with easements reserved to the Association or a serving utility on or across each of the lots so dedicated; and provided, further, that the Association may require that any such Owner re-plat such Lots as a single Lot.

## ARTICLE XVII

### Covenants Running With the Land

All of the provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon the parties hereto and upon their heirs, successors and assigns, provided however, no successor or assignee of the Declarant shall have any rights or obligations of the Declarant hereunder unless such rights and obligations are specifically set forth in the instrument of succession or assignment or unless such rights and obligations pass by operation of law or in the event of a sale or transfer by the Declarant of all or substantially all of the undeveloped Properties. Any assignment of the Declarant's rights and obligations under the Declaration must be an assignment of all or substantially all of the Declarant's rights and obligations to a single successor Declarant. In the event another Declarant comes to stand in the same relation to the project as the first Declarant that Declarant shall hold the same rights and obligations as would then have been held by the first Declarant.

## ARTICLE XVIII

### Modification, Amendment and Termination

This Declaration may be modified, amended or terminated in any particular manner at any time by a duly acknowledged and recorded written agreement (in one or more counterparts). During the Class "B" Period, any such modification, amendment or termination of the Declaration may be made by and shall require the approval of the Class "B" Member. After the Class "B" Period, any such modification, amendment or termination of the Declaration may be made by and shall require the approval of the Owners of at least two-thirds (2/3) of the Lots or Living Units not owned by the Declarant.

Provided, however, that no amendment, modification, or termination shall occur without the written consent of the Class "B" Member until the Class "B" Period has ended.



Notwithstanding anything to the contrary in this Declaration, Declarant reserves unto itself the right to approve or disapprove any matter regarding the development of Platte 38 until the end of the Class "B" Period. This right shall include, but not be limited to, any decision regarding amendment of these Declarations, actions taken, rules imposed, restrictions created or decisions made by the Association, the DRC, any Neighborhood Association, any Neighborhood Committee, or any other entity formed in connection with Platte 38. Declarant shall have the authority to make all determinations regarding the reasonableness and the necessity of any decision, action, rule, restrictions, and Declarant's exercise of such authority shall be deemed to automatically be in the best interests in the development of Platte 38 as a planned community.

## ARTICLE XIX

### Assignment by the Association

The Association may, with the approval of a majority of the Class "B" Members prior to the end of the Class "B" Period, or with the approval of a majority of the Class "A" Members after the Class "B" Period, by appropriate agreement made expressly for that purpose, assign or convey to any other person or corporation all or any part of the rights, reservations and privileges herein reserved by or granted to it, and upon such agreement or assignment or conveyance being so made, its assigns or grantees may at their option exercise, transfer or assign these rights, or any one or more of them, at any time or times in the same way and manner as though directly reserved by or granted to them or it in this manner as though directly reserved by or granted to them or it in this instrument. Such assignee shall be subject to the same duties, obligations and restrictions as are here imposed upon the Association with respect to such rights, reservations and privileges.

## ARTICLE XX

### No Personal Liability

No member of the Association Board, or 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, omission, error, failure to act, or negligence of any such Association Board Member, to Declarant, officer or committee member and, further, neither the DRC nor any member thereof shall be liable to the Association, 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 party. Such limitation of liability shall apply in all cases, provided that such person has, on the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

The standards and procedures established by Article XII are intended as a mechanism for maintaining and enhancing the overall aesthetics of Platte 38; they do not create any duty to any Person. Review and approval of any application pursuant to Article XII may be made on the basis of aesthetic considerations only, and the DRC and Association shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

The Association, the Association Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or modifications to any Living Unit. In all matters, the Association shall indemnify the Association Board, the DRC and the members of each as provided herein.

Subject to Missouri law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Association Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and Missouri law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

## ARTICLE XXI

### Reservation of Easements

The Association hereby reserves to itself and unto its successors and assigns the sole and exclusive right to locate, construct and maintain or authorize the location, construction and maintenance of conduits for any and all purposes, including water, sewer and gas mains, and underground electrical, telephone and cable television lines and above ground appurtenances, or all or any of them over, under and along the front, rear and side seven feet of all lots shown on the plat of the affected property; and each lot shall be subject to a blanket easement in favor of the Association for the installation, operation, maintenance and replacement of utility service facilities to serve the lot.

Notwithstanding the foregoing, the Declarant has the right and easement, at its expense, to connect and to extend (a) the private street system, the potable water system, the sanitary sewer system, and the water irrigation system for the purpose of making the same available for use by and for Lots and Common Areas that may be developed in subsequent Phases of the Properties now subject to this Declaration or, in the future, made subject to this Declaration by Supplemental Declaration in accordance with the terms of this Declaration and (b) all conduits, including public water, sewer and gas mains, and underground electrical, telephone and cable television lines and related above ground appurtenances for the purposes specified in clause (a) of this paragraph. Any and all connections and extensions described above shall meet or exceed the prevailing standards then in effect for similar construction and improvements on the Properties.

## ARTICLE XXII

### Dedication

It is hereby expressly stated and provided that nothing herein contained shall constitute a dedication of any property of the Association to the public; provided, however, that the Declarant, during the Class "B" Period, or the Association Board, after the Class "B" Period, may dedicate any property of the Association to any public or quasi-public entity.

## ARTICLE XXIII

### Association to Notify Members of Address

The Association shall notify all Owners as it may exist from time to time, insofar as the addresses of such Owners are listed with said Association, of the official address of said Association, the place, time and purpose of the regular and special meetings of the Association, and the place where payments shall be made and other business in connection with said Association may be transacted, and in case of any change of address, the Association may be transacted, and in case of any change of address, the Association shall notify all the Owners, insofar as their addresses are listed with the Association, of the new address.

**ARTICLE XXIV**

Land or Person not Bound, if any

If for any reason this Agreement be ineffective or not binding as to any lot, tract, homesite or other part of the property or is not enforceable against any owner or member, then as to that land or owner or member nothing herein shall in any way alter, change, terminate or affect any of the assessments, restrictions, limitation, covenants or agreements which were effective with respect to such land, owner or member immediately prior to the effective date of this Agreement.

**ARTICLE XXV**

Severability

Each of the various provisions of this Agreement and of the covenants, restrictions, rights, duties and obligations herein created or imposed are each separate and distinct of the others. The invalidity or unenforceability of any part hereof shall not affect the remainder.

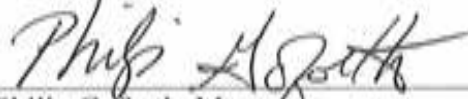
**ARTICLE XXVI**

Cessation of Declarant's Rights and Obligations

The rights and obligations of the Declarant set forth in this Amendment and the Declaration shall cease at the end of the Class "B" Period.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the date first above written.

PLATTE LAND PARTNERS, LLC., a  
Missouri limited liability company  
("Declarant")

  
Philip Goforth, Manager



STATE OF MISSOURI     )  
COUNTY OF PLATTE    )ss.  
                                  )

On this 3<sup>rd</sup> day of January, 2024, before me, the undersigned notary public, personally appeared Philip Goforth, who being by me duly sworn did say that they are the Managers of Platte Land Partners, LLC., a Missouri limited liability company, and that the within instrument was signed and sealed in behalf of said limited liability company by authority of its members, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein stated.

In witness whereof, I hereunto set my hand and official seal: *Paula Michelle O'Rear*

My commission expires: 12/26/2026

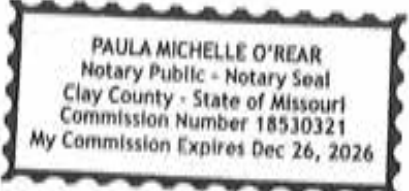
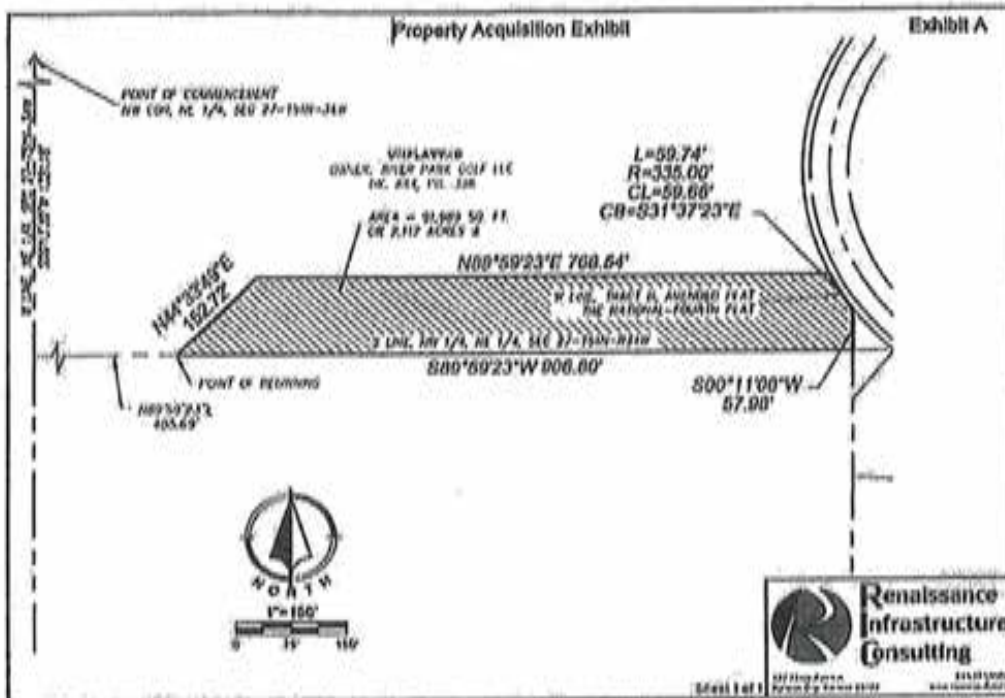


EXHIBIT "A"

A part of the Northeast Quarter of Section 27, Township 51, Range 34 in Platte County, Missouri described as follows:

Beginning at the Southwest corner of said Northeast Quarter; thence North 00 degrees 10 minutes 21 seconds East along the West line of said Quarter Section 1321.17 feet; thence North 89 degrees 54 minutes 15 seconds East, 1312.36 feet (Deed = 1312.63 feet); thence South 00 degrees 06 minutes 18 seconds West, 1320.41 feet (Deed = 1320.14 feet) to a point on the South line of said Quarter Section; thence South 89 degrees 52 minutes 16 seconds West along said line, 1313.15 feet to the Point of Beginning. Containing 39.80 acres, more or less and subject to any easements. Except that part in road.

Basis of bearings are taken from Deed recorded in Book 864, Page 396 with the South line of the Northeast Quarter being North 89 degrees 52 minutes 16 seconds East.



All that part of the Northeast Quarter of Section 27, Township 51 North, Range 34 West of the Fifth Principal Meridian in Platte County, Missouri, being more particularly described by Jed A.M. Baughman, PLS #2014020708 of Renaissance Infrastructure Consulting, Inc. as follows:

Commencing at the Northwest Corner of said Northeast Quarter;

thence South 00°13'30" West, along the West line of said Northeast Quarter, a distance of 1321.18 feet to the Southwest corner of the Northwest Quarter of said Northeast Quarter;

thence leaving said West line and along the South line of said Northwest Quarter, North 89°59'23" East, a distance of 405.69 feet to the Point of Beginning;

thence leaving said South line, North 44°33'49" East, a distance of 152.72 feet;

thence North 89°59'23" East, a distance of 768.54 feet to a point on the West line of Tract B, AMENDED PLAT, THE NATIONAL-FOURTH PLAT;

thence Southeasterly along said West line, on a curve to the left having a radius of 335.00 feet, with a chord bearing South 31°37'23" East and a chord distance of 59.66 feet, an arc distance of 59.74 feet to a point on the East line of said Northwest Quarter;

thence South 00°11'06" West, along said East line, a distance of 57.98 feet to the Southeast Corner of said Northwest Quarter;

thence South 89°59'23" West, along the South line of said Northwest Quarter, a distance of 906.80 feet to the Point of Beginning, containing 91,989 square feet, or 2.112 acres, more or less.



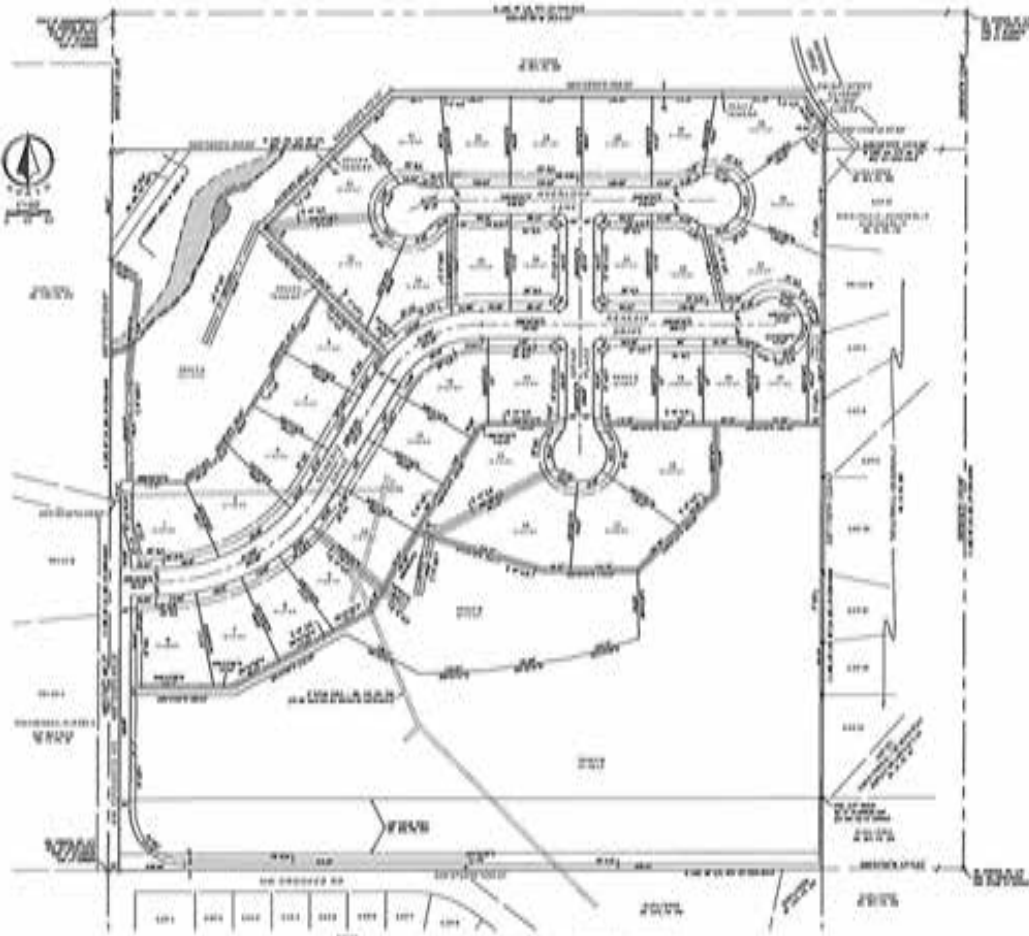
**EXHIBIT B**

[see attached]

Map of property

# FINAL PLAT PLATTE 38

PART OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 51 NORTH, RANGE 34 WEST,  
IN THE CITY OF PARKVILLE, PLATTE COUNTY, MISSOURI



**NOTICE TO CONTRACTORS**  
 The undersigned hereby certifies that the above plat is a true and correct copy of the original as filed in the office of the County Recorder of Platte County, Missouri, and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.

**NOTICE TO PROPERTY OWNERS**  
 The undersigned hereby certifies that the above plat is a true and correct copy of the original as filed in the office of the County Recorder of Platte County, Missouri, and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.

**NOTICE TO THE PUBLIC**  
 The undersigned hereby certifies that the above plat is a true and correct copy of the original as filed in the office of the County Recorder of Platte County, Missouri, and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.



**LEGEND**

[Symbol]	Proposed Street
[Symbol]	Proposed Alley
[Symbol]	Proposed Utility Line
[Symbol]	Proposed Easement
[Symbol]	Proposed Right-of-Way
[Symbol]	Proposed Lot

**NOTES**

1. The plat is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.
2. The plat is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.
3. The plat is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.
4. The plat is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.
5. The plat is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.

**STATEMENT OF PREPARER**  
 I, the undersigned, hereby certify that I am a duly licensed Professional Engineer in the State of Missouri, and that I am the author of the above plat, and that the same is a true and correct copy of the original as filed in the office of the County Recorder of Platte County, Missouri, and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo., and that the same is subject to the provisions of the Missouri Plat Act, Chapter 432, R.S.Mo.

**PLATTE 38**

<p><b>PREPARED BY</b>          Renaissance Infrastructure Consulting          1000 North Main Street          Parkville, MO 64151          Phone: 816.271.1111          Fax: 816.271.1112          Email: info@rencoinc.com</p>	 <p><b>Renaissance Infrastructure Consulting</b></p>
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