CALL TO ORDER

1. Resolution 2020 – 1 Election of Officers
   • Chairperson (formerly Denise Lambert, who has resigned)
   • Vice-Chairperson (formerly Tom Farr)
   • Secretary (formerly Kyle Miles)
   • Treasurer (formerly Karl Morris, who has resigned)

2. Approval of Minutes
   • December 11, 2019

3. Resolution 2020 – 2 Consideration of a Resolution of the Tax Increment Financing Commission of North Kansas City, Missouri Recommending Approval of the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within the Northgate Village Retail Center.

4. Northgate Village Discussion
   • City Council Development Agreement for the City-Owned Property at 23rd Avenue & Swift Street
   • RFP for City-Owned Commercial Property
   • TIF Architectural Design Guidelines Review Procedures

5. Public Comments --- The public is invited to participate in this meeting in the following ways during Item 5: “Public Comments”.
   • Online: The public may join the Zoom webinar via a link that is available on the City’s website at www.nkc.org/agenda. Online participants may make comments by using the Raise Hand feature of Zoom.
   • Phone: A phone connection to the Zoom meeting is available by using one of the following phone number: 312-626-6799. Use the webinar ID 879 0237 3379. Callers may use *9 to indicate that they would like to speak during the comments.
   • Email: Send comments to city@nkc.org until 5:00 p.m. on Thursday, September 10 and they will be read aloud at the meeting. Please supply your name and address. Any public comments received after 5:00 p.m. but before 6 p.m. will be placed in the City records by the City Clerk.

6. Staff Comments

7. Commissioner Comments

ADJOURN
RESOLUTION ELECTING OFFICERS

RESOLVED, that the Board of the Commission hereby elects the following persons to serve as officers of the Commission, serving until their successors in office are duly elected and qualified:

Chairperson: __________________________
Vice Chairperson: ______________________
Secretary: ______________________________
Treasurer: ______________________________
Assistant Secretary: Crystal Doss, City Clerk
Assistant Treasurer: Eric Berlin, City Administrator

FURTHER RESOLVED, that __________________________ is hereby appointed as Records Custodian of the Commission; and

FURTHER RESOLVED, that this Resolution shall take effect and be in full force immediately after its adoption by the Commission.

ADOPTED by the Tax Increment Financing Commission of the City of North Kansas City, Missouri on September 10, 2020.

______________________________
______________________________Chairperson

ATTEST:

______________________________
______________________________Secretary
MEETING MINUTES
CITY OF NORTH KANSAS CITY, MISSOURI
Tax Increment Financing Commission

DATE: December 11, 2019
TIME: 6:00 p.m.
PLACE: City Hall

PRESENT: Steve Hoover
          Tom Farr
          Carl Morris
          Denise Lambert
          Kyle Miles
          Jay Swearingen

STAFF/GUESTS: Eric Berlin, City Administrator
               Kim Nakahodo, Assistant City Administrator
               Sara Copeland, Community Development Director
               Thomas Barzee, City Counselor
               Crystal Doss, Staff Secretary
               Steve Sparks, Bryan Cave
               Matt Webster, Stifel

Chairperson Lambert called the meeting of the Tax Increment Financing Commission to order at 6:00 p.m.

1. APPROVAL OF MINUTES
C. Farr moved to approve the meeting minutes from October 16, 2019, seconded by C. Morris.
   All said aye. Motion carried.

2. PUBLIC HEARING
C. Lambert opened the Public Hearing at 6:02. Roll call was taking showing C. Lambert, C. Farr, C. Hoover, C. Swearingen, C. Morris and C. Miles present. City Administrator Eric Berlin stated that the record of the notices disseminated will be made a part of the record. City Administrator Berlin stated the Public Hearing would be two-fold. First is a discussion to Amend Exhibit 7 – Cost-Benefit Analysis to update the values and assumptions to reflect the current project status and TIF proceeds (PILOTs and EATs) and adjust the future projections of the TIF proceeds. City Administrator Berlin then asked Matt Webster, City’s financial advisor, to discuss the cost-benefit analysis and the updated figures.
City Administrator Berlin then asked Community Development Director Sara Copeland to present part 2 of the Public Hearing, which is Exhibit 9 – Architectural Design Review Guidelines to make them consistent with the North Kansas City Zoning Ordinance and current City building permit process. Community Development Director Copeland reviewed the changes with the commissioners. Projects would still require TIF Commission design review and approval to proceed.

C. Lambert asked for Commissioner questions. Commissioners questions were answered.

C. Lambert asked for public comment. There was no public comment.

C. Farr moved to close the public hearing at 6:48 PM, seconded by C. Hoover. All said aye. Motion carried.

3. RESOLUTION 2019-8

Consideration of a Resolution of the Tax Increment Financing Commission of North Kansas City, Missouri, Recommending Approval of the Second Amendment to the Northgate Village Tax Increment Financing Plan to the City Council of North Kansas City, Missouri. C. Farr moved to approve Resolution No. 2019-8, seconded by C. Miles. The roll was called, and the vote was as follows: C. Lambert, no – C. Farr, yes – C. Hoover, no – C. Swearingen, yes – C. Morris, yes – C. Miles, yes. Motion carried, 6-2

4. NORTHGATE VILLAGE

DISCUSSION

Chairman Lambert called on City Administrator Berlin for a staff report. City Administrator Berlin stated that staff is currently reviewing the Declaration of Covenants, Conditions, Restrictions and Easements for the Northgate Village Retail Center.

5. PUBLIC COMMENTS

There were no public comments.

6. STAFF COMMENTS

There were no staff comments.

7. COMMISSIONER COMMENTS

There were no Commissioner comments.

The meeting adjourned at 6:52 PM.

______________________________     ________________________________
Kyle Miles, Secretary                 Denise Lambert, Chairperson
MEMORANDUM

TO: TIF Commissioners

FROM: Eric Berlin, City Administrator
       Steve Sparks, Bryan Cave Leighton Paisner LLP

DATE: September 10, 2020

RE: Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements affecting property within the Northgate Village Retail Center

Development in the commercial area of Northgate Village has certain development restrictions as enacted in the Declaration of Covenants, Conditions, Restrictions, and Easements (CCRs) for the Northgate Village Retail Center. The original CCRs were adopted in 2003, amended in 2011, and amended again in 2015.

In anticipation of the issuance of a Request for Proposals (RFP) for the development of the property located along Burlington/N Oak Trafficway, between E 29th Avenue and E 32nd Avenue, staff worked with the City’s development attorney, Steve Sparks with Bryan Cave Leighton Paisner LLP, to review, consolidate, and update the CCRs for the Northgate Village Retail Center.

The goal of these proposed amendments is to bring the CCRs in line with the North Kansas City Zoning Ordinance and remove some of the restrictions to better position the property for future development.

Attached please find the following documents:

- A memo from Steve Sparks summarizing the proposed Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements affecting property within the Northgate Village Retail Center.

- A redline version of the proposed Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements affecting property within the Northgate Village Retail Center.
• A clean version of the proposed Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements affecting property within the Northgate Village Retail Center.
SUMMARY OF AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER

Introduction

As the City proceeds to prepare for sale and development the two lots located in the Northgate Village Retail Center (the “Center”) the City has determined that the Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center (“Original Declaration”) should be amended and restated. An amendment and restatement of the Original Declaration will update the restrictive covenants affecting the Center to provide for controls with respect to the potential development of the remaining lots in the Center in light of current market conditions, the updated City code provisions for such developments, and the status of the TIF Plan of which the Center is a part.

The Center is currently comprised of three platted lots. Two of these lots are owned by the City (one of which was never sold and the other of which was sold for an intended Russell Stover store and since reacquired by the City). The remaining lot is owned by RT KCMO Franchise LLC, the developer of the Ruby Tuesday’s restaurant (the “Ruby Tuesday’s Lot”).

The City-owned lots comprise 2.775 acres and are more than fifty percent (50%) of the 4.024 acres constituting the Center property. The Ruby Tuesday’s Lot comprises 1.249 acres. Section 22.06 of the Original Declaration permits the City, as a majority Record Owner, to amend, restate, modify, and change the Original Declaration as proposed by the attached Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center (“Amended and Restated Declaration”) with the consent of the TIF Commission. More specifically, Section 22.06 states:

“... at any time the Record Owners of more than fifty percent (50%) of the acreage in the Center and the Developer (whose acreage may be included for the fifty percent (50%) computation and whose consent thereto shall be required so long as it owns or has any interest in any acreage subject to this Declaration and these Restrictions including any Common Properties) may, by written Supplemental Declaration signed and acknowledged by them and recorded in the Office of the Recorder of Deeds for Clay County, Missouri, alter, amend, modify or restate these Restrictions, except that no amendment shall be made which shall change Section 3.06 hereof or which eliminates a Lot Owner's access to its Lot or the provisions protecting Mortgages and leasehold estates in Section 22.03, without the agreement of one hundred percent (100%) of the Record Owners, or any provisions contained herein for the benefit of the City or the TIF Commission without its or their consent.”

Additionally, the City is also the successor Developer (as defined in the Original Declaration) pursuant to that certain Assignment of Rights Under Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center dated September 17, 2019, and recorded October 10, 2019, under Document No. 2019030231, in Book 8521, at Page 38. Section 22.07 of the Original Declaration permits the City, as the successor Developer, to amend the Original Declaration as proposed by the Amended and Restated Declaration with the consent of the TIF Commission and with no further consents required.
Summary of Revisions

Attached are a “clean” version of the Amended and Restated Declaration as well as a “redlined” version that compares the main body of the Amended and Restated Declaration against the Original Declaration. Of note, this redline comparison does not include identification of revisions to the Original Declaration with respect to items identified in the First Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center recorded on November 22, 2011, under Document No. 2011038002, in Book 6728, at Page 28 (“First Supplement”). This First Supplement made minor modifications to the prohibited uses section. This comparison does not include identification of revisions to the Original Declaration with respect to items identified in the Second Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property within the Northgate Village Retail Center recorded June 29, 2015, as Document No. 2015020952, in Book 7524, at Page 163 (“Second Supplement”). This Second Supplement removed from the Center the property conveyed to Northgate Seniors Phase 4, LP.

Briefly summarized, the revisions to the Original Declaration, which inclusively restate also the First Supplement and the Second Supplement, are (without reference to incidental drafting revisions) (Article references are to the Amended and Restated Declaration):

1. **Recitals.** Identification of the purpose and authority of the Amended and Restated Declaration.

2. **Article I.** Updating certain definitions to be consistent with the substantive revisions in the body of the Amended and Restated Declaration.
   a. Of note, the TIF Design Guidelines are now defined by cross reference to the design guidelines exhibited to the TIF Plan. This allows future revision to the guidelines during the term of the TIF Plan without requiring amendment of the CC&Rs. A companion revision is made to Section 16.01.
   b. Of additional note, common areas and related concepts have been deleted to permit a future developer more flexibility for development of the City-owned lots. The City’s view of the current market is that the City-owned lots are not likely to require the establishment of common areas. With respect to the cross parking easements and shared driveways as between the City-owned lots and the Ruby Tuesday’s Lot, those rights will continue to exist under Article VII but the Lot owners on which those parking areas and driveways exist will be responsible for the maintenance of those matters. It is anticipated by the City that shared maintenance with respect to designated common areas as between the City-owned lots and the Ruby Tuesday’s Lot will not be critical to the future development and operation of the Center. Similar revisions to eliminate the common area concept are made with respect to Article VI, former Article XI, former Article XII, and Article XIV.

3. **Article III.** Updating the submission and variance requirements for plans and specifications to align with City Code requirements and to clarify that the TIF Commission review and approval will apply to matters within the scope of Section 5.01 with respect to the exterior aesthetics identified in Section 5.01.

4. **Article V.**
   a. Adding clarifying language requiring compliance with the TIF Design Guidelines and TIF Commission approval.
b. Deletion of the mechanism for the developer to assign its rights and obligations to the City.

5. **Article VII.** Increase of the coverage amounts for the required insurance with respect to construction work in the Center.

6. **Article IX.** Updating the prohibited uses as per current City policy and code.

7. **Sections 18.06; 18.08.** Updating the term provisions of the Amended and Restated Declaration to contemplate the natural expiration of the term of the TIF Plan.
RESOLUTION No. 2020 – 2

RESOLUTION OF THE TAX INCREMENT FINANCING COMMISSION OF NORTH KANSAS CITY, MISSOURI RECOMMENDING APPROVAL OF THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER RELATING TO THE NORTHGATE VILLAGE TAX INCREMENT FINANCING PLAN TO THE CITY COUNCIL OF NORTH KANSAS CITY, MISSOURI.

WHEREAS, the Tax Increment Financing Commission of North Kansas City, Missouri (the "Commission") was created pursuant to the provisions of the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 RSMo., as amended (the "Act"), and is authorized and empowered pursuant to Ordinance No. 6674 which was adopted by the City Council (the "Council") of the City of North Kansas City, Missouri (the "City") on May 14, 1996; and

WHEREAS, pursuant to Ordinance No. 7178, the City (i) approved the Northgate Village Tax Increment Financing Plan (the "Original Plan"), to finance certain costs associated with the redevelopment of property in North Kansas City, Missouri, and (ii) designated the Northgate Village Redevelopment Area as a redevelopment area (the "Redevelopment Area"), all in accordance with the Act; and

WHEREAS, the Original Plan was amended pursuant to (i) Ordinance No. 8640 which authorized a First Amendment to the Original Plan (the “First Amendment”) and Ordinance No. 9271 which authorized a Second Amendment to the Original Plan (the “Second Amendment” and together with the Original Plan and the First Amendment, the “TIF Plan”); and

WHEREAS, the Commission has pursuant to an assignment succeeded to and has become the Developer as such term is defined in that certain Declaration of Covenants, Restrictions and Easements Affecting Property within the Northgate Village Retail Center (the “Original CCR’s”); and

WHEREAS, the Commission desires to enter into certain amendments, modifications, and supplements to the Original CCR’s and to fully amend and restate the Original CCR’s and for such purpose enter into the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements affecting Property within the Northgate Village Retail Center (the “Amended CCR’s”);

NOW THEREFORE, BE IT RESOLVED BY THE TAX INCREMENT FINANCING COMMISSION OF NORTH KANSAS CITY, MISSOURI, AS FOLLOWS:

1. Approval of Amended CCR’s. The Commission hereby approves the Amended CCR’s.
ADOPTED by the Tax Increment Financing Commission of North Kansas City, Missouri this 10th day of September, 2020.

TAX INCREMENT FINANCING COMMISSION
OF NORTH KANSAS CITY, MISSOURI

By: ________________________________
Title: Chair

ATTEST:

By: ________________________________
Title: ________________________________
Document Title: AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER.

Document Date: ____________, 2020

Grantor/Grantee Name: CITY OF NORTH KANSAS CITY, MISSOURI, a third class city and political subdivision of the State of Missouri

Statutory Address: 2010 Howell Street, North Kansas City, Missouri 64116

Legal Description: See Exhibits A and B attached.

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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER (this "Amended and Restated Declaration") is made and executed as of December ________, 2003, by NORTHGATE VILLAGE RETAIL, L.L.C., a Missouri limited liability company (the "Declaration Platted"), as amended by the CITY OF NORTH KANSAS CITY, MISSOURI, a third class city and political subdivision of the State of Missouri, limited liability company (the "Plat Developer"), with its principal place of business and mailing address at Suite 100, 8300 N.E. Underground Drive, 2010 Howell Street, North Kansas City, Missouri 64156, 64116, with respect to the facts and objectives set forth in the Recitals below which are a material part of this Amended and Restated Declaration.

RECITALS:

A. That certain Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center dated as of December 19, 2003, was recorded on December 19, 2003, under Document No. S43720, in Book 4451 at Page 311, in the Office of the Recorder of Deeds for Clay County, Missouri, as supplemented by that certain First Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center recorded on November 22, 2011, under Document No. 2011038002, in Book 6728, at Page 28, as supplemented by that certain Second Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center recorded June 29, 2015, as Document No. 2015020952, in Book 7524, at Page 163 (collectively, the "Original Declaration") with respect to the Property (defined below).

B. The tracts or parcels of land legally described on Exhibit A attached hereto (collectively, the "Property") or the "Center") are located within and constitute a redevelopment project area in and subject to the provisions of the Northgate Village Tax Increment Financing Plan, as amended (the "TIF Plan") of the Tax Increment Financing Commission of the City of North Kansas City, Missouri (the "TIF Commission"), as approved by the City Council of the City of North Kansas City, Missouri (the "City"), pursuant to appropriate ordinance.

C. Pursuant to the TIF Development Agreement, the Developer has the right and option to purchase from the City all or portions of the Property/Center as the same are platted. Declarant is the fee owner of that portion of the Property described on Exhibit B attached hereto, which constitutes 2.775 acres and is more than fifty percent (50%) of the 4.024 acres constituting the Property.

D. On December __________, 2003, the subdivision plat entitled "NORTHGATE VILLAGE RETAIL CENTER FIRST PLAT" (the "First Plat"), covering that portion of the Property/Center formerly legally described as shown on Exhibit B attached hereto, and platting the same into Lot 1, a sign monumentation tract and any other areas shown thereon (the "First Plat Property"), was approved by the City Council of the City, and was recorded on December ________, 2003, in Cabinet ________ at Sleeve __________, in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty. Declarant also the successor Developer (as defined in the Original Declaration) pursuant to that certain Assignment

601351179.3
of Rights Under Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property
Within The Northgate Village Retail Center dated September 17, 2019, and recorded October 10, 2019,
under Document No. 2019030231, in Book 8521, at Page 38.

D. Immediately prior to the recording of this Declaration, the Developer acquired from the City and now
owns the First Plat Property. Section 22.06 of the Original Declaration permits Declarant, as a majority
Record Owner, and Section 22.07 of the Original Declaration permits Declarant, as the successor
Developer, to amend, restate, modify, and change the Original Declaration as more particularly set forth
hereinbelow.

E. In furtherance of its responsibilities and duties under the TIF Plan and the TIF Development
Agreement and for its own purposes, the Developer desires to develop all of the Property
/ Center, including and starting with the First Plat Property, be developed by a Developer (defined below) as a
commercial and retail business center possessing features of more than ordinary value and desires to fix
and establish certain covenants, conditions, restrictions and easements upon and subject to which all of
the Property / Center and any Lots, Sites, Tracts or other parts thereof shall be acquired, improved, used,
leased, sold and/or conveyed.

F. The TIF Commission and the City desire desires that the Developer so develop all of the
Property/ Center and subject it to the provisions of this Amended and Restated Declaration and both
consents and agrees to the imposition by the Developer of this Amended and Restated Declaration on those remaining portions of the Property which the City owns by its execution of this Amended and Restated Declaration as shown on the signature page(s) below.

NOW, THEREFORE, in consideration of the premises and with the agreement and consent of
the TIF Commission and the City, the Developer hereby declares that the Original Declaration is
hereby amended and restated in its entirety as set forth in this Amended and Restated Declaration and
that the Property, constituting all of the real property legally described as shown on Exhibit A
attached hereto, hereafter shall be acquired, improved, held, used, leased and/or conveyed upon
and subject to the following covenants, conditions, restrictions and easements which are for the
purpose of protecting the value and desirability of the Property / Center and which shall run with the
land and be binding upon the any Owner (defined below) and Developer and the heirs, personal
representatives, successors, transferees and assigns of the each Owner and Developer and any person or
entity at any time having any right, title or interest in all or any part of the Property or any of the Lots,
Tracts, Sites or other parts of the Center.

ARTICLE I
Certain Definitions

Section 1.01 Definitions of Certain Words and Terms. When used in this Amended and
Restated Declaration or any Supplemental Declaration, the following words or terms shall,
except where the context otherwise requires, have the meanings set forth below:

(a) "Access Easements" shall mean the non-exclusive, perpetual easements and rights to
use the Common Areas located, or to be located, on Lots within the Center as shown on the Center Site Plan and
described in Section 8.01 below.

(b) "Affected Owner" shall have the meaning set forth in Section 8.03.7.03 below.
(b) **“Building”** shall mean any Structure which (i) is permanently affixed to the land, (ii) has one or more floors and a roof, and (iii) is bounded by either an open area or the lot lines of a Lot or a Site. A Building shall not include such Structures as fences or Structures with interior surfaces not normally accessible for human use, such as tanks or similar Structures.

(d) **“Building Line”** shall have the meaning set forth in Section 4.01 below.

(e) **“Center”** shall mean the Northgate Village Retail Center, which includes the property described on Exhibit A, whether or not yet platted.

(f) **“Center Site Plan”** shall mean the plan for development of the Center attached hereto as Exhibit C and showing thereon the Access Easements, Permanent Accessways, Sign Tract and other areas, as it may be amended pursuant to Section 22.08 below.

(d) **“Code”** shall mean the general code of ordinances of the City, including but not limited to the zoning ordinances of the City, all as amended from time to time.

(h) **“Common Areas”** shall mean and refer to those areas of land, if any, shown on the Center Site Plan, any Plat or any areas of land designated by recorded document comprising a portion of the Property which are identified thereon as "common areas", "common properties" (or similar terms) including the Access Easements areas, Permanent Accessways or similar areas depicted on the Center Site Plan or any Plat.

(i) **“Common Areas Facilities”** shall have the meaning set forth in Section 11.01 below.

(j) **“Common Areas Facilities Maintenance”** shall have the meaning set forth in Section 11.01 below.
"Common Areas Facilities Maintenance Costs" shall have the meaning set forth in

(1) “City” shall mean the City of North Kansas City, Missouri, as set forth in Recital A above a third class city and political subdivision of the State of Missouri.

(2) “Amended and Restated Declaration” shall mean this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within the Northgate Village Retail Center.

(3) “Developer” shall mean the Northgate Village Retail Center, L.L.C., a Missouri limited liability company, its successors and assigns, but not any unaffiliated third party who is or becomes an Owner. “Developer” shall mean the City and any successor in interest thereto by assignment of the rights for development of the Property as evidenced by a written assignment duly filed in the Office of the Recorder of Deeds of Clay County, Missouri.

(4) “Economic Activity Taxes”, “EATS” and “EATS Reporter” shall have the meanings set forth in Section 20.05 below.

(5) “First Plat” shall mean the Plat described in Recital D above covering the portion of the Property Center described on Exhibit B attached hereto.

(6) “First Plat Property” shall mean that portion of the Property / Center described on Exhibit B attached hereto as described in Recital D above.

(7) “Improvements” shall mean all Buildings, Structures and Signs which are permitted under these Restrictions including, but not limited to, landscaping and lawns, parking areas, drives, truck loading areas, fences, Permanent Accessways, and Utilities Facilities.

(8) “Lot” shall mean a plot, parcel or tract of land subject to this Amended and Restated Declaration and designated as a Lot on a recorded Plat of the Center, together with all appurtenances and Improvements.

(9) “Maximum Height” shall mean, with respect to a Building, the vertical distance from the Reference Level to the highest point of the roof surface including parapet walls, roof mounted mechanical equipment, permitted Signs or other projections of any kind.

(10) “Mortgage” shall mean any mortgage, deed of trust, contract for deed or other security document pledging or conveying in trust any Lot or Site or interest therein as security for payment of a debt or obligation.

(11) “Mortgagee” shall mean any person named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of such person under such Mortgage.

(12) “Normal Lighting Hours” shall have the meaning set forth in Section 9.01 below.

(13) “Notices” shall have the meaning set forth in Section 23.01 below.

(14) “Owner” or “Record Owner” shall mean the owner at the time of any part of the Property as shown on the records of the Recorder of Deeds of Clay County, Missouri, at Liberty, as of the date of any action to be taken by such Owner under the provisions of this Amended and Restated Declaration, and shall also mean and include any person designated in writing, whether in a lease or otherwise, by any such Owner to act in the manner provided herein with complete authority and in the
place of such Owner in the matter for which action is taken. The terms "Owner" and "Record Owner" shall not include: (i) the Developer or any trust, corporation, partnership, limited liability company, joint venture or other entity in which the Developer is a beneficiary, shareholder, partner, member, joint venturer or owner, directly or indirectly; (ii) the City or any other governmental entity, political subdivision or utility company having only rights-of-way, easement or license rights affecting a part of the Property; or (iii) a purchaser under a purchase contract, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties thereto pending the closing of the transaction which is the subject matter thereof.

(z) "Owner's Share" shall have the meaning set forth in Section 11.01 below.

(a) "Permanent Accessways" shall mean the private roadways or private drives and accessways designated as such and shown on a Plat or which may otherwise be constructed within the Center Site Plan and as described in Section 8.01(c) below.

(b) "Permittees" shall mean those Persons described in Section 8.01 below.

(e) "Person" shall mean an individual, corporation, trust, partnership, limited liability company, or unincorporated organization, and shall, unless the context otherwise indicates, include each Owner and the Developer.

(s) "PILOTS" shall have the meaning set forth in Section 20.06 below.

(t) "Plat" shall, collectively, mean the First Plat and any Plat Northgate Village Retail Center First Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, the Northgate Village Retail Center Second Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, the Northgate Village Retail Center Third Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, and any plat hereafter recorded by the City or the Developer after the date hereof which subdivides or re-subdivides all or any portion of the Property / Center and any Plat affecting land within the Property / Center described on Exhibit A attached hereto and includes any Lot split or minor subdivision of a Lot.

(u) "Prohibited Uses" shall have the meaning set forth in Section 10.01 below.

(v) "Property" shall mean the real property described in Recital A above and on Exhibit A attached hereto.

(w) "Restrictions" shall mean the covenants, conditions, restrictions, standards, requirements and easements upon and subject to which the Property / Center, or any Lot, Tract, Site or other part thereof, shall be acquired, improved, held, leased, used, sold and/or conveyed, all as set forth in this Amended and Restated Declaration.

(x) "Setbacks" shall mean the area(s) of a Lot or Site within which the construction of Buildings and Structures is prohibited by these Restrictions and which may be referred to, by appropriate reference to the Lot or Site, as "front", "side" or "rear" Setbacks.

(y) "Sign" shall mean: any writing (including letter, word, or numeral); pictorial representation (including illustration or declaration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other figure of similar character which (i) is a Structure or any part thereof, or is attached to, painted on or in any other manner represented on a Building or other Structure, (ii) issued to announce, direct attention to, or advertise, and (iii) is visible
from outside a Building. A Sign shall include writing, representation, or figures of similar character within a Building only when regularly visible from outside the Building. The following shall not be deemed to be a Sign within the meaning as hereinabove set forth; (i) regulatory signs of a duly constituted governmental body, including traffic signs or devices, legal notices or warnings; or (ii) small signs displayed for the direction or convenience of the public, including signs which identify restrooms, freight entrances or the like, but these shall also be subject to the approval of the Developer.

All Signs must be approved in advance and meet the "Signage Restrictions" described in Section 13.01 below.

(ll) "Sign Tract" shall mean any Tract for the limited use set forth in the last sentence of Section 1.01 below.

(mm) "Site" shall mean any entire contiguous area of land, in the same ownership or tenancy, used for and/or held and planned for the construction thereon of one or more Buildings or Structures, with related accessory Improvements, as a facility to serve a commercial or retail business or enterprise within the Center, whether or not it is co-extensive with the boundaries of any recorded Lot or Lots.

(aa) "Storm Water Drainage Easement" shall mean any such easement described in Section 8.06 below.

(bb) "Storm Water Drainage Facilities" shall have the meaning set forth in Section 7.06 below.

(cc) "Structure" shall mean any physical object temporarily or permanently affixed to the land, except grass, shrubbery, trees or other landscaping.

(dd) "Subsidiary" shall mean any corporation at least a majority of the outstanding voting stock of which shall at the time be owned by an Owner, or by one or more Subsidiaries, or by an Owner and one or more Subsidiaries.

(ee) "Supplemental Declaration" shall mean an instrument which amends, modifies, alters, changes or waives any provision in or of this Amended and Restated Declaration.

(ff) "Temporary Construction Easements" shall have the meaning set forth in Section 8.03 below.

( hh) "TIF Commission", "TIF Development Agreement" and "TIF Plan" shall have the meanings set forth in Recitals A and B above.

( gg) "TIF Design Guidelines" shall mean the TIF Architectural Design Review Guidelines attached as Exhibit D to the TIF Development Agreement Plan, portions of which apply to the Center and Lots or Sites therein and Buildings and Structures to be erected thereon and which are attached hereto as Exhibit D, as such are amended and revised from time to time by the City and the TIF Commission.

(hh) "Tract" shall mean a plot, parcel or tract of land subject to this Amended and Restated Declaration including any designated as a "Tract" on any recorded Plat (even if part of a Lot), together, with all appurtenances and Improvements. Any Tract further designated on any recorded Plat or by separate recorded instrument as designed for or limited to sign monumentation for identification of the Center or its...
occupants or identification of or directions to other TIF Plan projects in the vicinity of the Center as set forth in.

Section 11.03 below is referred to in these Restrictions as a “Sign Tract”.

(ii) “Unavoidable Delays” shall mean strikes, lockouts, acts of God, casualty, boycotts, governmental restrictions, war, national emergency, inability to obtain labor or materials or other cause beyond the reasonable control of the Record Owner or the person claiming under such Record Owners; provided, however, lack of funds or financing shall not be deemed an Unavoidable Delay.

(iii) “Utility Easement” shall have the meaning set forth in Section 8.02 below.

(iv) “Utility Facilities” shall have the meaning set forth in Section 8.02 below.

(v) “Zoning Code” shall mean the zoning and subdivision ordinances and regulations of the City, as amended from time to time.

ARTICLE II

General Purposes of Restrictions

Section 2.01 Purposes of Restrictions. The Property / Center is hereby subjected to the Restrictions for the following purposes:

(a) To insure proper use and appropriate development, redevelopment and improvement of the Property; to protect the Owners of the properties in the Center from improper use, development, or redevelopment of the Property and to prevent depreciation of the value of their properties.

(b) To encourage development in a manner which is free from danger of fire, explosion and toxic or other hazards, and from offensive or unnecessary noise, vibration, smoke, dust, and odors.

(c) To protect the Property against congestion by limiting the size and location of Buildings and Structures in relation to the land around them and to one another, and providing for off-street parking and loading facilities.

(d) To conserve the value of Lots, Sites and Buildings of Owners in the Property/Center.

(e) To protect against construction of Improvements on Lots or Sites which are of poor design or quality and to encourage construction of Improvements utilizing good quality and attractive materials and good architectural and planning standards, compatible with other Improvements in the Property/Center.

(f) To facilitate compliance with all applicable federal, state and local laws and regulations.

(g) To provide for the continuing care and maintenance of all land including any Common Areas, Buildings, Structures and Improvements on the Property so that the Center may be, and continue to be, a location which provides an aesthetically pleasing workplace for Owners, their tenants, employees and invitees.
ARTICLE III
Review and Approval of Plans for Improvements

Section 3.01 Submission of Plans for Approval. No Building, Structure or permanent Sign, other Improvement including, but without limitation, any Signs, paved areas or fences, shall be erected, placed or altered on any Lot or Site in the Property / Center until the plans and specifications are approved by the City. In its review, the TIF Commission shall consider conformity with applicable Code and the TIF Design Guidelines; provided, however, that with respect to the matters set forth in Section 5.01 of this Amended and Restated Declaration, approval by the TIF Commission shall also be required (subject to Section 18.06 hereof).

Section 3.02 No Developer or TIF Commission Liability. Neither the Developer, the City, nor the TIF Commission nor any officer, director, shareholder, member, employee or agent of the Developer, the City, or the TIF Commission shall be liable to any Owner or tenant or to anyone else submitting plans for approval, or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Developer, the City and the TIF Commission for approval, by submitting such plans, and any Person when he or it becomes an Owner or tenant, agrees that he or it and, for so long as the TIF Plan remains in effect, the TIF Commission, (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof), no deviation shall be made during construction which would materially change the scope of the Improvements, and no changes in exterior quality or appearance of the Improvements shall be made without the prior written approval of the Developer and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof).

Section 3.03 No Changes Without Subsequent Approval. After approval of such plans and specifications (including plot and landscape plans) by the Developer, the City and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof), no deviation shall be made during construction which would materially change the scope of the Improvements, and no changes in exterior quality or appearance of the Improvements shall be made without the prior written approval of the Developer and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof).

Section 3.04 Compliance with Code and TIF Design Guidelines. The Developer, is to follow all City. In addition to complying with applicable Code requirements for permitting, the North Kansas City Zoning Ordinance and all Restrictions in the Northgate Village, the Developer and any Owner will comply with the TIF Design Guidelines (subject to Section 18.06 hereof).

Section 3.05 Variances and Waivers. Anything contained elsewhere in these Restrictions or this Amended and Restated Declaration to the contrary notwithstanding, the Developer, the City and, for so long as the TIF Plan remains in effect, the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof), shall have the absolute right in its judgment and discretion at any time to approve a variance from conformance to, a waiver of compliance with, a modification to or alteration of any of these Restrictions. At such time as the Developer owns no Lots in the Center and there remains no Lot for which plans and specifications for a Building thereon have not been approved, the Developer may assign its rights hereunder to the City.

Section 3.06 No Withdrawal of Prior Approvals. Once the Developer, the City and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof) have approved plans and specifications for a Building, Structure or Improvement, and such Building, Structure or Improvement has been constructed in conformity with such plans and specifications, the approval thereof shall not be withdrawn and such
Building, Structure or Improvement shall thereafter be deemed to be in compliance with these Restrictions as then in effect or thereafter amended.

Section 3.07 Approval Not Deemed Compliance with Laws. In no event shall the review and approval by the Developer, the City and the TIF Commission of any plans and specifications, or any information submitted in connection therewith, be deemed or construed to be a determination that such plans and specifications are in compliance with the Code, the Code or any other laws, regulations or ordinances, or any of them, nor shall such review and approval relieve the parties submitting such plans and specifications from any liability or responsibility in connection with such compliance.

ARTICLE V
Parking and Loading

Section 4.01 Parking Requirements. No parking of automobiles, trucks, trailers, or other vehicles will be permitted on any private streets (including the Permanent Accessways) in the Center, and, although Lot Owners will share parking commonly as set forth in Article VIII below, it will be the responsibility of each Owner to initially construct parking and loading facilities on its Lot or Site as required by the City's Code or Zoning Code.

Section 4.02 Loading and Service Areas Requirements. No loading dock, loading door used for the receipt or shipment of goods or materials or related service entryways shall be erected in the front yards of Lots or Sites fronting on Burlington Avenue or 32nd Avenue without the written permission of the Developer and the City based upon the location of the Building on the Lot or Site, the proposed screening and other aesthetic criteria. The Developer's and the City's decision shall be final. Any loading docks, loading doors or service entryways so permitted shall be constructed so that any exposed sides of a loading space so created shall be appropriately and effectively screened by landscaping or otherwise and to the extent considered reasonable by the Developer and the City. The front of the loading area so created shall be screened by landscaping, fencing, masonry walls or berms so as to minimize the view thereof from the public streets and adjacent Lots or Sites as determined by the Developer. Loading docks, doors and related service entryways in side or rear yards (including those along Buchanan Street) shall be permitted but shall be landscaped, fenced or bermed so as to screen those areas from view from Lots or Sites along either side and properties across Buchanan Street. Additionally, street trees shall be required as set forth below.

ARTICLE VI
Building Materials and Design. Building Lighting and Utilities

Section 5.01 Exterior Building Materials. All walls or facades of Buildings shall be finished only with materials set forth in the TIF Design Guidelines. All exterior surfaces shall be in accordance with the TIF Design Guidelines and approved by the Developer and the TIF Commission. No changes to exterior finish shall be made without the prior approval of the Developer and the TIF Commission. At the time specified in the last sentence of Section 3.05 above, the Developer may assign its rights and obligations hereunder to the City.
Section 5.02  Section 6.02 — Exterior Building Lighting. All exterior Building or security lighting shall be downward casting so as to not present a hazard or nuisance to adjacent Lots or Sites. Such lights shall reflect away from public streets.

Section 5.03  Section 6.03 — Underground Utilities. All utility lines shall be underground and an Owner or tenant shall not dig or cut into the paved portion of any dedicated right-of-way to access said utility lines. Where required, drilling or punching under adjacent public streets shall be the approved method to access utility lines.
Section 5.04  **Exterior Mechanical Screening.** Roof-mounted or exterior mechanical equipment shall be completely screened.

**ARTICLE VII**
**ARTICLE VI**

**Landscaping, Fencing and Maintenance of Grounds, Buildings and No Outside Storage**

**Section 6.01  Section 7.01 — Maintenance by Each Owner.** Except as forthwith in Article XI below, the maintenance of all Lots, Sites, Buildings, Structures and Improvements on the Property is the continuing responsibility and obligation of each Owner owning such Lot or Site and the Buildings, Structures and Improvements located thereon, and each Owner covenants and agrees with the other Owners and the Developer to keep and maintain its Lot, Site, Building, Structures and Improvements and the Permanent Access in a good state of repair and appearance in accordance with the provisions of this Amended and Restated Declaration. The standards of maintenance for all Lots, Sites, Buildings, Structures and Improvements on the Property shall be determined by the Developer in its sole reasonable judgment and shall be based upon the terms and provisions of these Restrictions and the intent of these Restrictions to create and maintain a modern and prestigious commercial / retail center consistent with the provisions of Article II hereof.

**Section 6.02  Section 7.04 — No Outside Storage.** No materials, equipment, supplies, raw materials or finished product, shall be stored on a Lot or Site outside the confines of a Building or Buildings. Facilities for storage of waste and rubbish shall be maintained in closed metal containers within an enclosure which shall match the Building’s exterior finish.

**Section 6.03  Section 7.05 — Exterior Building Maintenance.** Exterior surfaces of Buildings, Structures and other Improvements, including all paved areas, must be kept in a good condition and state of repair and otherwise in conformity with the intent of these Restrictions. Said exteriors shall be maintained and renewed or replaced as necessary to keep the same consistent with the plans therefor originally approved by the Developer, the City and the TIF Commission pursuant to these Amended and Restated Declarations. Color or finish of exterior surfaces shall not be changed except as the same may be approved by the Developer, and the TIF Commission, and the City, as applicable pursuant to Article III, Article IV, and Article V hereof.

**Section 6.04  Section 7.07 — Parking Lot Lighting.** All parking lots, loading areas and entrance areas shall be adequately lighted and illuminated for evening use, safety and aesthetics. All exterior and parking lighting facilities and fixtures shall be subject to prior approval by the Developer and the City, which may require a consistent type throughout the Center. See also Section 9.018.01 below.

**Section 7.10 — Trash Removal.** Each Owner and tenant shall keep its premises, Lot, Buildings, Structures, Improvements and appurtenances in a safe, slightly, clean, neat and wholesome condition and shall remove at its own expense any rubbish or trash of any nature or character which may accumulate on its property and shall keep unlandscaped areas mowed as required by these Restrictions. Rubbish and trash shall not be disposed of on the premises by burning in open fires. Use of any incinerators shall only be with the prior written approval of the Developer and the City and only permitted by applicable law and City Code.

**Section 6.05  Section 7.11 — Construction Period Guidelines.** To protect the occupants of existing Lots or Sites from encountering inconvenience during construction, the following guidelines shall be followed to the fullest practical extent by an Owner or its tenant during construction:
(a) Building contractors and their employees shall be required to park their vehicles and unload and store building materials entirely on the Lot or Site;

(b) Construction shall be carried out so as to not interfere with free and ready access to existing Buildings along the Permanent Accessways or otherwise; and

(c) Maximum care shall be taken by the contractor to prevent the unsightly appearance of or the accumulation of litter on the Lot or Site or the adjacent streets. Litter, soil or mud spilled from or tracked by the vehicles into the Permanent Accessways or streets of or adjacent to the Center shall be immediately swept up and properly disposed of on the Lot or Site.

Section 7.12 — Common Areas to be Open. Except as otherwise specifically set forth in this Declaration, each Owner shall be responsible for keeping the Common Areas (including the Permanent Accessways) on its Lot or Site open, and clean and free from refuse and rubbish. Any landscaped area on the respective Common Areas shall be mowed and otherwise tended to by the Owner thereof. If any Permanent Accessway is blocked or impaired as the result of an Owner's failure to clear ice or snow or otherwise maintain such Owner's Lot or Site, any other affected Owner shall have the right to enter on such Owner's Lot or Site to clear or maintain such Accessway necessary for the proper operation of its or their business. The cost of such clearing and maintenance may be charged to the Owner of the Lot or Site failing to provide proper maintenance or snow and ice clearance.

Section 6.06 Section 7.13 — Parking Lot Maintenance. Each Owner shall repave, re-stripe and replace markings on the surface of the parking areas on its Lot or Site from time to time as and when necessary so as to provide for the orderly parking of automobiles and shall place and maintain adequate exit and entrance and other traffic control signs to direct traffic in and out of said parking areas. Any striping and other markings shall be consistent with the Center Site Plan, as it may be amended.

Section 6.07 Section 7.14 — Maintenance of Utilities Facilities. Each Owner shall service, maintain, repair and replace, and pay the cost of any fees or charges in connection with, the Utility Facilities located on its Lot or Site to the extent such Utility Facilities service the improvements on that Lot. Maintenance of any portion of any Utility Facilities serving more than one Lot shall be performed by the Owner of the Lot crossed by the Utility Facilities, but the cost thereof shall be shared on an equitable basis based upon the relative consumption or usage of the utility furnished from such Utility Facilities. To the extent that any Utility Facilities exclusively servicing any Lot crosses another Owner's Lot, such Utility Facilities shall be so maintained by the party served by the Utility Facilities, subject to the provisions of Section 8.02 below.

Section 6.08 Section 7.15 — Payment of PILOTS and Taxes. Each Owner shall pay, prior to any penalty attaching thereto, all PILOTS (as described in Section 20.06 below), real estate taxes, assessments and personal property taxes, if any, imposed upon its Lot, Site, Buildings and Improvements and equipment located on its respective Lot.

Section 6.09 Section 7.16 — Developer's and Other Owners' Rights to Perform Work. In the event any Owner or tenant does not comply with the provisions of this Article within thirty (30) days after written notice by the Developer or another Owner, the Developer or such other Owner and its or their representatives or employees shall have the right to enter on such Lot or Site and perform the work specified in such notice and the non-complying Owner or tenant shall pay the cost thereof upon demand. If the cost of such work is not paid within ten (10) days after demand is made therefor upon such Owner or tenant, it shall become a lien on such land and enforceable to the extent provided for below in this Amended and Restated Declaration.
ARTICLE VII
Access and Parking Easements; Utility Easements; Temporary Construction Easements; Storm Water Drainage Easements

**Section 7.01** Access and Parking Easements. Subject to the terms of this Amended and Restated Declaration, the Developer, the City and each Owner of a Lot or Site hereby grant and convey, to the other, hereby declares for the benefit of all the Lots and Sites in the Center, a non-exclusive, perpetual easement and right to use the Common Areas Permanent Accessways (including the common curb cuts, roadways, driveways, aisles and walkways), and parking areas located on the Lot or Site of each Owner as indicated on the Center Site Plan for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians and for no other purpose, and the parking lot facilities on all Lots and Sites for the common benefit of all Lot Owners, their tenants and occupants. The easements granted declared in this Section 7.01 shall be for the benefit of, but not restricted to, the Owners of Lots or Sites in the Center, it being expressly understood and agreed that each such Owner may grant the benefit of such easement to tenants and other occupants of its Lot or Site for the duration of such occupancy and to the customers, employees, agents and business invitees thereof (collectively, the "Permittees"); but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public nor shall it affect any real property outside of the Center. The easements granted in this Section 7.01 shall be subject to the following reservations:

(a) Each Owner reserves shall have the right to temporarily close off the portion of the Common Areas Permanent Accessways or parking lots located on its Lot at such intervals and for such minimum periods of time as may be legally necessary, in the opinion of such Owner or its counsel, to prevent the acquisition of prescriptive rights by any other party; provided, however, that, prior to closing off any portion thereof, such Owner shall give written notice to the Developer and all other Owners in the Center of its intention to do so, and shall coordinate such temporary closing with the Developer and other Owners to avoid any disruption to the Developer's or other Owners' respective business operations and to the full use and enjoyment of the access easements granted declared hereunder.

(b) Each Owner reserves shall have the right at any time and from time to time to exclude and restrain any Person who is not a Permittee hereunder from using any portion of the Common Areas Permanent Accessways or parking lots located on its Lot.

(c) Subject to approval by the Developer and the City and all other applicable governmental authorities, relocations of portions of the Common Areas Permanent Accessways or parking lots located on an Owner's Lot shall be permitted hereunder (as to the portion thereof located on its respective Lot), provided that (i) such relocation does not materially and adversely affect the other Owners' full use and enjoyment of the easements and rights granted under this Section 7.01 for the uses and purposes herein provided and (ii) following such relocation, the access provided over the relocated portions of the Common Areas Permanent Accessways shall be reasonably equivalent to the access afforded by such portion of the Common Areas Permanent Accessways prior to such relocation. Notwithstanding the foregoing, in no event shall the accessways Permanent Accessways designated on the Center Site Plan as "any Plat or site plan approved by the City as Permanent Accessways" including, without limitation, the curb cuts onto or serving the such Permanent Accessways as shown on the Center Site Plan any Plat or site plan approved by the City, be relocated, modified or closed in any manner, except as otherwise (A) approved in writing by the Owners constituting at least fifty percent (50%) of the land area of the Center, (B) required by the City or other applicable governmental authority, (C) permitted in Section
may be required in connection with any temporary closure due to applicable maintenance, repairs or replacements of or to the Permanent Accessways or driveways as shown on any Plat or site plan approved by the City or any applicable related improvements or Utilities Facilities as required or permitted pursuant to the terms of this Amended and Restated Declaration.

(d) The reciprocal access easements granted in this Section 7.01 expressly include reciprocal easements and rights to the use of the parking areas on the Lots or Site for vehicular parking purposes except any handicap parking spaces specifically assigned to a Building or Structure as required by the City's Code of Zoning Code or approved plans and specifications for such Building or Structure.

(e) Except in the event of an emergency, in no event shall any such closing of the Permanent Accessways or driveways as shown on any Plat or site plan approved by the City take place during normal business hours of the businesses conducted in the Center unless a reasonable alternative means of access is provided to all Owners.

Section 8.02 Utilities Easements. The Developer, the City and each Owner of a Lot or Site hereby grant and convey, each to the other, hereby declares for the benefit of the Lots and Sites in the Center, a non-exclusive, perpetual easement in, to, over, under and across any Common Areas of Lots and Sites shown on the Center Site Plan any Plat or site plan approved by the City as being expressly for utilities (the “Utility Easements”) for the purpose of installation, operation, maintenance, repair, replacement, removal and relocation of underground storm sewer lines, sanitary sewer pipes, water and gas mains, electric power lines, telephone lines, cable television lines, decorative and functional site lighting and other underground utility lines (collectively, the “Utility Facilities”) to serve the Buildings and Improvements in the Center. The installation of any Utility Facilities not contemplated by the Center Site Plan and relocation of any Utility Facilities after original installation thereof shall be subject, as to location, to the approval of the affected Owners, which approval shall not be unreasonably withheld or delayed, as to any relocation within the Common Areas, Permanent Accessways or parking areas, and provided that any such relocation shall be performed in a manner that will minimize any interference with the regular conduct of business of any affected Owner's Lot. The Owners of the Lots or Sites in the Center, or any designee served by such Utility Facilities, shall, pursuant to the provisions of Section 7.11 above, operate, maintain and repair (and may relocate subject to the conditions set forth herein) such Utility Facilities, provided such repair and maintenance is performed expeditiously and only after five (5) business days' written notice to the other Owners that utilize or are served by said Utility Facilities or that own any parking areas to be affected by any construction work as to repair or maintenance work, or only after fifteen (15) business days' written notice as to any relocation. Non-essential or non-emergency repairs or relocations will not be performed between October 15th and December 31st of any year. The Owner performing the repair or relocation, as applicable, shall, at its cost and expense, promptly repair any damage to any Improvements or landscaping occurring as a result of the performance of such repairs or relocations. Each Owner performing such work on another Owner's Lot shall indemnify and hold the other Owner and any occupant of the other Owner's Lot harmless from any claims, damage or loss which may result from the activities in making such repairs or relocating such Utility Facilities.

Section 7.02 Temporary Construction Easements. Subject to the terms of Section 7.11 above, in connection with any construction work to be performed in the development of the Center, each Owner hereby grants to each other Owner temporary easements for incidental encroachments upon the granting Owner's Lot which may occur as a result of construction, so long as
such encroachments are kept within the reasonable requirements of construction work expeditiously pursued and so long as customary insurance is maintained protecting the other Owners from the risks involved. Except as may be allowed by a granting Owner, in no event shall an Owner stage any construction on the Lot of another Owner. Except in an emergency (in which case the work may be initiated after reasonable notice), in the event of any entry by any Owner onto another Owner’s Lot for the performance of any work permitted or required hereunder that will take more than one (1) day to complete or that would otherwise materially and adversely affect access to or the operation of the Owner’s Lot so entered (the “Affected Owner”), the entering Owner shall notify the Affected Owner at least fifteen (15) business days prior to the commencement of such work. The entering Owner shall complete such work in accordance with a schedule of performance which must be furnished to and approved by the Affected Owner prior to the commencement of any such work, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that if such approval has not been granted or denied within fifteen (15) days after receipt of such schedule of performance by the Affected Owner, then such schedule shall be deemed approved. Such schedule shall detail the stages of any such work, the time for completion of each stage and the portions of the Common Areas to that will be affected by such work at such times. In the event the entering Owner fails to complete such work in accordance with the schedule of performance approved by the Affected Owner and such work impedes or interferes with normal access to the Affected Owner’s Lot, the operations in the Common Areas or the Affected Owner’s business, then after not less than two (2) days’ notice, in addition to all other rights or remedies available to an Owner hereunder or at law or in equity, the Affected Owner may complete such portions of any and all then remaining construction, repairing or repaving as it so elects, all at the expense and for the account of the entering Owner. If the entering Owner elects to proceed pursuant to the immediately preceding sentence, then the Affected Owner shall be reimbursed for any amounts paid or incurred by the Affected Owner to complete any portion of such construction, repairing or repaving within thirty (30) days of demand for payment accompanied by lien waivers from the contractor(s) providing such work and reasonable evidence of the costs of such work. If the entering Owner fails to reimburse the Affected Owner for any such amount within the 30-day period following the Affected Owner’s demand therefor, interest shall accrue thereon at the interest rate identified in Section 11.02 below thereon at a per annum interest rate equal to three percent (3%) above the prime rate of interest shown in the Money Rates Column of the Wall Street Journal on the date of the Affected Owner’s demand therefor, from and after the thirtieth (30th) day following any such demand for payment, and the provisions of this Amended and Restated Declaration respecting the creation of an equitable charge and continuing lien on the entering Owner’s Lot shall apply to the payment of such amount.

Section 7.03  Section 8.04—Each Owner’s Indemnity. Each Owner shall indemnify, defend and hold the other Owners harmless from and against any and all loss, cost, damage, injury or expense (including, without limitation, reasonable attorneys’ fees) arising by reason of injury to or death of persons or damage to property or claims of lien for work or labor performed or materials or supplies furnished, all arising out of or in connection with the use by the indemnifying Owner of the easements granted pursuant to this Amended and Restated Declaration or the exercise by such Owner of the rights granted to Owners in this Amended and Restated Declaration.

Section 7.04  Section 8.05—Construction Period Insurance. With respect to any construction work to be performed by each Owner hereunder, and at all times until such work is complete, each of the Owners shall, at their own cost and expense, maintain, or cause to be maintained in full force and effect, a policy or policies of commercial general liability insurance and, once footings are installed, builder’s risk insurance. Said insurance shall be carried by a reputable insurance company or companies qualified to do business in the State of Missouri and having limits for loss of life or bodily injury in the amounts of not less than $1,000,000 for each person and $2,000,000 for each occurrence and $1,000,000 for property damage for each occurrence. Each Owner shall maintain, or cause to be
maintained, contractual liability insurance specifically endorsed to cover said Owner’s agreement to indemnify. Additionally, each Owner shall also maintain, or cause to be maintained, workers’ compensation insurance with coverage in at least the minimum amount specified by law. Such insurance may be carried under a “blanket” policy or policies covering other properties of the Owner and its Subsidiaries provided that the coverage pursuant to such blanket policy or policies is not reduced below the coverage required under this Amended and Restated Declaration as a result thereof. Each Owner shall, upon written request from any other Owner, furnish to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Section 8.05.7.05. All such insurance shall include provisions denying to the insurer subrogation rights against the other parties to the extent such rights have been waived by the insured prior to the occurrence of damage or loss. Each Owner hereby waives the rights of recovery against the Developer, any other Owner, their respective directors, members, officers, employees, agents, tenants and occupants for any damage or consequential loss covered by said policies (or that would have been covered but for the fact that such Owner self insurers), against which such Owner is protected by insurance, to the extent of the proceeds payable under such policies (or that would have been payable but for the fact that such Owner self insurers), whether or not such damage or loss shall have been caused by any acts or omissions of the Developer, any other Owner or their respective directors, members, officers, employees, agents, tenants or occupants.

Section 7.05 Section 8.06 Storm Water Drainage Easement. The Developer, the City and all Owners of Lots or Sites in the Center hereby grant and convey, each to the other, perpetual, non-exclusive rights and easements to use, impound storm water within and drain storm water through the storm water drainage and detention facilities, if any, located, or to be located or constructed upon their respective Lots (collectively, the “Storm Water Drainage Facilities”) including, without limitation (a) all pipes, ditches, flumes, culverts, inlets and other facilities for the drainage of storm water and (ii) sheet flow of storm water across the surface of the Lots.

ARTICLE IX
ARTICLE VIII
Hours of Operation of Roadways and Parking Lots

Section 9.01——Required Hours for Operation and Lighting of Driveways and Parking Lots. Unless specifically agreed to otherwise by all Owners, each Owner shall keep the roadways (including Permanent Accessways) and parking areas of its respective Lot open to the customers of the Center seven (7) days a week at all times and lighted after dusk until 11:00 p.m. on Monday through and including Saturday and from dusk until 9:00 p.m. on Sunday (the “Normal Lighting Hours”). Any Owner or occupant of a Lot may require the lights on any other Owner’s Lot to be kept lighted after Normal Lighting Hours if such Owner or occupant reimburses the requested other Owner for the additional electric costs incurred therefor, which cost shall be shared on a pro rata square footage basis with any other occupant which remains open during such additional hours. Any lighting facilities and fixtures to be used in the lighting of the roadways or parking areas of the Center will be constructed of materials and designed pursuant to standards established by the Developer, the City and the TIF Commission. Except for any Decorative Site Lighting (as defined hereafter), the Center’s lighting facilities and fixtures shall be designed and installed with separate meters to measure the electricity consumed by the occupants of the respective Lots. The Owners shall power and control all site lighting located on their respective Lot with such power and control designed to provide normal lighting levels and security lighting levels. The timing control system shall be capable of easily modifying the time of day that the normal and security lighting levels are initiated, and the Owners agree to cooperate with each other and to coordinate changes to the light level switching times (for seasonable changes or other requests described above) upon request of another Owner.

ARTICLE IX
Prohibited Uses in Center

Section 9.01——Prohibited Uses. No Building, Structure or Improvements on any Lot or Site within the Center shall be used for any of the following uses (the “Prohibited Uses”):

(a) Manufacturing facility, factory, or industrial usage, warehouse not incidental to retail sales, processing or rendering plant, operation used primarily as a storage warehouse or logistics operation or any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation; Notwithstanding the foregoing, nothing in this paragraph shall prohibit light manufacturing in connection with a retail store that does not produce visible activity or sound that would reasonably be perceived from the exterior of the building in which such use is occurring, including, but not limited to, a jewelry store performing light manufacturing or assembly of jewelry or silverware related items including cutting, soldering, or welding.

(b) Flea market.

(c) Adult book store, peep show store, or any other similar store or club in which a material portion of its inventory includes obscene or pornographic materials (as determined by a court of competent jurisdiction), nude photos, sexual devices, magazines, videos, tapes or objects depicting nudity or sexual activity and other similar items, or any store or club whose activities include the display
of partially or totally nude males or females, or any business described or referred to in Chapter 5.08 entitled “Adult Businesses” of the City’s Code;

(d) Any use which is a public or private nuisance as determined by a court of competent jurisdiction;

(e) Any use which produces dust, dirt, debris or fly ash in excessive quantities;

(f) A dry cleaning plant, central laundry, or commercial laundromat, provided, however, that this prohibition shall not be applicable to nominal supportive facilities or on-site service-oriented to pickup and delivery by the ultimate customer, or coin-operated laundry;

(g) A massage parlor, tattoo parlor, or body piercing establishment (except a first-class day spa which also provides ancillary services such as hairdressing, manicuring and cosmetic services) shall not be prohibited);

(h) Gambling facility or operation including, but not limited to, any “off track” or sports betting parlor, table games such as black jack or poker, slot machines, video poker/black jack/keno machines or similar devices; provided, however, that this prohibition shall not apply to governmental sponsored gambling activities (such as state lotteries) or charitable gambling activities (such as bingo) so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the occupant and otherwise permitted by applicable laws;

(i) A mortuary, funeral home or crematorium;

(j) A pawn shop, car title lender, or check-cashing shop;

(k) A carnival, amusement park or circus, other than a temporary carnival setup;

(l) A “head shop,” smoke-shop or any business selling illegal drug paraphernalia;

(m) A gas station, truck stop, car wash, automotive service or repair business, or body shop;

(n) Displaying, selling, or leasing automobiles, trucks, trailers, motorcycles or other motor vehicles, new or used; however, this prohibition shall not prevent such goods from being displayed by any occupant for contest or promotional purposes;

(o) A mobile home or trailer court, labor camp, junkyard or stockyard, except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance;

(p) A landfill, garbage dump or other facility for the dumping, disposing, incinerating or reduction of garbage, exclusive of trash facilities or garbage compactors which shall be screened from public view;

(q) A “Second-hand” store whose principal business is selling used merchandise, specifically including any thrift shops, salvation army type stores, “goodwill” type stores, and similar businesses, or any facility selling new or used merchandise as a wholesale operation, a liquidation operation, odd lots, lot sales, factory close-outs or imperfect goods (except for first-class multi-store Occupants selling used merchandise such as “Play It Again Sports,” “Once Upon a Child” or a similar type national or regional retailer commonly found in first-class development centers), provided

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that this restriction shall not prohibit TJMaxx, Marshall’s, Ross or other similar retailers or Meierotto
Jewelers (or its successors or assigns), selling surplus or overstocked merchandise or the sale of antiques or
previously owned objects of art;

r) Single-family residential detached dwelling units, multi-family residential housing financed with
low-income tax credits, or income-restricted dwelling units;

a) Further, it shall be the obligation of the Owner of any Tract utilized for residential purposes to ensure
that any windows, patios, porches, or decks of such residential units are kept in a clean, orderly, and
clutter-free condition, and such items as hanging laundry, flags, banners, or similar items shall be
prohibited.

(2) Restaurants providing on-site drive-thru service of prepared foods, although this
prohibition shall not prohibit carry out service;

(s) Parking, loading, and unloading of commercial vehicles in any manner that materially
obstructs or limits parking or the free flow of traffic;

(1) Overnight parking of motor homes, recreational vehicles, or semi-trucks.

A Prohibited Use in this Section may be waived only upon the written consent of the Developer—
and the City and the TIF Commission, each City, which such consent may be withheld, delayed, or denied by
each of them in their sole and absolute discretion.

ARTICLE XI
Common Areas Facilities Maintenance

Section 11.01 — Common Areas Facilities Maintenance and Costs. The Developer, the City and each Owner of a
Lot in the Center acknowledge and agree that the Common Areas Facilities (as defined below) benefit the Center as a
whole and the maintenance thereof shall be shared by all Owners and each Lot Owner shall pay its respective
"Owner's Share" (as defined below) thereof. The "Common Areas Facilities" are (a) the Permanent Accessways shown
on the Center Site Plan and the sidewalks, curbs and gutters adjacent thereto (which will be initially constructed by
each Lot Owner across its Lot as shown on the Center Site Plan at such Owner's cost and expense), (b) the sign
monumentation identifying the Center on the two (2) Sign-Tracts identified on the Center Site Plan (which will be
initially installed by the Developer at its cost) and (c) any decorative lighting installed or to be installed along the
Permanent Accessways (the "Decorative Site Lighting"). Accordingly, each Owner of a Lot in the Center shall have
the primary responsibility for maintaining in good order and condition, repairing and replacing (when needed) the
Common Areas Facilities on or directly abutting its Lot and its perimeter boundary lines (the "Common Areas Facilities
Maintenance"), including, but not limited to, repair of potholes, sinkholes, damage by erosion, buckling, speed bumps,
striping or other markings, resurfacing, sealing, grading and repairs to or replacement of the surfacemore or road bed
when needed, repairs to and replacement of curbs and gutters and any Decorative Site Lighting, maintaining in effect
at all times public liability and property damage insurance on the Common Areas Facilities affecting its Lot with a
combined single limit of at least $1,000,000 (under which all Lot Owners, the Developer, the City and the TIF
Commission shall be named as additional insureds), and paying any and all PILOTS, taxes and assessments at any
time imposed on such Common Areas Facilities affecting such Owner's Lot (including any Sign Tracts located
therein). "Common Areas Facilities Maintenance Cost" shall mean the actual costs incurred by a Lot Owner in
performed the Common Areas Facilities Maintenance for and attributable to its Lot (including any Sign Tracts) from
time to time. The term "Owner's Share", when used herein, shall mean a fraction, the numerator of which is the total
number of gross square feet of an Owner’s Lot and the denominator of which is the aggregate gross square footage of
the Center as existing at the time of any calculation of an Owner's Share.

Section 11.02 — Pavement of Common Areas Facilities Maintenance Costs. The other Lot Owners shall
pay their proportionate Owner's Share of Common Areas Facilities Maintenance Costs within ten (10) days of receipt of a
written invoice therefor from the Lot Owner requesting reimbursement or payment (the "Requesting Lot Owner"),
accompanied by evidence of the amount thereof. Prior to commencing any such maintenance, repair or replacement work,
the Requesting Lot Owner shall give to the other Lot Owners (which are responsible for their Owner's Shares) written
notice of the need therefor and the proposed work to be done which shall include a description of the scope of such work
and the name, address, telephone number, and contact person at the company, firm or entity which has submitted a bid to
perform such work (the “Contractor”). The Contractor bidding shall be licensed and certified to perform such work, shall carry a good reputation in the community, and shall submit a fixed-price bid for the work to be performed. The other Lot Owners receiving notice of such work shall have ten (10) business days from the date of such written notice within which to object either (i) to the necessity or scope of such work or (ii) obtain a competitive bid by sending written notice of such objection or such a competitive bid to the Requesting Lot Owner within such 10-day period. If no notice of objection or competitive bid is timely received, the Requesting Lot Owner shall be free to contract for such work with the Contractor on the terms provided. If an objection to the necessity or scope of the work is timely submitted by any of the other Lot Owners, the parties shall attempt to mutually resolve such dispute, but if such dispute cannot be resolved among them within an additional ten (10) business days, then each party shall have the right to submit such dispute to binding arbitration in accordance with the rules for arbitration for commercial disputes of the American Arbitration Association, which arbitration shall be held in the Kansas City, Missouri metropolitan area. The arbitrator shall determine whether the proposed work is reasonably necessary in order to comply with the terms and conditions of the covenants set forth herein. Any such arbitration decision shall be final and binding and enforceable in accordance with the Missouri Uniform Arbitration Act. Each affected party shall be responsible for and bear its costs incurred in any such arbitration proceeding. Any maintenance, repair or replacement work required by the City or any other governmental entity having jurisdiction shall not be subject to objection by any Lot Owner and shall not be the subject of arbitration. If notice of a competitive bid which meets all the requirements of the initial bid submitted by the Requesting Lot Owner is timely submitted to such Requesting Lot Owner by any of the other Lot Owners and such bid is more than ten percent (10%) lower than the initial bid submitted by the Contractor, the work shall be contracted to the competing bid provider for the performance of such work. Upon completion of the work, the Requesting Lot Owner shall bill the other Lot Owners for their Owner’s Share of Common Areas Facilities Maintenance Costs as described above and shall pay for such work in full upon receipt of such funds but only after obtaining proper lien waivers and releases from the Contractor, its materialmen and suppliers. If the other Lot Owners (or any of them) shall fail to pay their Owner’s Share of Common Areas Facilities Maintenance Costs within thirty (30) days after the sending of a written invoice therefor, their or its Owner’s Share of such Common Areas Facilities Maintenance Costs shall be a debt owed by such party to the Requesting Lot Owner which shall bear interest thereon from the end of such 30 day period until the date paid, in full at a per annum interest rate equal to three percent (3%) above the prime rate of interest shown in the Money Rates Column of the Wall Street Journal on the date of such invoice. The Requesting Lot Owner shall be entitled to and have a lien on the Lot of any other Lot Owner who fails or refuses to pay his or its Owner’s Share of Common Areas Facilities Maintenance Costs to the extent of the amount thereof plus interest as set forth above plus costs of collection and enforcement. Such lien may be enforced in the same manner as either a mechanic’s lien, a deed of trust or a mortgage. The Requesting Lot Owner may file a certificate of nonpayment against the Lot of any defaulting other Lot Owner. An action may be brought at law against a defaulting Lot Owner for collection of any amount due from it or them and there shall be added to the amount owing to all reasonable expenses of collection, including court costs and reasonable attorneys’ fees.

Notwithstanding anything herein to the contrary, in the event of an emergency requiring immediate maintenance, repair or replacement, a Lot Owner shall have the right to perform maintenance, repair or replacement work with respect to its Common Areas Facilities without following the foregoing procedures providing it does so in accordance with sound and reasonable business judgment. In such event, the other Lot Owners shall nonetheless pay their respective Owner’s Share of the costs thereof as set forth above.

Section 11.03 — Signs on Sign Tracts. As set forth in Section 11.01 above, sign monumentation identifying the Center on the Sign Tracts will be initially installed by the Developer, at its cost, and thereafter shall be maintained by the Lot Owners on whose Lots the Sign Tracts are located with all other Lot Owners sharing in the costs thereof. Additionally, the Developer and/or the City, by separate easement agreements or otherwise, may permit the erection or installation of other signs on the Sign Tracts identifying or showing the entrances to one or more apartment or other projects that are a part of the TIF Plan. However, the owner of any such apartment or other project shall be responsible for all costs of installation, maintenance, repair and replacement of its signs.

ARTICLE XII
ARTICLE X
Minerals

Section 10.01 — Section 12.01—— No Drilling or Mineral Extraction. No oil or gas drilling, oil development, mining or quarrying operations of any kind shall be permitted upon the Property, the Center or any part thereof, nor shall oil wells, gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property, the Center or any part thereof.
ARTICLE XIV
Performance Standards

Section 11.01 — No Objectionable Emissions. Except as necessary during construction of Improvements on a Lot or Site, no operation shall be conducted on the Property/Center or any part thereof which results in the emission of noise, smoke, dust, dirt or odor to an extent to be reasonably objectionable to any other Record Owner or occupant of other Sites in the Property/Center.

Section 11.02 — Nuisance Control. It shall be the sole responsibility and obligation of each Owner and its tenant, if any, to insure that all operations conducted on any Site owned by such Owner are at all times in compliance with all applicable federal, state and local laws, regulations and ordinances, including but not limited to, those relating to environmental matters such as the generation, emission, storage, discharge or disposal of hazardous or toxic wastes or substances as set forth in Article XIX below. Each Owner agrees to indemnify, defend and hold harmless the Developer, the TIF Commission, the City and their respective shareholders, members, directors, officers, employees and agents from and against any and all claims, suits, proceedings, liabilities, losses, damages and expenses (including, but not limited to, reasonable attorneys’ fees and expenses and the reasonable fees and expenses of consultants or experts) which may be asserted or brought against any of them or which they may suffer or incur, in connection with any failure by such Record Owner or any of its tenants to fully comply with the foregoing obligation.

ARTICLE XV
Right to Repurchase

Section 15.01 — Developer’s Right to Repurchase. If, after the expiration of one (1) year from the date of conveyance of any Lot or Site within the Property, any Owner (or anyone claiming under such Owner) shall not have begun in good faith (subject, however, to Unavoidable Delays) the construction (i.e. both final Site grading and pouring of a slab for the Building) of an acceptable and approved Building upon such Site, and thereafter, with diligence, prosecuted such construction in strict compliance with the provisions hereof, the Developer may, within a one (1) year period thereafter, at its option, require the Owner to re-convey the Lot or Site to the Developer, free and clear from all liens, charges, encumbrances, tenancies and other such title exceptions except those in existence at the time of such original conveyance (collectively, the “Permitted Exceptions”), and upon such reconveyance the Developer shall refund to the Owner the purchase price plus any reasonable direct costs (excluding professional services and licensing fees or expenses) incurred by the Owner in preparing the Lot or Site for construction pursuant to specific plans and specifications previously approved by the Developer pursuant to these Restrictions and enter into possession of said Lot or Site. In connection with such reconveyance, the Developer may require the Owner to furnish and pay for an ALTA Owner’s Policy of Title Insurance - Form B (current version) in the amount of said purchase price and containing no exceptions other than the Permitted Exceptions. At any time the Developer, in its sole discretion, may extend, in writing, the time in which such Building may be commenced and/or completed. Such right to repurchase shall be an additional material consideration to the Developer for the conveyance of the Lot or Site. A notice of such right to repurchase or an agreement with respect to such right may be included in contracts for sale or in deeds by which the Developer conveys title, but the failure in any particular transaction so to include either the notice or
the agreement or both shall not deprive the Developer of such right without specific recitations to such effect in such contracts and deeds. The Developer shall execute a release of this right to repurchase reasonably requested by an Owner upon completion of an acceptable and approved Building.

ARTICLE XVII
ARTICLE XIII
Indemnification

Section 13.01  Indemnification and Liability Insurance
Section 17.01——Indemnification. To the extent not covered or intended to be covered by any insurance required to be maintained by the indemnified party pursuant to this Amended and Restated Declaration (whether or not actually maintained) or otherwise actually maintained, and subject to the provisions of Section 18.02, 14.02 below, each Owner (an "Indemnifying Owner") shall indemnify, defend and hold the Developer, the City, the TIF Commission and every other Owner, tenant and occupant of the Center (the "Indemnified Parties") harmless (except for loss or damage resulting from the negligent or more culpable acts or omissions of the Indemnified Parties) from and against any damages, liabilities, actions, claims, liens, fines, penalties, costs and expenses (including reasonable attorneys' fees) in connection with the loss of life, personal injury and/or damage to property suffered or incurred by the Indemnified Parties and arising from or out of any occurrence in or upon the Indemnifying Owner's Lot, or occasioned wholly or in part by any act or omission of the Indemnifying Owner, its tenants, agents, Contractors, employees or licensees including, without limitation, a breach of this Amended and Restated Declaration by the Indemnifying Owner.

Section 17.02——Liability Insurance. Each Owner shall maintain, or cause to be maintained, comprehensive general commercial liability insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from or be occasioned by the condition, use or occupancy of the Common Areas (including the Permanent Accessways) in the Center by the Owner and its tenants, agents, Contractors, employees, licensees, customers and licensees, or the occupants of its Lot. Such policies shall name the Developer, the City, the TIF Commission and the other Owners as additional insureds and shall have limits of not less than $2,000,000, combined single limit per occurrence/aggregate, with such coverage to be on an "occurrence" rather than a "claims-made" basis. Such policies shall provide for severability of interests and shall provide that any act or omission of one of the insureds or additional insureds that would void or otherwise reduce coverage shall not void or otherwise reduce coverage as to the other insureds. Such insurance shall also include an endorsement providing for blanket contractual liability coverage, which coverage shall include the Owner's indemnifying obligations as set forth in Section 17.04.

ARTICLE XVIII
ARTICLE XIV
Casualty Damage or Destruction and Eminent Domain

Section 14.01  Section 18.01——Casualty Damage. If any of the Buildings, Structures or Improvements located on any Lot or Site are damaged or destroyed by fire or other cause, the Owner shall promptly either: (i) repair, restore or rebuild the Building, Structures or Improvements so damaged or destroyed; or (ii) raze the same, fill any excavation and perform any other work necessary to put such portion of the Center in a clean, sightly and safe condition.

Section 14.02  Casualty Insurance. In the event any Common Areas Facilities are damaged or destroyed, the Owner of the Lot to which such damage has occurred shall promptly repair, restore or rebuild the Common Areas Facilities (including Permanent Accessways) to the extent necessary to restore the affected area to its previously improved condition and restore such other areas to the extent necessary to avoid interference with the remaining Common Areas of the Center and to comply with the accessway requirements and the required parking ratios set forth in.
this Declaration. Section 18.02—Casualty Insurance. In order to assure performance of their respective obligations under Section 18.01, 14.01, the Owners of the respective Lots shall cause to be carried fire and extended coverage insurance on all Buildings, Structures and Improvements on their respective Lots in the amount of the replacement costs thereof, exclusive of footings and foundations, and in amounts at least sufficient to avoid the effect of any co-insurance provisions of such policies. Each of the Owners hereby waive any rights that any such Owner may have against the other Owners on account of any loss or damage occurring to an Owner or its respective property, either real or personal, arising from any risk generally covered by fire and extended coverage insurance and from any risk covered by property insurance than in effect. In addition, the Owners for themselves and on behalf of their respective insurance companies waive any right of subrogation that any insurance company may have against the other Owners.

Section 14.03 Section 18.03—Eminent Domain. In the event the whole or any part of the Center shall be taken by right of eminent domain or any similar authority of law (a "Taking"), the entire aware for the value of the land and Improvements so taken shall belong to the Owner of the Lot (or the applicable portion thereof or right or interest therein) so taken or to such Owner's Mortgagors or tenants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Amended and Restated Declaration. Any Owner of a Lot which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the land so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or Improvements so taken if such claim shall not operate to reduce the award allocable to the Lot (or the applicable portion thereof or right or interest therein) subject to the Taking. In the event of a partial Taking, the Owner of the portion of the Center so taken shall: (i) restore the Improvements or Common Areas Facilities located on the Common Areas of the Owner's Lot as nearly as possible to the condition existing prior to the partial Taking without contribution from any other Owner; and (ii) hold in trust for the benefit of the other Owners and apply so much of the award as is needed for such restoration until such restoration is completed.

ARTICLE XIX
Environmental Compliance and Indemnity

Section 15.01—Compliance and Indemnification. Each Owner of a Lot agrees to (and agrees to cause its tenants and occupants to): (i) comply with all governmental laws, rules or regulations related to the use, storage, treatment, transportation, removal or disposal of Hazardous Materials (as hereinafter defined); (ii) give notice to the Developer, the City and the other Owners within a reasonable period (not to exceed thirty (30) days) after such Owner's acquiring knowledge of any Hazardous Materials Contamination (as hereinafter defined) with a full description thereof; and (iii) promptly, at such Owners sole cost and expense, comply with any governmental laws, rules or regulations requiring the removal, treatment or disposal of such Hazardous Materials or Hazardous Materials Contamination and provide the Developer, the City and the other Owners with satisfactory evidence of such compliance. Each Owners shall defend, indemnify and hold harmless the other Owners from and against all liabilities (including strict liability), suits, actions, claims, demands, penalties, damages (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial costs, the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by the other Owners by reason of, resulting from, in connection with or arising in any manner whatsoever out of the breach of any covenant of an Owner contained in or referred to in this Section or 19.01, or which may be asserted as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Owner's Lot of any Hazardous Materials or any Hazardous Materials Contamination or arise out of or result from the environmental condition of the Indemnifying Owner's Lot, Buildings or

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Structures (which is not caused by another Owner), whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of the Indemnifying Owner. The covenants and agreements contained in this Section 19.01.15.01 shall survive the consummation of all the transactions contemplated in this Amended and Restated Declaration.

Section 15.02 Section 19.02—Hazardous Materials. The term “Hazardous Materials” shall mean: (a) any “hazardous waste” as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (c) asbestos or asbestos containing material; (d) polychlorinated biphenyls; (e) any substance, the presence of which on a Lot or in a Building or Structure is prohibited by any governmental law, rule or regulation; (f) any petroleum-based products stored or used other than in compliance with governmental laws, rules or regulations; (g) fuel or other liquids in underground storage tanks; and (h) any other substance which, by any governmental law, rule or regulation, requires special handling in its collection, storage, treatment or disposal.

Section 15.03 Section 19.03—Hazardous Materials Contamination. The term “Hazardous Materials Contamination” shall mean the contamination of a Lots, its Building, Structures or Improvements or other facilities, soil, ground water, air or other elements on or of the Lot by Hazardous Materials, or the contamination of the Buildings, Structures, Improvements or other facilities, soil, ground water, air or other elements on or of any other real property as a result of Hazardous Materials at any time emanating from a Lot, Building, Structure or Improvement.

ARTICLE XVI
TIF Plan Matters

Section 16.01 Section 20.01—TIF Plan Applicability. As set forth in the Recitals to this Amended and Restated Declaration, the Property/Center is located within and is a redevelopment project area in and subject to the provisions of the TIF Plan of the TIF Commission, as approved by the City. The Developer has been selected by the TIF Commission and the City as the redeveloper of the Property/Center under and pursuant to the TIF Plan. The Developer (and other redevelopers of other redevelopment project areas under the TIF Plan) has entered into the TIF Development Agreement pursuant to which the Property/Center is to be redeveloped. Attached as Exhibit D to the TIF Development Agreement are the TIF Design Guidelines, portions of which apply to the Property/Center. Additionally, certain amenities of the Center (such as entry monumentation and decorative street lights) may have been or may be paid for by the City.

Section 16.02 Section 20.02—Matters Requiring City / TIF Commission Approval. Anything contained elsewhere in this Amended and Restated Declaration to the contrary notwithstanding, the Developer and the Owners of all the Lots in the Center shall perform their respective duties and obligations under this Amended and Restated Declaration in conformity with the TIF Plan, the Development Agreement and the TIF Design Guidelines. Accordingly, in no event shall the Developer or any Owner exercise any of its or their rights or duties under this Amended and Restated Declaration in any manner inconsistent with the TIF Plan, the Development Agreement and the TIF Design Guidelines. The Developer shall not grant any modifications or waivers that otherwise would contravene any of the same without first obtaining the TIF Commission’s approval. Further, no replacements of any amenities in the Center paid for by the City shall be made without obtaining in advance the City’s approval thereof.

Section 16.03 Section 20.03—City and TIF Commission Intended Beneficiaries. The City and the TIF Commission are expressly intended to be and are beneficiaries of this Amended and Restated Declaration.
Declaration and all of its provisions for the purpose of protecting the interests of the City and other parties, public and private, in whose favor or for whose benefit this Amended and Restated Declaration has been made.

Section 16.04 Section 20.04—Separate Tax Identification Numbers. Each Owner of a Lot shall (and shall cause any of its tenants or occupants to) obtain and utilize a separate and discrete tax identification number for the filing of sales taxes and payment of real property taxes from any business operating on such Lot or in any Building or Structure thereon.

Section 20.04 Payment of Economic Activity Taxes; Fines for Failure to Report. Each Owner of a Lot, its successors, assigns and transferees, and its or their licensees, concessionaires and tenants (each an “EATS Reporter”), shall provide to the Developer and/or the City or the TIF Commission, all information required by the City or the TIF Commission from time to time to verify all Economic Activity Taxes ("EATS") paid by such persons for each applicable tax year. "Economic Activity Taxes" means all sales taxes, earnings taxes, net profit taxes, food and beverage (convention and tourism) taxes, utility taxes and any other taxes at any time determined to be Economic Activity Taxes as defined by the Real Property Tax Increment Allocation Development Act, R.S.Mo. §§99.800 through 99.865, as amended from time to time (the “Act”). Presently, the City and the TIF Commission require the following information to be submitted for each tax year: all sales tax returns, all earnings tax returns, all net profits tax returns, all food and beverage tax returns, all utility bills paid and cover sheets for each of such items stating total amounts for applicable reporting periods. Each Lot Owner, for itself and its transferees, covenants and agrees to (and shall require its tenants, concessionaires, licensees and occupants to) submit all such items timely to the Developer and/or the City or the TIF Commission as and when required. Any EATS Reporter which fails to report EATS within thirty (30) days after receipt of written request therefor from the City, the TIF Commission or the Developer shall be subject to a fine of $100 per day for each day thereafter which such EATS Reporter fails to report. Such fines shall be enforced and collected in any manner permitted under this Amended and Restated Declaration.

Section 16.05 Section 20.06—Payment of Payments in Lieu of Taxes. Each Lot Owner, its successors, assigns and transferees, shall pay when due all annual payments in lieu of taxes (“PILOTS”) to which the Lot is subject from time to time. Each Lot Owner further acknowledges that, pursuant to recorded agreement, memorandum or other instrument, the obligation to pay PILOTS is a covenant running with and a lien against all Lots in the Center and is enforceable against the Record Owner of each Lot in the same manner as liens may be foreclosed for failure to pay property taxes or as otherwise provided in Article XXIV below or elsewhere in this Amended and Restated Declaration.

ARTICLE XXI

ARTICLE XVII

Additional Powers of the Developer

Section 17.01 Section 21.01—Enforcement; Plans Review; Etc. The Developer (and the City, the TIF Commission and any Record Owner) may provide for the enforcement of the Restrictions herein set forth. In conjunction with the TIF Commission, the Developer shall review and approve all plans and the like required by these Restrictions. The Developer also shall have the right to provide for any improvements or maintenance of improvements, or services, which it may deem necessary or desirable and shall have the power to establish such procedures and policies necessary or deemed desirable to provide for the general welfare of the Property/Center, in accordance with the spirit and letter of the Restrictions set forth in this Amended and Restated Declaration.

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Section 21.02 — Specified Additional Powers. Without limiting the generality of the foregoing, the Developer shall have the following powers with respect to the Center, provided, however, that nothing herein contained shall be deemed to prevent any Record Owner having the contractual right to do so or the City or the TIF Commission from enforcing any Restrictions in its own name:

(a) To enforce, either in the Developer's name or in the name of any Record Owner within the Property I Center, or the name of the City or the TIF Commission, any and all Restrictions herein contained. The expenses and costs, if any, in such proceedings shall be paid by the Record Owner against whom such enforcement is sought and shall be a lien as set forth below; and

(b) Such other powers as may be set forth elsewhere in these Restrictions or reasonably necessary or desirable to enforce or give full effect to the intent of these Restrictions.

Section 21.03 — Developer’s Lien. The Developer shall have a lien for any amounts expended by it for maintenance and repair or other items not performed when required by a Record Owner or as elsewhere set forth in these Restrictions which may be collected and enforced in the same manner as statutory laws and rights for enforcing and collecting general taxes in the State of Missouri, now or hereafter existing, or enforcing mechanics liens or foreclosing a Mortgage, and the same are conferred upon the Developer, and the Developer may bring suits to collect or enforce such liens. Such liens shall continue for a period of three (3) years from the date of delinquency, unless within such time suit shall have been instituted for the collection of the same, in which event the lien shall continue until termination of the suit and satisfaction of the judgment resulting therefrom.

Section 21.04 — Unspecified Powers. The Developer shall have all powers and authority necessary or desirable to carry out the spirit and letter of the Restrictions set forth in this Amended and Restated Declaration even though such powers and authority are not specifically granted in this Amended and Restated Declaration.

ARTICLE XXII
Enforcement. Duration and Amendment

Section 22.01 — Restrictions Running with the Land. The conditions, restrictions, reservations and herein contained shall run with the land and be binding upon and inure to the benefit of the Developer and the now and future Record Owners of every part of the Property/ Center now or hereafter covered by the provisions hereof, shall create mutual, equitable servitudes upon each Lot and Site in favor of every other such Lot and Site and shall create reciprocal rights and obligations between and among the Developer and the respective Record Owners and tenants of all Lots and Sites and privity of contract and estate between and among the Developer and all grantees of said Lots and Sites, their heirs, successors and assigns and tenants.

Section 22.02 — Enforcement of Restrictions. The conditions, covenants, restrictions, reservations and easements contained in this Amended and Restated Declaration may be enforced as herein provided and by the Developer, the City, the TIF Commission, any Record Owner or any tenant with approval of the Record Owner of the Lot or Site of which the tenant occupies in whole or in part, and violation of any condition, covenant, restriction, reservation or easement herein contained shall give to the Developer, the City, the TIF Commission and to the Record Owners or any of them, the right to bring proceedings at law or in equity against the party or parties violating or attempting to violate any of said covenants, conditions, restrictions, reservations or easements, to enjoin them from so doing, to cause such violation to be remedied or to recover damages resulting from any such violation. Every act, omission to act, or condition which violates the covenants, conditions, restrictions, reservations and easements contained in this Declaration shall be enjoined.
easements herein contained shall constitute a nuisance and every remedy available at law or in equity for
the abatement of public or private nuisances shall be available to the Developer, the City, the TIF
Commission and the Record Owners. In any legal or equitable proceeding to enforce the provisions
hereof or to enjoin their violation, the party or parties against whom judgment is entered shall pay the
reasonable attorneys’ fees, costs and expenses of the party or parties for whom judgment is entered in
such amounts as may be fixed by the court in such proceeding. Such remedies shall be cumulative and
not exclusive.

Section 18.03   Section 22.03 —Priority Over Mortgages. All Restrictions, easements and other
provisions herein contained shall be deemed prior and superior to all Mortgages hereafter executed upon
land subject to this Amended and Restated Declaration and to all leases covering part or all of any Lot,
Site, Building or Structure thereon; provided, however, the violation of these Restrictions shall not
defeat nor render invalid the lien of any Mortgage made in good faith and for value, nor the leasehold
estate of any tenant except to the extent otherwise expressly provided in its lease. If any portion of the
Property/Center is sold under foreclosure of any Mortgage, or deed in lieu thereof, any purchaser, and
its successors and assigns, shall hold any and all of such Property purchased subject to all of the
Restrictions and other provisions hereof as fully as if it were an original party to this Amended and
Restated Declaration.

Section 18.04   Section 22.04 —No Waiver. The failure of the Developer, the City, the TIF Commission
or any Record Owner to take action to enforce the provisions hereof or to enjoin their violation shall in
no event be deemed a waiver of its or their right to subsequently do so, nor shall it be deemed a waiver
of any subsequent default or of the continuation of any existing default.

Section 18.05   Section 22.05 —Severability. Invalidation of any part or parts of this Amended and
Restated Declaration by judgment or court action shall in no way affect any of the other provisions
which shall remain in full force and effect.

Section 18.06   Section 22.06 —Term and Amendment. This Amended and Restated Declaration and
these Restrictions shall run with the land and shall be binding upon and shall inure to the benefit of all
parties and all persons claiming under or through the Developer or any Record Owner until December 31,
2028, expiration or termination of the TIF Plan in accordance with its terms (the “TIF Plan
Termination”), at which time this Amended and Restated Declaration and the Restrictions shall be
automatically extended for successive periods often (10) years; provided, however, that at any time the
Record Owners of more than fifty percent (50%) of the acreage in the Center and the Developer (whose
acreage may be included for the fifty percent (50%) computation and whose consent thereto shall be
required so long as it owns or has any interest in any acreage subject to this Amended and Restated
Declaration and these Restrictions including any Common Properties) may, by written Supplemental Declaration
signed and acknowledged by them and recorded in the Office of the Recorder of Deeds for Clay County,
Missouri, alter, amend, modify or restate these Restrictions, except that no amendment shall be made
which shall change Section 3.06 hereof or which eliminates a Lot Owner’s access to its Lot or the
provisions protecting Mortgages and leasehold estates in Section 22.02, 18.03, without the agreement of
one hundred percent (100%) of the Record Owners, or any provisions contained herein for the benefit of
the City or the TIF Commission without its or their consent.

Section 18.07   Section 22.07 —Developer’s Right to Waive, Alter, Amend, Etc. Anything
contained in Section 22.06 above or elsewhere in this Amended and Restated Declaration to the
contrary notwithstanding, (a) with the consent of the TIF Commission and the City, the Developer
reserves and shall have the absolute right, power and authority to waive, alter, modify, vary, revise,
amend or change any of the terms and provisions of this Amended and Restated Declaration at any time
that it owns any of the Property/Center including, without limitation, to comply with any

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requirements which the State of Missouri, Clay County or the City, or any of their agencies, may impose as conditions precedent to any zoning, plat or plan approval of any development affecting any part of the Property / Center, and (b) no modification or amendment of this Amended and Restated Declaration may be made which in any manner adversely affects the maintenance and repair of any Common Areas, Facilities or other Facilities created or installed by requirement of the City without first obtaining the written consent of the City to any such amendment or modification. Provided, however, that no subsequent waiver, alteration, modification, variance, revision, amendment or change to any of the terms or provisions of this Amended and Restated Declaration shall affect in any way any waiver, modification, variance, alteration, amendment, revision or change previously granted or made by the Developer with the consent of the TIF Commission and the City.

**Section 22.08 — Center Site Plan Amendment**

The Developer, the City, the TIF Commission and each Owner which acquires a Lot in the Center acknowledges and agrees that the Center Site Plan attached as Exhibit C hereto may need to be amended, altered, changed or modified as the Center is developed over time. Accordingly, the Developer reserves the right at any time to so amend, alter, change or modify the Center Site Plan, with the consent and approval of the City and the TIF Commission, provided that in no event shall any amendment, alteration, change or modification thereof (a) deprive any Owner then Owning a Lot or its tenants or occupants from having reasonable access to and from adjacent public streets or (b) impose upon any Owner then Owning a Lot or its tenants or occupants any additional or greater duties or obligations than those that exist prior thereto.

**ARTICLE XXIII**

**Section 18.08  TIF Plan Termination.** Notwithstanding anything else to the contrary set forth in this Amended and Restated Declaration, upon and following the TIF Plan Termination, any requirement or provision in this Amended and Restated Declaration for submission to, or the review, approval, and/or consent of the TIF Commission, with respect to any matter in this Amended and Restated Declaration (all such submissions, review, consents and approvals in this Amended and Restated Declaration, collectively, the “TIF Commission Approvals”) the (a) requirements for TIF Commission Approvals, (b) any requirements for application by any party for any TIF Commission Approvals, (c) requirements for the submission of any documents, materials, or other information by any party with respect to any TIF Commission Approvals, and (d) the right of the TIF Commission to enforce any provision of the Declarations, shall, collectively, be automatically deemed to be deleted, waived, and eliminated herefrom and thereafter deemed null and void. Additionally, upon termination of the TIF Plan, the TIF Design Guidelines will be deemed null as they may otherwise be stated in this Amended and Restated Declaration to apply to the Property/Center.

**ARTICLE XIX**

**Miscellaneous**

**Section 19.01  Notices.** All notices, consents, approvals or other communications (herein called the “Notices”) required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if hand delivered or sent by registered or certified mail, postage prepaid, if to the Developer, addressed to the Developer at Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161, Attention: President; the address therefor set forth the last assignee of the Developer’s rights hereunder filed of record in the Office of the Recorder of Deeds of Clay County, Missouri, or to the City or the TIF Commission at the City Hall of the City, or to any Record Owner at the address specified in the deed from the Developer to the Record Owner owning the Lot or Site in question, or at such other address as shall be furnished to the Developer by a Record Owner in accordance with the terms of this Section 19.01. The Developer or any Record Owner may change the address to which the Notices are to be sent in the manner hereinbefore provided. The Notices shall be deemed given on the date of delivery or the registration or certification thereof. The Developer shall not be bound by any change in record ownership of any Lot or Site until it has been given notice of such change in ownership in the manner herein provided for the giving of Notices.
**Section 19.02**  
Section 23.02 — **Consent by Acquisition of Title.** Every person who now or hereafter owns or acquires any rights, title, estate or interest in or to any portion of the Property / Center covered hereby, is and shall be conclusively deemed to have consented to and agreed to every covenant, condition, restriction, reservation and easement contained herein, whether or not reference to this Amended and Restated Declaration is contained in the instrument by which such person acquired an interest in said property.

**Section 19.03**  
Section 23.03 — **Governing Law.** This Amended and Restated Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of Missouri.

**Section 19.04**  
Section 23.04 — **Developer’s Right to Assign.** The Developer may, by appropriate agreement made expressly for that purpose, assign or convey to any person or entity all of the rights, reservations and privileges herein reserved by it, and, upon such assignment or conveyance being made, its assigns or grantees may at their option exercise, transfer or assign those rights, or any one or more of them, at any time or times in the same way and manner as though directly reserved by them or it in this Amended and Restated Declaration.

**Section 19.05**  
Section 23.05 — **Rule Against Perpetuities.** Notwithstanding anything in this Amended and Restated Declaration to the contrary, the creation of any interest under this Amended and Restated Declaration shall vest, if at all, within the period of time measured by the life of the survivor of the now living children of Prince Charles, Prince of Wales, plus twenty-one (21) years.

**Section 19.06**  
Section 23.06 — **Non-Terminable Agreement.** No breach of the provisions of this Amended and Restated Declaration shall entitle the Developer, any Owner or any other party to cancel, rescind or otherwise terminate this Amended and Restated Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which any party may have hereunder by reason of any breach of the provisions of this Amended and Restated Declaration. No breach of the provisions of this Amended and Restated Declaration shall defeat or render invalid the lien of any Mortgage made in good faith for value covering any part of the Property/Center and any Buildings, Structures or Improvements thereon.

**Section 19.07**  
Section 23.07 — **Non-Dedication.** Nothing contained in this Amended and Restated Declaration shall be deemed to be a gift or dedication of any portion of the Property/Center to the general public or for any public use or purpose whatsoever, it being the intention of the Developer and all Lot Owners, and their successors and assigns, and that nothing in this Amended and Restated Declaration, expressed or implied, shall confer upon any Person, other than the Developer, the Lot Owners, the City and the TIF Commission, and their successors and assigns, any rights or remedies under or by reason of this Amended and Restated Declaration.

**Section 19.08**  
Section 23.08 — **Estoppel Certificates.** The Developer and each Lot Owner or its successors or assigns (the “Responding Party”) shall at any time upon fifteen (15) days’ prior written notice from the Developer or any other Lot Owner or its successor or assigns (the “Requesting Party”) execute, acknowledge and deliver to the Requesting Party a statement in writing (i) certifying that this Amended and Restated Declaration is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Amended and Restated Declaration, as so modified, is in full force and effect); and (ii) acknowledging that there are not, to the Responding Party’s knowledge, any uncured defaults on the part of the Requesting Party, or specifying such defaults if any are claimed; and (iii) responding to such other information pertaining to this Amended and Restated Declaration as the Requesting Party may reasonably request. Any such statement may be conclusively relied upon by any prospective purchaser or Mortgagee of the Requesting Party’s Lot or of the business of the Requesting Party. Failure to deliver such statement within such time may be declared
by the Requesting Party to be a default of this *Amended and Restated* Declaration or, at the option of the Requesting Party, be deemed to conclusively establish that this *Amended and Restated* Declaration is in full force and effect, unmodified except as provided in the Requesting Party’s initial notice and that the Requesting Party is in full compliance with all of the terms of this *Amended and Restated* Declaration. The provisions hereof shall not apply to or be binding upon the Developer at such time as it no longer owns any Lot in the Center.

**Section 19.08**  **Section 23.09**—*No Partnership.* Nothing in this *Amended and Restated* Declaration shall be construed to make the Developer, the Lot Owners, the City and/or the TIF Commission partners or joint venturers or render any of them liable for the debts and obligations of the others.

**Section 19.09**  **Section 23.10**—*Multiple Counterparts.* This *Amended and Restated* Declaration may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
“DECLARANT”

CITY OF NORTH KANSAS CITY, MISSOURI,
a municipal corporation duly organized under the laws
of the State of Missouri

By: ______________________________________

____ Don Stielow, Mayor

[SEAL]

ATTEST:

Crystal Doss, City Clerk

APPROVED AS TO FORM:

_____ Thomas E. Barzee, Jr., City Counselor

STATE OF ( )
() ss.
COUNTY OF ( )

On this day of ___________ 2020, before me personally appeared Don Stielow, to
me known to be the person described in and who executed the foregoing instrument, who being by me
duly sworn, did say such person is the Mayor of CITY OF NORTH KANSAS CITY, MISSOURI, a
municipal corporation duly organized under the laws of the State of Missouri, and acknowledged said
instrument to be such person’s free act and deed and the free act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the
day and year last above written.

________________________________________
Print Name:

________________________________________
Notary Public in and for said County and State

My Commission Expires:
AGREEMENT AND CONSENT OF THE TIF COMMISSION

The Tax Increment Financing Commission of the City of North Kansas City, Missouri, does hereby agree and consent to the foregoing Amended and Restated Declaration and to the imposition of the same on the Declaration Property.

TAX INCREMENT FINANCING COMMISSION OF THE CITY OF NORTH KANSAS CITY, MISSOURI,

By: ______________________________________

____________________, Chairman

[SEAL]

ATTEST:

________________________, Secretary

STATE OF ____________) ss.

COUNTY OF ____________) ss.

On this day of ____________, 2020, before me personally appeared ____________, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say such person is the Chairman of THE TAX INCREMENT FINANCING COMMISSION OF THE CITY OF NORTH KANSAS CITY, MISSOURI, a body created pursuant to § 99.820.2 of the Revised Missouri Statutes, and acknowledged said instrument to be such person’s free act and deed and the free act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Print Name: ____________________________

________________________, Notary Public in and for said County and State

My Commission Expires:

[Signature Page to Amended and Restated Declaration of Covenants]
EXHIBIT "A"
Legal Description of Declaration Property

Parcel 1:
Lot 1, Northgate Village Retail Center First Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 2:
Lot 2, Northgate Village Retail Center Second Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 3:
Lot 1, Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 1, Parcel 2 and Parcel 3, collectively, were formerly described as set forth on Exhibit A-1 attached hereto.
EXHIBIT “A-1”

A tract of land in the Northwest Quarter of Section 14, Township 50 North, Range 33 West of the Fifth Principal Meridian in North Kansas City, Clay County, Missouri, described as follows: Commencing at the Northeast corner of said Northwest Quarter; thence South 0º52'34" West along the East line of said Northwest Quarter, 245.94 feet; thence North 89º07'26" West, 50.00 feet to the intersection of the West right-of-way line of Swift Avenue, as now established and the Northerly right-of-way line of Buchanan Street, as established by the plat of “Northgate Village Senior Housing”, a subdivision of land in said North Kansas City; Said point also being the True Point of Beginning of the tract of land to be herein described; thence North 89º06'52" West along said Northerly right-of-way line, 201.22 feet; thence Southwesterly along said Northerly right-of-way line, along a curve to the left, being tangent to the last described course with a radius of 180.00 feet, a central angle of 61º07'07" and an arc distance of 192.01 feet; thence South 29º46'01" West along the Westerly right-of-way line of said Buchanan Street, 380.78 feet; thence Southerly along said Westerly right-of-way line, along a curve to the left, being tangent to the last described course with a radius of 180.00 feet, a central angle of 28º53'44" and an arc distance of 90.78 feet; thence South 0º52'17" West along said Westerly right-of-way line, 210.89 feet to the South right-of-way line of 29th Avenue, as now established; thence North 89º18'50" West along said South right-of-way line of said 29th Avenue to the Easterly right-of-way line of US Highway No. 71, also known as Burlington Avenue, as now established; thence North 0º52'17" East along said Easterly right-of-way line, 40.35 feet; thence Northeasterly along said Easterly right-of-way line, along a curve to the right, tangent to the last described course, having a radius of 1096.28 feet, a central angle of 45º25'02" and an arc distance of 869.00 feet; thence North 46º17'19" East along said Easterly right-of-way line, 168.74 feet to the South right-of-way line of 32nd Avenue, as now established; thence South 89º18'50" East along said South right-of-way line, 331.34 feet to the West right-of-way line of said Swift Avenue; thence South 0º52'34" West along said West right-of-way line, 215.78 feet to the Point of Beginning. Containing 5.940 acres, more or less.

Except that part thereof described as follows:

Lot 2, Final Plat of Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.
EXHIBIT "B"
Legal Description of Declarant’s Property

Lot 2, Northgate Village Retail Center Second Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

(Such lot comprises .905 acre according to the recorded plat thereof.)

Lot 1, Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

(Such lot comprises 1.87 acres according to the recorded plat thereof.)
Document Title: AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER

Document Date: __________, 2020

Grantor/Grantee Name: CITY OF NORTH KANSAS CITY, MISSOURI, a third class city and political subdivision of the State of Missouri

Statutory Address: 2010 Howell Street, North Kansas City, Missouri 64116

Legal Description: See Exhibits A and B attached.

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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS AFFECTING PROPERTY WITHIN THE NORTHGATE VILLAGE RETAIL CENTER (this “Amended and Restated Declaration”) is made and executed as of __________________ , 2020, by the CITY OF NORTH KANSAS CITY, MISSOURI, a third class city and political subdivision of the State of Missouri (the “Declarant”), with its mailing address at 2010 Howell Street, North Kansas City, Missouri 64116, with respect to the facts and objectives set forth in the Recitals below which are a material part of this Amended and Restated Declaration.

RECITALS:

A. That certain Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center dated as of December 19, 2003, was recorded on December 19, 2003, under Document No. S43720, in Book 4451 at Page 331, in the Office of the Recorder of Deeds for Clay County, Missouri, as supplemented by that certain First Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center recorded on November 22, 2011, under Document No. 2011038002, in Book 6728, at Page 28, as supplemented by that certain Second Supplement to Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center recorded June 29, 2015, as Document No. 2015020952, in Book 7524, at Page 163 (collectively, the “Original Declaration”) with respect to the Property (defined below).

B. The tracts or parcels of land legally described on Exhibit A attached hereto (collectively, the “Property” or the “Center”) are located within and constitute a redevelopment project area in and subject to the provisions of the Northgate Village Tax Increment Financing Plan, as amended (the “TIF Plan”) of the Tax Increment Financing Commission of the City of North Kansas City, Missouri (the “TIF Commission”), as approved by the City Council of the City, pursuant to appropriate ordinance.

C. Declarant is the fee owner of that portion of the Property described on Exhibit B attached hereto, which constitutes 2.775 acres and is more than fifty percent (50%) of the 4.024 acres constituting the Property.

D. Declarant also the successor Developer (as defined in the Original Declaration) pursuant to that certain Assignment of Rights Under Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within The Northgate Village Retail Center dated September 17, 2019, and recorded October 10, 2019, under Document No. 2019030231, in Book 8521, at Page 38.

E. Section 22.06 of the Original Declaration permits Declarant, as a majority Record Owner, and Section 22.07 of the Original Declaration permits Declarant, as the successor Developer, to amend, restate, modify, and change the Original Declaration as more particularly set forth hereinbelow.

F. The Declarant desires that the Property be developed by a Developer (defined below) as a commercial and retail business center possessing features of more than ordinary value and desires to fix and establish certain covenants, conditions, restrictions and easements upon and subject to which all of the Property/Center and any Lots, Sites, Tracts or other parts thereof shall be acquired, improved, used, leased, sold and/or conveyed.
G. The TIF Commission desires that a Developer so develop all of the Property/Center and subject it to the provisions of this Amended and Restated Declaration and consents and agrees to the imposition by the Declarant of this Amended and Restated Declaration on the Property by its execution of this Amended and Restated Declaration as shown on the signature page(s) below.

NOW, THEREFORE, in consideration of the premises and with the agreement and consent of the TIF Commission, the Declarant hereby declares that the Original Declaration is hereby amended and restated in its entirety as set forth in this Amended and Restated Declaration and that the Property, constituting all of the real property legally described as shown on Exhibit A attached hereto, hereafter shall be acquired, improved, held, used, leased, sold and/or conveyed upon and subject to the following covenants, conditions, restrictions and easements which are for the purpose of protecting the value and desirability of the Property/Center and which shall run with the land and be binding upon any Owner (defined below) and Developer and the heirs, personal representatives, successors, transferees and assigns of each Owner and Developer and any person or entity at any time having any right, title or interest in all or any part of the Property or any of the Lots, Tracts, Sites or other parts of the Center.

ARTICLE I
Certain Definitions

Section 1.01 Definitions of Certain Words and Terms. When used in this Amended and Restated Declaration or any Supplemental Declaration, the following words or terms shall, except where the context otherwise requires, have the meanings set forth below:

(a) “Affected Owner” shall have the meaning set forth in Section 7.03 below.

(b) “Building” shall mean any Structure which (i) is permanently affixed to the land, (ii) has one or more floors and a roof, and (iii) is bounded by either an open area or the lot lines of a Lot or a Site. A Building shall not include such Structures as fences or Structures with interior surfaces not normally accessible for human use, such as tanks or similar Structures.

(c) “Center” shall mean the Northgate Village Retail Center, which includes the property described on Exhibit A.

(d) “Code” shall mean the general code of ordinances of the City, including but not limited to the zoning ordinances of the City, all as amended from time to time.

(e) “City” shall mean the City of North Kansas City, Missouri, a third class city and political subdivision of the State of Missouri.

(f) “Amended and Restated Declaration” shall mean this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements Affecting Property Within the Northgate Village Retail Center.

(g) “Developer” shall mean the the City and any successor in interest thereto by assignment of the rights for development of the Property as evidenced by a written assignment duly filed in the Office of the Recorder of Deeds of Clay County, Missouri.

(h) “Economic Activity Taxes”, “EATS” and “EATS Reporter” shall have the meanings set forth in Section 16.05 below.
(i) "Improvements" shall mean all Buildings, Structures and Signs which are permitted under these Restrictions including, but not limited to, parking areas, drives, truck loading areas, fences, Permanent Accessways, and Utilities Facilities.

(j) "Lot" shall mean a plot, parcel or tract of land subject to this Amended and Restated Declaration and designated as a "Lot" on a recorded Plat of the Center, together with all appurtenances and Improvements.

(k) "Maximum Height" shall mean, with respect to a Building, the vertical distance from the Reference Level to the highest point of the roof surface including parapet walls, roof mounted mechanical equipment, permitted Signs or other projections of any kind.

(l) "Mortgage" shall mean any mortgage, deed of trust, contract for deed or other security document pledging or conveying in trust any Lot or Site or interest therein as security for payment of a debt or obligation.

(m) "Mortgagee" shall mean any person named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of such person under such Mortgage.

(n) "Normal Lighting Hours" shall have the meaning set forth in Section 8.01 below.

(o) "Notices" shall have the meaning set forth in Section 19.01 below.

(p) "Owner" or "Record Owner" shall mean the owner at the time of any part of the Property as shown on the records of the Recorder of Deeds of Clay County, Missouri, at Liberty, as of the date of any action to be taken by such Owner under the provisions of this Amended and Restated Declaration, and shall also mean and include any person designated in writing, whether in a lease or otherwise, by any such Owner to act in the manner provided herein with complete authority and in the place of such Owner in the matter for which action is taken.

(q) "Permanent Accessways" shall mean the private roadways or private drives and accessways designated as such and shown on a Plat or which may otherwise be constructed within the Center.

(r) "Person" shall mean an individual, corporation, trust, partnership, limited liability company, or unincorporated organization, and shall, unless the context otherwise indicates, include each Owner and the Developer.

(s) "PILOTS" shall have the meaning set forth in Section 16.06 below.

(t) "Plat" shall, collectively, mean the Northgate Village Retail Center First Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, the Northgate Village Retail Center Second Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, the Northgate Village Retail Center Third Plat of record in the Office of the Recorder of Deeds of Clay County, Missouri, and any plat hereafter recorded by the City or the Developer after the date hereof which subdivides or re-subdivides all or any portion of the Property/Center and any plat affecting land within the Property/Center described on Exhibit A attached hereto and includes any Lot split or minor subdivision of a Lot.

(u) "Prohibited Uses" shall have the meaning set forth in Section 9.01 below.

(v) "Property" shall mean the real property described on Exhibit A attached hereto.
(w) “Reference Level” shall mean the level of the finished grade of the ground across the front of the Building with respect to which such Reference Level refers.

(x) “Restrictions” shall mean the covenants, conditions, restrictions, standards, requirements and easements upon and subject to which the Property/Center, or any Lot, Tract, Site or other part thereof, shall be acquired, improved, held, leased, used, sold and/or conveyed, all as set forth in this Amended and Restated Declaration.

(y) “Setbacks” shall mean the area(s) of a Lot or Site within which the construction of Buildings and Structures is prohibited by these Restrictions and which may be referred to, by appropriate reference to the Lot or Site, as “front”, “side” or “rear” Setbacks.

(z) “Sign” shall mean: any writing (including letter, word, or numeral); pictorial representation (including illustration or declaration); emblem (including device, symbol or trademark); flag (including banner or pennant); or any other figure of similar character which (i) is a Structure or any part thereof, or is attached to, painted on or in any other manner represented on a Building or other Structure, (ii) issued to announce, direct attention to, or advertise, and (iii) is visible from outside a Building. A Sign shall include writing, representation, or figures of similar character within a Building only when regularly visible from outside the Building. The following shall not be deemed to be a Sign within the meaning as hereinabove set forth; (i) regulatory signs of a duly constituted governmental body, including traffic signs or devices, legal notices or warnings; or (ii) small signs displayed for the direction or convenience of the public, including signs which identify restrooms, freight entrances or the like, but these shall also be subject to the approval of the Developer.

(aa) “Site” shall mean any entire contiguous area of land, in the same ownership or tenancy, used for and/or held and planned for the construction thereon of one or more Buildings or Structures, with related accessory Improvements, as a facility to serve a commercial or retail business or enterprise within the Center, whether or not it is co-extensive with the boundaries of any recorded Lot or Lots.

(bb) “Storm Water Drainage Easement” shall mean any such easement described in Section 7.06 below.

(cc) “Storm Water Drainage Facilities” shall have the meaning set forth in Section 7.06 below.

(dd) “Structure” shall mean any physical object temporarily or permanently affixed to the land, except grass, shrubbery, trees or other landscaping.

(ee) “Subsidiary” shall mean any corporation at least a majority of the outstanding voting stock of which shall at the time be owned by an Owner, or by one or more Subsidiaries, or by an Owner and one or more Subsidiaries.

(ff) “Supplemental Declaration” shall mean an instrument which amends, modifies, alters, changes or waives any provision in or of this Amended and Restated Declaration.

(gg) “Temporary Construction Easements” shall have the meaning set forth in Section 7.03 below.

(hh) “TIF Design Guidelines” shall mean the Architectural Design Review Guidelines attached as Exhibit 9 to the TIF Plan, portions of which apply to the Center and Lots or Sites therein and
Buildings and Structures to be erected thereon, as such are amended and revised from time to time by the City and the TIF Commission.

(ii) “Tract” shall mean a plot, parcel or tract of land subject to this Amended and Restated Declaration including any designated as a “Tract” on any recorded Plat (even if part of a Lot), together, with all appurtenances and Improvements.

(jj) “Unavoidable Delays” shall mean strikes, lockouts, acts of God, casualty, boycotts, governmental restrictions, war, national emergency, inability to obtain labor or materials or other cause beyond the reasonable control of the Record Owner or the person claiming under such Record Owners; provided, however, lack of funds or financing shall not be deemed an Unavoidable Delay.

(kk) “Utility Easement” shall have the meaning set forth in Section 7.02 below.

(ll) “Utility Facilities” shall have the meaning set forth in Section 7.02 below.

ARTICLE II
General Purposes of Restrictions

Section 2.01 Purposes of Restrictions. The Property/Center is hereby subjected to the Restrictions for the following purposes:

(a) To insure proper use and appropriate development, redevelopment and improvement of the Property; to protect the Owners of the properties in the Center from improper use, development, or redevelopment of the Property and to prevent depreciation of the value of their properties.

(b) To encourage development in a manner which is free from danger of fire, explosion and toxic or other hazards, and from offensive or unnecessary noise, vibration, smoke, dust, and odors.

(c) To protect the Property against congestion by limiting the size and location of Buildings and Structures in relation to the land around them and to one another, and providing for off-street parking and loading facilities.

(d) To conserve the value of Lots, Sites and Buildings of Owners in the Property/Center.

(e) To protect against construction of Improvements on Lots or Sites which are of poor design or quality and to encourage construction of Improvements utilizing good quality and attractive materials and good architectural and planning standards, compatible with other Improvements in the Property/Center.

(f) To facilitate compliance with all applicable federal, state and local laws and regulations.

(g) To provide for the continuing care and maintenance of all land including any Buildings, Structures and Improvements on the Property so that the Center may be, and continue to be, a location which provides an aesthetically pleasing workplace for Owners, their tenants, employees and invitees.

ARTICLE III
Review and Approval of Plans for Improvements

Section 3.01 Submission of Plans for Approval. No Building, Structure or other Improvement including, but without limitation, any Signs, paved areas or fences, shall be erected, placed or altered on any Lot or Site in the Property/Center until the plans and specifications are approved by the City.
accordance with applicable Code and the TIF Design Guidelines; provided, however, that with respect to the matters set forth in Section 5.01 of this Amended and Restated Declaration, approval by the TIF Commission shall also be required (subject to Section 18.06 hereof).

Section 3.02  **No Developer or TIF Commission Liability.** Neither the Developer, the City, nor the TIF Commission nor any officer, director, shareholder, member, employee or agent of the Developer, the City, or the TIF Commission shall be liable to any Owner or tenant or to anyone else submitting plans for approval, or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Developer, the City and the TIF Commission for approval, by submitting such plans, and any Person when he or it becomes an Owner or tenant, agrees that he or it will not bring any action or suit to recover any damages against the Developer, the City or the TIF Commission or any officer, director, shareholder, member, employee or agent of the Developer, the City or the TIF Commission, arising in any way connected with this Amended and Restated Declaration or the approval or failure to approve any plans submitted by anyone.

Section 3.03  **No Changes Without Subsequent Approval.** After approval of such plans and specifications (including plot and landscape plans) by the Developer, the City and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof), no deviation shall be made during construction which would materially change the scope of the Improvements, and no changes in exterior quality or appearance of the Improvements shall be made without the prior written approval of the Developer and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof).

Section 3.04  **Compliance with Code and TIF Design Guidelines.** In addition to complying with applicable Code requirements, the Developer and any Owner will comply with the TIF Design Guidelines (subject to Section 18.06 hereof).

Section 3.05  **Variances and Waivers.** Anything contained elsewhere in these Restrictions or this Amended and Restated Declaration to the contrary notwithstanding, the Developer, the City and, for so long as the TIF Plan remains in effect, the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof), shall have the absolute right in its judgment and discretion at any time to approve a variance from conformance to, a waiver of compliance with, a modification to or alteration of any of these Restrictions.

Section 3.06  **No Withdrawal of Prior Approvals.** Once the the City and the TIF Commission (to the extent TIF Commission approval is applicable to a matter under Section 5.01 hereof and subject to Section 18.06 hereof) have approved plans and specifications for a Building, Structure or Improvement, and such Building, Structure or Improvement has been constructed in conformity with such plans and specifications, the approval thereof shall not be withdrawn and such Building, Structure or Improvement shall thereafter be deemed to be in compliance with these Restrictions as then in effect or thereafter amended.

Section 3.07  **Approval Not Deemed Compliance with Laws.** In no event shall the review and approval by the Developer, the City and the TIF Commission of any plans and specifications, or any information submitted in connection therewith, be deemed or construed to be a determination that such plans and specifications are in compliance with the Code, the Code or any other laws, regulations or ordinances, or any of them, nor shall such review and approval relieve the parties submitting such plans and specifications from any liability or responsibility in connection with such compliance.
ARTICLE IV  
Parking and Loading

Section 4.01 Parking Requirements. No parking of automobiles, trucks, trailers, or other vehicles will be permitted on any private streets (including the Permanent Accessways) in the Center, and, although Lot Owners will share parking commonly as set forth in Article VII below, it will be the responsibility of each Owner to initially construct parking and loading facilities on its Lot or Site as required by the Code.

Section 4.02 Loading and Service Areas Requirements. No loading dock, loading door used for the receipt or shipment of goods or materials or related service entryways shall be erected in the front yards of Lots or Sites fronting on Burlington Avenue or 32nd Avenue without the written permission of the Developer and the City based upon the location of the Building on the Lot or Site, the proposed screening and other aesthetic criteria. The Developer’s and the City’s decision shall be final. Any loading docks, loading doors or service entryways so permitted shall be constructed so that any exposed sides of a loading space so created shall be appropriately and effectively screened by landscaping or otherwise and to the extent considered reasonable by the Developer and the City. The front of the loading area so created shall be screened by landscaping, fencing, masonry walls or berms so as to minimize the view thereof from the public streets and adjacent Lots or Sites as determined by the Developer. Loading docks, doors and related service entryways in side or rear yards (including those along Buchanan Street) shall be permitted but shall be landscaped, fenced or bermed so as to screen those areas from view from Lots or Sites along either side and properties across Buchanan Street. Additionally, street trees shall be required as set forth below.

ARTICLE V  
Building Materials and Design, Building Lighting and Utilities

Section 5.01 Exterior Building Materials. All walls or facades of Buildings shall be finished only with materials set forth in the TIF Design Guidelines. All exterior surfaces shall be in accordance with the TIF Design Guidelines and approved by the Developer and the TIF Commission. No changes to exterior finish shall be made without the prior approval of the Developer and the TIF Commission.

Section 5.02 Exterior Building Lighting. All exterior Building or security lighting shall be downward casting so as to not present a hazard or nuisance to adjacent Lots or Sites. Such lights shall reflect away from public streets.

Section 5.03 Underground Utilities. All utility lines shall be underground and an Owner or tenant shall not dig or cut into the paved portion of any dedicated right-of-way to access said utility lines. Where required, drilling or punching under adjacent public streets shall be the approved method to access utility lines.

Section 5.04 Exterior Mechanical Screening. Roof-mounted or exterior mechanical equipment shall be completely screened.

ARTICLE VI  
Landscaping, Fencing and Maintenance of Grounds, Buildings and No Outside Storage

Section 6.01 Maintenance by Each Owner. The maintenance of all Lots, Sites, Buildings, Structures and Improvements on the Property is the continuing responsibility and obligation of each Owner owning such Lot or Site and the Buildings, Structures and Improvements located thereon, and each Owner covenants and agrees with the other Owners and the Developer to keep and maintain its Lot, Site, Building, Structures and Improvements and the Permanent Access in a good state of repair and appearance in accordance with the provisions of this Amended and Restated Declaration. The standards of maintenance
for all Lots, Sites, Buildings, Structures and Improvements on the Property shall be determined by the Developer in its sole reasonable judgment and shall be based upon the terms and provisions of these Restrictions and the intent of these Restrictions to create and maintain a modern and prestigious commercial / retail center consistent with the provisions hereof.

Section 6.02 No Outside Storage. No materials, equipment, supplies, raw materials or finished product, shall be stored on a Lot or Site outside the confines of a Building or Buildings. Facilities for storage of waste and rubbish shall be maintained in closed metal containers within an enclosure which shall match the Building’s exterior finish.

Section 6.03 Exterior Building Maintenance. Exterior surfaces of Buildings, Structures and other Improvements, including all paved areas, must be kept in a good condition and state of repair and otherwise in conformity with the intent of these Restrictions. Said exteriors shall be maintained and renewed or replaced as necessary to keep the same consistent with the plans therefor originally approved pursuant to these Amended and Restated Declarations. Color or finish of exterior surfaces shall not be changed except as the same may be approved by the Developer, the TIF Commission, and the City, as applicable pursuant to Article III, Article IV, and Article V hereof.

Section 6.04 Parking Lot Lighting. All parking lots, loading areas and entrance areas shall be adequately lighted and illuminated for evening use, safety and aesthetics. All exterior and parking lighting facilities and fixtures shall be subject to prior approval by the Developer and the City, which may require a consistent type throughout the Center. See also Section 8.01 below.

Section 6.05 Trash Removal. Each Owner and tenant shall keep its premises, Lot, Buildings, Structures, Improvements and appurtenances in a safe, slightly, clean, neat and wholesome condition and shall remove at its own expense any rubbish or trash of any nature or character which may accumulate on its property and shall keep unlandscaped areas moved as required by these Restrictions. Rubbish and trash shall not be disposed of on the premises by burning in open fires. Use of any incinerators shall only be with the prior written approval of the Developer and the City and only permitted by applicable law and the Code.

Section 6.06 Construction Period Guidelines. To protect the occupants of existing Lots or Sites from encountering inconvenience during construction, the following guidelines shall be followed to the fullest practical extent by an Owner or its tenant during construction:

(a) Building contractors and their employees shall be required to park their vehicles and unload and store building materials entirely on the Lot or Site;

(b) Construction shall be carried out so as to not interfere with free and ready access to existing Buildings along the Permanent Accessways or otherwise; and

(c) Maximum care shall be taken by the contractor to prevent the unsightly appearance of or the accumulation of litter on the Lot or Site or the adjacent streets. Litter, soil or mud spilled from or tracked by the vehicles into the Permanent Accessways or streets of or adjacent to the Center shall be immediately swept up and properly disposed of on the Lot or Site.

Section 6.07 Parking Lot Maintenance. Each Owner shall repave, re-stripe and replace markings on the surface of the parking areas on its Lot or Site from time to time as and when necessary so as to provide for the orderly parking of automobiles and shall place and maintain adequate exit and entrance and other traffic control signs to direct traffic in and out of said parking areas.
Section 6.08 Maintenance of Utilities Facilities. Each Owner shall service, maintain, repair and replace, and pay the cost of any fees or charges in connection with, the Utility Facilities located on its Lot or Site to the extent such Utility Facilities service the improvements on that Lot. Maintenance of any portion of any Utility Facilities serving more than one Lot shall be performed by the Owner of the Lot crossed by the Utility Facilities, but the cost thereof shall be shared on an equitable basis based upon the relative consumption or usage of the utility furnished from such Utility Facilities. To the extent that any Utility Facilities exclusively servicing any Lot crosses another Owner's Lot, such Utility Facilities shall be so maintained by the party served by the Utility Facilities, subject to the provisions of Section 7.02 below.

Section 6.09 Payment of PILOTS and Taxes. Each Owner shall pay, prior to any penalty attaching thereto, all PILOTS (as described in Section 16.06 below), real estate taxes, assessments and personal property taxes, if any, imposed upon its Lot, Site, Buildings and Improvements and equipment located on its respective Lot.

Section 6.10 Developer’s and Other Owners’ Rights to Perform Work. In the event any Owner or tenant does not comply with the provisions of this Article within thirty (30) days after written notice by the Developer or another Owner, the Developer or such other Owner and its or their representatives or employees shall have the right to enter on such Lot or Site and perform the work specified in such notice and the non-complying Owner or tenant shall pay the cost thereof upon demand. If the cost of such work is not paid within ten (10) days after demand is made therefor upon such Owner or tenant, it shall become a lien on such land and enforceable to the extent provided for below in this Amended and Restated Declaration.

ARTICLE VII
Access and Parking Easements; Utility Easements; Temporary Construction Easements; Storm Water Drainage Easements

Section 7.01 Access and Parking Easements. Subject to the terms of this Amended and Restated Declaration, the Developer hereby declares for the benefit of all the Lots and Sites in the Center, a non-exclusive, perpetual easement and right to use the Permanant Accessways (including the common curb cuts, roadways, driveways, aisles and walkways) and parking areas located on the Lot or Site of each Owner as indicated on the Center Site Plan for purposes of ingress, egress, passage and delivery, by vehicles and pedestrians and for no other purpose, and the parking lot facilities on all Lots and Sites for the common benefit of all Lot Owners, their tenants and occupants. The easements declared in this Section 7.01 shall be for the benefit of, but not restricted to, the Owners of Lots or Sites in the Center, it being expressly understood and agreed that each such Owner may grant the benefit of such easement to tenants and other occupants of its Lot or Site for the duration of such occupancy and to the customers, employees, agents and business invitees thereof (collectively, the “Permittees”); but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public nor shall it affect any real property outside of the Center. The easements granted in this Section 7.01 shall be subject to the following reservations:

(a) Each Owner shall have the right to temporarily close off the portion of the Permanant Accessways or parking lots located on its Lot at such intervals and for such minimum periods of time as may be legally necessary, in the opinion of such Owner or its counsel, to prevent the acquisition of prescriptive rights by any other party; provided, however, that, prior to closing off any portion thereof, such Owner shall give written notice to the Developer and all other Owners in the Center of its intention to do so, and shall coordinate such temporary closing with the Developer and other Owners to avoid any disruption to the Developer’s or other Owners’ respective business operations and to the full use and enjoyment of the access easements declared hereunder.
(b) Each Owner shall have the right at any time and from time to time to exclude and restrain any Person who is not a Permittee hereunder from using any portion of the Permanant Accessways or parking lots located on its Lot.

(c) Subject to approval by the Developer and the City and all other applicable governmental authorities, relocations of portions of the Permanant Accessways or parking lots located on any Owner's Lot shall be permitted hereunder (as to the portion thereof located on its respective Lot), provided that (i) such relocation does not materially and adversely affect the other Owners' full use and enjoyment of the easements and rights granted under this Section 7.01 for the uses and purposes herein provided and (ii) following such relocation, the access provided over the relocated portions of the Permanant Accessways shall be reasonably equivalent to the access afforded by such portion of the Permanant Accessways prior to such relocation. Notwithstanding the foregoing, in no event shall the Permanent Accessways designated on any Plat or site plan approved by the City as Permanent Accessways including, without limitation, the curb cuts onto or serving the such Permanent Accessways as shown on any Plat or site plan approved by the City, be relocated, modified or closed in any manner, except as otherwise (i) approved in writing by the Owners constituting at least fifty percent (50%) of the land area of the Center, (ii) required by the City or other applicable governmental authority, (iii) permitted in Section 7.01(a) or (iv) may be required in connection with any temporary closure due to applicable maintenance, repairs or replacements of or to the Permanent Accessways or driveways as shown on any Plat or site plan approved by the City or any applicable related improvements or Utilities Facilities thereunder as required or permitted pursuant to the terms of this Amended and Restated Declaration.

(d) The reciprocal access easements granted in this Section 7.01 expressly include reciprocal easements and rights to the use of the parking areas on the Lots or Site for vehicular parking purposes except any handicap parking spaces specifically assigned to a Building or Structure as required by the Code or approved plans and specifications for such Building or Structure.

(e) Except in the event of an emergency, in no event shall any such closing of the Permanent Accessways or driveways as shown on any Plat or site plan approved by the City take place during normal business hours of the businesses conducted in the Center unless a reasonable alternative means of access is provided to all Owners.

Section 7.02 Utilities Easements. The Developer hereby declares for the benefit of the Lots and Sites in the Center, a non-exclusive, perpetual easement in, to, over, under and across any areas of Lots and Sites shown on any Plat or site plan approved by the City as being expressly for utilities (the “Utility Easements”) for the purpose of installation, operation, maintenance, repair, replacement, removal and relocation of underground storm sewer lines, sanitary sewer pipes, water and gas mains, electric power lines, telephone lines, cable television lines, decorative and functional site lighting and other underground utility lines (collectively, the “Utility Facilities”) to serve the Buildings and Improvements in the Center. The installation of any Utility Facilities not contemplated by the Center Site Plan and relocation of any Utility Facilities after original installation thereof shall be subject, as to location, to the approval of the affected Owners, which approval shall not be unreasonably withheld or delayed, as to any relocation within the Permanent Accessways or parking areas, and provided that any such relocation shall be performed in a manner that will minimize any interference with the regular conduct of business of any affected Owner's Lot. The Owners of the Lots or Sites in the Center, or any designee served by such Utility Facilities, shall, pursuant to the provisions of Section 6.08 above, operate, maintain and repair (and may relocate subject to the conditions set forth herein) such Utility Facilities, provided such repair and maintenance is performed expeditiously and only after five (5) business days’ written notice to the other Owners that utilize or are served by said Utility Facilities or that own any parking areas to be affected by any construction work as to repair or maintenance work, or only after fifteen (15) business
days' written notice as to any relocation. Non-essential or non-emergency repairs or relocations will not be performed between October 15th and December 31st of any year. The Owner performing the repair or relocation, as applicable, shall, at its cost and expense, promptly repair any damage to any improvements or landscaping occurring as a result of the performance of such repairs or relocations. Each Owner performing such work on another Owner's Lot shall indemnify and hold the other Owner and any occupant of the other Owner's Lot harmless from any claims, damage or loss which may result from the activities in making such repairs or relocating such Utility Facilities.

Section 7.03 Temporary Construction Easements. In connection with any construction work to be performed in the development of the Center, each Owner hereby grants to each other Owner temporary easements for incidental encroachments upon the granting Owner’s Lot which may occur as a result of construction, so long as such encroachments are kept within the reasonable requirements of construction work expeditiously pursued and so long as customary insurance is maintained protecting the other Owners from the risks involved. Except as may be allowed by a granting Owner, in no event shall an Owner stage any construction on the Lot of another Owner. Except in an emergency (in which case the work may be initiated after reasonable notice), in the event of any entry by any Owner onto another Owner’s Lot for the performance of any work permitted or required hereunder that will take more than one (1) day to complete or that would otherwise materially and adversely affect access to or the operation of the Owner’s Lot so entered (the “Affected Owner”), the entering Owner shall notify the Affected Owner at least fifteen (15) business days prior to the commencement of such work. The entering Owner shall complete such work in accordance with a schedule of performance which must be furnished to and approved by the Affected Owner prior to the commencement of any such work, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that if such approval has not been granted or denied with fifteen (15) days after receipt of such schedule of performance by the Affected Owner, then such schedule shall be deemed approved. Such schedule shall detail the stages of any such work, the time for completion of each stage and the portions of the Center that will be affected by such work at such times. In the event the entering Owner fails to complete such work in accordance with the schedule of performance approved by the Affected Owner and such work impedes or interferes with normal access to the Affected Owner’s Lot, the operations in the Center or the Affected Owner’s business, then after not less than two (2) day’s notice, in addition to all other rights or remedies available to an Owner hereunder or at law or in equity, the Affected Owner may complete such portions of any and all then remaining construction, repairing or repaving as it so elects, all at the expense and for the account of the entering Owner. If the Affected Owner elects to proceed pursuant to the immediately preceding sentence, then the Affected Owner shall be reimbursed for any amounts paid or incurred by the entering Owner to complete any portion of such construction, repairing or repaving within thirty (30) days of demand for payment accompanied by lien waivers from the contractor(s) providing such work and reasonable evidence of the costs of such work. If the entering Owner fails to reimburse the Affected Owner for any such amount within the 30-day period following the Affected Owner’s demand therefor, interest shall accrue thereon at a per annum interest rate equal to three percent (3%) above the prime rate of interest shown in the Money Rates Column of the Wall Street Journal on the date of the Affected Owner’s demand therefor, from and after the thirtieth (30th) day following any such demand for payment, and the provisions of this Amended and Restated Declaration respecting the creation of an equitable charge and continuing lien on the entering Owner’s Lot shall apply to the payment of such amount.

Section 7.04 Each Owner’s Indemnity. Each Owner shall indemnify, defend and hold the other Owners harmless from and against any and all loss, cost, damage, injury or expense (including, without limitation, reasonable attorneys’ fees) arising by reason of injury to or death of persons or damage to property or claims of lien for work or labor performed or materials or supplies furnished, all arising out of or in connection with the use by the indemnifying Owner of the easements granted pursuant to this
Amended and Restated Declaration or the exercise by such Owner of the rights granted to Owners in this Amended and Restated Declaration.

Section 7.05 Construction Period Insurance. With respect to any construction work to be performed by each Owner hereunder, and at all times until such work is complete, each of the Owners shall, at their own cost and expense, maintain, or cause to be maintained in full force and effect, a policy or policies of commercial general liability insurance and, once footings are installed, builder’s risk insurance. Said insurance shall be carried by a reputable insurance company or companies qualified to do business in the State of Missouri and having limits for loss of life or bodily injury in the amounts of not less than $3,000,000 for each person and $3,000,000 for each occurrence and $5,000,000 for property damage for each occurrence. Each Owner shall maintain, or cause to be maintained, contractual liability insurance specifically endorsed to cover said Owner’s agreement to indemnify. Additionally, each Owner shall also maintain, or cause to be maintained, workers’ compensation insurance with coverage in at least the minimum amount specified by law. Such insurance may be carried under a “blanket” policy or policies covering other properties of the Owner and its Subsidiaries provided that the coverage pursuant to such blanket policy or policies is not reduced below the coverage required under this Amended and Restated Declaration as a result thereof. Each Owner shall, upon written request from any other Owner, furnish to the party making such request certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this Section 7.05. All such insurance shall include provisions denying to the insurer subrogation rights against the other parties to the extent such rights have been waived by the insured prior to the occurrence of damage or loss. Each Owner hereby waives the rights of recovery against the Developer, any other Owner, their respective directors, members, officers, employees, agents, tenants and occupants for any damage or consequential loss covered by said policies (or that would have been covered but for the fact that such Owner self insurers), against which such Owner is protected by insurance, to the extent of the proceeds payable under such policies (or that would have been payable but for the fact that such Owner self insurers), whether or not such damage or loss shall have been caused by any acts or omissions of the Developer, any other Owner or their respective directors, members, officers, employees, agents, tenants or occupants.

Section 7.06 Storm Water Drainage Easement. The Developer, the City and all Owners of Lots or Sites in the Center hereby grant and convey, each to the other, perpetual, non-exclusive rights and easements to use, impound storm water within and drain storm water through the storm water drainage and detention facilities, if any, located, or to be located or constructed upon their respective Lots (collectively, the “Storm Water Drainage Facilities”) including, without limitation (a) all pipes, ditches, flumes, culverts, inlets and other facilities for the drainage of storm water and (ii) sheet flow of storm water across the surface of the Lots.

ARTICLE VIII
Hours of Operation of Roadways and Parking Lots

Section 8.01 Required Hours for Operation and Lighting of Driveways and Parking Lots. Unless specifically agreed to otherwise by all Owners, each Owner shall keep the roadways (including Permanent Accessways) and parking areas of its respective Lot open to the customers of the Center seven (7) days a week at all times and lighted after dusk until 11:00 p.m. on Monday through and including Saturday and from dusk until 9:00 p.m. on Sunday (the “Normal Lighting Hours”). Any Owner or occupant of a Lot may require the lights on any other Owner’s Lot to be kept lighted after Normal Lighting Hours if such Owner or occupant reimburses the requested other Owner for the additional electric costs incurred therefor, which cost shall be shared on a pro rata square footage basis with any other occupant which remains open during such additional hours. Any lighting facilities and fixtures to be used in the lighting of the roadways or parking areas of the Center will be constructed of materials and designed pursuant to standards established by the Developer, the City and the TIF Commission. Except for any Decorative Site Lighting
(as defined hereafter), the Center’s lighting facilities and fixtures shall be designed and installed with separate meters to measure the electricity consumed by the occupants of the respective Lots. The Owners shall power and control all site lighting located on their respective Lot with such power and control designed to provide normal lighting levels and security lighting levels. The timing control system shall be capable of easily modifying the time of day that the normal and security lighting levels are initiated, and the Owners agree to cooperate with each other and to coordinate changes to the light level switching times (for seasonable changes or other requests described above) upon request of another Owner.

**ARTICLE IX**

**Prohibited Uses in Center**

**Section 9.01 Prohibited Uses.** No Building, Structure or Improvements on any Lot or Site within the Center shall be used for any of the following uses (the “Prohibited Uses”):

(a) Manufacturing facility, factory, or industrial usage, warehouse not incidental to retail sales, processing or rendering plant, operation used primarily as a storage warehouse or logistics operation or any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation; Notwithstanding the foregoing, nothing in this paragraph shall prohibit light manufacturing in connection with a retail store that does not produce visible activity or sound that would reasonably be perceived from the exterior of the building in which such use is occurring, including, but not limited to, a jewelry store performing light manufacturing or assembly of jewelry or silverware related items including cutting, soldering, or welding.

(b) Flea market.

(c) Adult book store, peep show store, or any other similar store or club in which a material portion of its inventory includes obscene or pornographic materials (as determined by a court of competent jurisdiction), nude photos, sexual devices, magazines, videos, tapes or objects depicting nudity or sexual activity and other similar items, or any store or club whose activities include the display of partially or totally nude males or females, or any business described or referred to in Chapter 5.08 entitled “Adult Businesses” of the City’s Code;

(d) Any use which is a public or private nuisance as determined by a court of competent jurisdiction;

(e) Any use which produces dust, dirt, debris or fly ash in excessive quantities;

(f) A dry cleaning plant, central laundry, or commercial laundromat, provided, however, that this prohibition shall not be applicable to nominal supportive facilities or on-site service-oriented to pickup and delivery by the ultimate customer, or coin-operated laundry;

(g) A massage parlor, tattoo parlor, or body piercing establishment (except a first-class day spa which also provides ancillary services such as hairdressing, manicuring and cosmetic services) shall not be prohibited);

(h) Gambling facility or operation including, but not limited to, any “off track” or sports betting parlor, table games such as black jack or poker, slot machines, video poker/black jack/keno machines or similar devices; provided, however, that this prohibition shall not apply to governmental sponsored gambling activities (such as state lotteries) or charitable gambling activities (such as bingo) so long as such governmental and/or charitable activities are incidental to the business operation being conducted by the occupant and otherwise permitted by applicable laws;
(i) A mortuary, funeral home or crematorium;

(j) A pawn shop, car title lender, or check-cashing shop;

(k) A carnival, amusement park or circus, other than a temporary carnival setup;

(l) A “head shop”, smoke-shop or any business selling illegal drug paraphernalia;

(m) A gas station, truck stop, car wash, automotive service or repair business, or body shop;

(n) Displaying, selling, or leasing automobiles, trucks, trailers, motorcycles or other motor vehicles, new or used; however, this prohibition shall not prevent such goods from being displayed by any occupant for contest or promotional purposes;

(o) A mobile home or trailer court, labor camp, junkyard or stockyard, except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance;

(p) A landfill, garbage dump or other facility for the dumping, disposing, incinerating or reduction of garbage, exclusive of trash facilities or garbage compactors which shall be screened from public view;

(q) A “Second-hand” store whose principal business is selling used merchandise, specifically including any thrift shops, salvation army type stores, “goodwill” type stores, and similar businesses, or any facility selling new or used merchandise as a wholesale operation, a liquidation operation, odd lots, lot sales, factory close-outs or imperfect goods (except for first-class multi-store Occupants selling used merchandise such as “Play It Again Sports”, “Once Upon a Child” or a similar type national or regional retailer commonly found in first-class development centers), provided that this restriction shall not prohibit TJMaxx, Marshall’s, Ross or other similar retailers, selling surplus or overstocked merchandise or the sale of antiques or previously owned objects d’art;

(r) Restaurants providing on-site drive-thru service of prepared foods, although this prohibition shall not prohibit carry out service;

(s) Parking, loading, and unloading of commercial vehicles in any manner that materially obstructs or limits parking or the free flow of traffic;

(t) Overnight parking of motor homes, recreational vehicles, or semi-trucks.

A Prohibited Use in this Section may be waived only upon the written consent of the Developer and the City, which such consent may be withheld, delayed, or denied by each of them in their sole and absolute discretion.

ARTICLE X
Minerals

Section 10.01 No Drilling or Mineral Extraction. No oil or gas drilling, oil development, mining or quarrying operations of any kind shall be permitted upon the Property, the Center or any part thereof, nor
shall oil wells, gas wells, tanks, tunnels, mineral excavations or shafts be permitted upon the Property, the Center or any part thereof.

ARTICLE XI
Performance Standards

Section 11.01  No Objectionable Emissions. Except as necessary during construction of Improvements on a Lot or Site, no operation shall be conducted on the Property/Center or any part thereof which results in the emission of noise, smoke, dust, dirt or odor to an extent to be reasonably objectionable to any other Record Owner or occupant of other Sites in the Property/Center.

Section 11.02  Nuisance Control. It shall be the sole responsibility and obligation of each Owner and its tenant, if any, to insure that all operations conducted on any Site owned by such Owner are at all times in compliance with all applicable federal, state and local laws, regulations and ordinances, including but not limited to, those relating to environmental matters such as the generation, emission, storage, discharge or disposal of hazardous or toxic wastes or substances as set forth in Article XV below. Each Owner agrees to indemnify, defend and hold harmless the Developer, the TIF Commission, the City and their respective shareholders, members, directors, officers, employees and agents from and against any and all claims, suits, proceedings, liabilities, losses, damages and expenses (including, but not limited to, reasonable attorneys’ fees and expenses and the reasonable fees and expenses of consultants or experts) which may be asserted or brought against any of them or which they may suffer or incur, in connection with any failure by such Record Owner or any of its tenants to fully comply with the foregoing obligation.

ARTICLE XII
Right to Repurchase

Section 12.01  Developer’s Right to Repurchase. If, after the expiration of one (1) year from the date of conveyance of any Lot or Site within the Property, any Owner (or anyone claiming under such Owner) shall not have begun in good faith (subject, however, to Unavoidable Delays) the construction (i.e. both final Site grading and pouring of a slab for the Building) of an acceptable and approved Building upon such Site, and thereafter, with diligence, prosecuted such construction in strict compliance with the provisions hereof, the Developer may, within a one (1) year period thereafter, at its option, require the Owner to re-convey the Lot or Site to the Developer, free and clear from all liens, charges, encumbrances, tenancies and other such title exceptions except those in existence at the time of such original conveyance (collectively, the “Permitted Exceptions”), and upon such reconveyance the Developer shall refund to the Owner the purchase price plus any reasonable direct costs (excluding professional services and licensing fees or expenses) incurred by the Owner in preparing the Lot or Site for construction pursuant to specific plans and specifications previously approved by the Developer pursuant to these Restrictions and enter into possession of said Lot or Site. In connection with such reconveyance, the Developer may require the Owner to furnish and pay for an ALTA Owner’s Policy of Title Insurance - Form B (current version) in the amount of said purchase price and containing no exceptions other than the Permitted Exceptions. At any time the Developer, in its sole discretion, may extend, in writing, the time in which such Building may be commenced and/or completed. Such right to repurchase shall be an additional material consideration to the Developer for the conveyance of the Lot or Site. A notice of such right to repurchase or an agreement with respect to such right may be included in contracts for sale or in deeds by which the Developer conveys title, but the failure in any particular transaction so to include either the notice or the agreement or both shall not deprive the Developer of such right without specific recitations to such effect in such contracts and deeds. The Developer shall execute a release of this right to repurchase reasonably requested by an Owner upon completion of an acceptable and approved Building.
ARTICLE XIII
Indemnification

Section 13.01  Indemnification. To the extent not covered or intended to be covered by any insurance required to be maintained by the indemified party pursuant to this Amended and Restated Declaration (whether or not actually maintained) or otherwise actually maintained, and subject to the provisions of Section 14.02 below, each Owner (an “Indemnifying Owner”) shall indemnify, defend and hold the Developer, the City, the TIF Commission and every other Owner, tenant and occupant of the Center (the “Indemnified Parties”) harmless (except for loss or damage resulting from the negligent or more culpable acts or omissions of the Indemnified Parties) from and against any damages, liabilities, actions, claims, liens, fines, penalties, costs and expenses (including reasonable attorneys’ fees) in connection with the loss of life, personal injury and/or damage to property suffered or incurred by the Indemnified Parties and arising from or out of any occurrence in or upon the Indemnifying Owner’s Lot, or occasioned wholly or in part by any act or omission of the Indemnifying Owner, its tenants, agents, Contractors, employees or licensees including, without limitation, a breach of this Amended and Restated Declaration by the Indemnifying Owner.

ARTICLE XIV
Casualty Damage or Destruction and Eminent Domain

Section 14.01  Casualty Damage. If any of the Buildings, Structures or Improvements located on any Lot or Site are damaged or destroyed by fire or other cause, the Owner shall promptly either: (i) repair, restore or rebuild the Building, Structures or Improvements so damaged or destroyed; or (ii) raze the same, fill any excavation and perform any other work necessary to put such portion of the Center in a clean, sightly and safe condition.

Section 14.02  Casualty Insurance. In order to assure performance of their respective obligations under Section 14.01, the Owners of the respective Lots shall cause to be carried fire and extended coverage insurance on all Buildings, Structures and Improvements on their respective Lots in the amount of the replacement costs thereof, exclusive of footings and foundations, and in amounts at least sufficient to avoid the effect of any co-insurance provisions of such policies. Each of the Owners hereby waive any rights that any such Owner may have against the other Owners on account of any loss or damage occurring to an Owner or its respective property, either real or personal, arising from any risk generally covered by fire and extended coverage insurance and from any risk covered by property insurance than in effect. In addition, the Owners for themselves and on behalf of their respective insurance companies waive any right of subrogation that any insurance company may have against the other Owners.

Section 14.03  Eminent Domain. In the event the whole or any part of the Center shall be taken by right of eminent domain or any similar authority of law (a “Taking”), the entire aware for the value of the land and Improvements so taken shall belong to the Owner of the Lot (or the applicable portion thereof or right or interest therein) so taken or to such Owner’s Mortgagees or tenants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Amended and Restated Declaration. Any Owner of a Lot which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the land being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or Improvements so taken if such claim shall not operate to reduce the award allocable to the Lot (or the applicable portion thereof or right or interest therein) subject to the Taking.

ARTICLE XV
Environmental Compliance and Indemnity
**Section 15.01 Compliance and Indemnification.** Each Owner of a Lot agrees to (and agrees to cause its tenants and occupants to): (i) comply with all governmental laws, rules or regulations related to the use, storage, treatment, transportation, removal or disposal of Hazardous Materials (as hereinafter defined); (ii) give notice to the Developer, the City and the other Owners within a reasonable period (not to exceed thirty (30) days) after such Owner’s acquiring knowledge of any Hazardous Materials Contamination (as hereinafter defined) with a full description thereof; and (iii) promptly, at such Owner’s sole cost and expense, comply with any governmental laws, rules or regulations requiring the removal, treatment or disposal of such Hazardous Materials or Hazardous Materials Contamination and provide the Developer, the City and the other Owners with satisfactory evidence of such compliance. Each Owners shall defend, indemnify and hold harmless the other Owners from any and all liabilities (including strict liability), suits, actions, claims, demands, penalties, damages (including, without limitation, consultants’ fees, investigation and laboratory fees, reasonable attorneys’ fees and remedial costs, the foregoing are hereinafter collectively referred to as “Liabilities”) which may now or in the future be incurred or suffered by the other Owners by reason of, resulting from, in connection with or arising in any manner whatsoever out of the breach of any covenant of an Owner contained in or referred to in this Section 15.01 or which may be asserted as a direct or indirect result of the presence on or under, or escape, seepage, leakage, spillage, discharge, emission or release from the Owner’s Lot of any Hazardous Materials or any Hazardous Materials Contamination or arise out of or result from the environmental condition of the Indemnifying Owner’s Lot, Buildings or Structures (which is not caused by another Owner), whether or not occasioned wholly or in part by any condition, accident or event caused by any act or omission of the Indemnifying Owner. The covenants and agreements contained in this Section 15.01 shall survive the consummation of all the transactions contemplated in this Amended and Restated Declaration.

**Section 15.02 Hazardous Materials.** The term “Hazardous Materials” shall mean: (a) any “hazardous waste” as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (b) any “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (c) asbestos or asbestos containing material; (d) polychlorinated biphenyls; (e) any substance, the presence of which on a Lot or in a Building or Structure is prohibited by any governmental law, rule or regulation; (f) any petroleum-based products stored or used other than in compliance with governmental laws, rules or regulations; (g) fuel or other liquids in underground storage tanks; and (h) any other substance which, by any governmental law, rule or regulation, requires special handling in its collection, storage, treatment or disposal.

**Section 15.03 Hazardous Materials Contamination.** The term “Hazardous Materials Contamination” shall mean the contamination of a Lots, its Building, Structures or Improvements or other facilities, soil, ground water, air or other elements on or of the Lot by Hazardous Materials, or the contamination of the Buildings, Structures, Improvements or other facilities, soil, ground water, air or other elements on or of any other real property as a result of Hazardous Materials at any time emanating from a Lot, Building, Structure or Improvement.

**ARTICLE XVI TIF Plan Matters**

**Section 16.01 TIF Plan Applicability.** As set forth in the Recitals to this Amended and Restated Declaration, the Property/Center is located within and is a redevelopment project area in and subject to the provisions of the TIF Plan of the TIF Commission, as approved by the City.

**Section 16.02 Matters Requiring City / TIF Commission Approval.** Anything contained elsewhere in this Amended and Restated Declaration to the contrary notwithstanding, the Developer and the Owners
of all the Lots in the Center shall perform their respective duties and obligations under this Amended and Restated Declaration in conformity with the TIF Plan, the Development Agreement and the TIF Design Guidelines. Accordingly, in no event shall the Developer or any Owner exercise any of its or their rights or duties under this Amended and Restated Declaration in any manner inconsistent with the TIF Plan, the Development Agreement and the TIF Design Guidelines. The Developer shall not grant any modifications or waivers that otherwise would contravene any of the same without first obtaining the TIF Commission’s approval. Further, no replacements of any amenities in the Center paid for by the City shall be made without obtaining in advance the City’s approval thereof.

Section 16.03 City and TIF Commission Intended Beneficiaries. The City and the TIF Commission are expressly intended to be and are beneficiaries of this Amended and Restated Declaration and all of its provisions for the purpose of protecting the interests of the City and other parties, public and private, in whose favor or for whose benefit this Amended and Restated Declaration has been made.

Section 16.04 Separate Tax Identification Numbers. Each Owner of a Lot shall (and shall cause any of its tenants or occupants to) obtain and utilize a separate and discrete tax identification number for the filing of sales taxes and payment of real property taxes from any business operating on such Lot or in any Building or Structure thereon.

Section 16.05 Payment of Economic Activity Taxes; Fines for Failure to Report. Each Owner of a Lot, its successors, assigns and transferees, and its or their licensees, concessionaires and tenants (each an “EATS Reporter”), shall provide to the Developer and/or the City or the TIF Commission, all information required by the City or the TIF Commission from time to time to verify all Economic Activity Taxes (“EATS”) paid by such persons for each applicable tax year. “Economic Activity Taxes” means all sales taxes, earnings taxes, net profit taxes, food and beverage (convention and tourism) taxes, utility taxes and any other taxes at any time determined to be Economic Activity Taxes as defined by the Real Property Tax Increment Allocation Development Act, R.S.Mo. §§99.800 through 99.865, as amended from time to time (the “Act”). Presently, the City and the TIF Commission require the following information to be submitted for each tax year: all sales tax returns, all earnings tax returns, all net profits tax returns, all food and beverage tax returns, all utility bills paid and cover sheets for each of such items stating total amounts for applicable reporting periods. Each Lot Owner, for itself and its transferees, covenants and agrees to (and shall require its tenants, concessionaires, licensees and occupants to) submit all such items timely to the Developer and/or the City or the TIF Commission as and when required. Any EATS Reporter which fails to report EATS within thirty (30) days after receipt of written request therefor from the City, the TIF Commission or the Developer shall be subject to a fine of $100 per day for each day thereafter which such EATS Reporter fails to report. Such fines shall be enforced and collected in any manner permitted under this Amended and Restated Declaration.

Section 16.06 Payment of Payments in Lieu of Taxes. Each Lot Owner, its successors, assigns and transferees, shall pay when due all annual payments in lieu of taxes (“PILOTS”) to which the Lot is subject from time to time. Each Lot Owner further acknowledges that, pursuant to recorded agreement, memorandum or other instrument, the obligation to pay PILOTS is a covenant running with and a lien against all Lots in the Center and is enforceable against the Record Owner of each Lot in the same manner as liens may be foreclosed for failure to pay property taxes or as otherwise provided in Article XVIII below or elsewhere in this Amended and Restated Declaration.

ARTICLE XVII
Additional Powers of the Developer

Section 17.01 Enforcement; Plans Review; Etc. The Developer (and the City, the TIF Commission and any Record Owner) may provide for the enforcement of the Restrictions herein set forth. In conjunction
with the TIF Commission, the Developer shall review and approve all plans and the like required by these Restrictions. The Developer also shall have the right to provide for any improvements or maintenance of improvements, or services, which it may deem necessary or desirable and shall have the power to establish such procedures and policies necessary or deemed desirable to provide for the general welfare of the Property/Center, in accordance with the spirit and letter of the Restrictions set forth in this Amended and Restated Declaration.

Section 17.02 Specified Additional Powers. Without limiting the generality of the foregoing, the Developer shall have the following powers with respect to the Center, provided, however, that nothing herein contained shall be deemed to prevent any Record Owner having the contractual right to do so or the City or the TIF Commission from enforcing any Restrictions in its own name:

(a) To enforce, either in the Developer’s name or in the name of any Record Owner within the Property I Center, or the name of the City or the TIF Commission, any and all Restrictions herein contained. The expenses and costs, if any, in such proceedings shall be paid by the Record Owner against whom such enforcement is sought and shall be a lien as set forth below; and

(b) Such other powers as may be set forth elsewhere in these Restrictions or reasonably necessary or desirable to enforce or give full effect to the intent of these Restrictions.

Section 17.03 Developer's Lien. The Developer shall have a lien for any amounts expended by it for maintenance and repair or other items not performed when required by a Record Owner or as elsewhere set forth in these Restrictions which may be collected and enforced in the same manner as statutory laws and rights for enforcing and collecting general taxes in the State of Missouri, now or hereafter existing, or enforcing mechanics liens or foreclosing a Mortgage, and the same are conferred upon the Developer, and the Developer may bring suits to collect or enforce such liens. Such liens shall continue for a period of three (3) years from the date of delinquency, unless within such time suit shall have been instituted for the collection of the same, in which event the lien shall continue until termination of the suit and satisfaction of the judgment resulting therefrom

Section 17.04 Unspecified Powers. The Developer shall have all powers and authority necessary or desirable to carry out the spirit and letter of the Restrictions set forth in this Amended and Restated Declaration even though such powers and authority are not specifically granted in this Amended and Restated Declaration.

ARTICLE XVIII
Enforcement, Duration and Amendment

Section 18.01 Restrictions Running with the Land. The conditions, restrictions, reservations and herein contained shall run with the land and be binding upon and inure to the benefit of the Developer and the now and future Record Owners of every part of the Property/Center now or hereafter covered by the provisions hereof, shall create mutual, equitable servitudes upon each Lot and Site in favor of every other such Lot and Site and shall create reciprocal rights and obligations between and among the Developer and the respective Record Owners and tenants of all Lots and Sites and privity of contract and estate between and among the Developer and all grantees of said Lots and Sites, their heirs, successors and assigns and tenants.

Section 18.02 Enforcement of Restrictions. The conditions, covenants, restrictions, reservations and easements contained in this Amended and Restated Declaration may be enforced as herein provided and by the Developer, the City, the TIF Commission, any Record Owner or any tenant with approval of the Record Owner of the Lot or Site of which the tenant occupies in whole or in part, and violation of any
condition, covenant, restriction, reservation or easement herein contained shall give to the Developer, the City, the TIF Commission and to the Record Owners or any of them, the right to bring proceedings at law or in equity against the party or parties violating or attempting to violate any of said covenants, conditions, restrictions, reservations or easements, to enjoin them from so doing, to cause such violation to be remedied or to recover damages resulting from any such violation. Every act, omission to act, or condition which violates the covenants, conditions, restrictions, reservations and easements herein contained shall constitute a nuisance and every remedy available at law or in equity for the abatement of public or private nuisances shall be available to the Developer, the City, the TIF Commission and the Record Owners. In any legal or equitable proceeding to enforce the provisions hereof or to enjoin their violation, the party or parties against whom judgment is entered shall pay the reasonable attorneys’ fees, costs and expenses of the party or parties for whom judgment is entered in such amounts as may be fixed by the court in such proceeding. Such remedies shall be cumulative and not exclusive.

Section 18.03 Priority Over Mortgages. All Restrictions, easements and other provisions herein contained shall be deemed prior and superior to all Mortgages hereafter executed upon land subject to this Amended and Restated Declaration and to all leases covering part or all of any Lot, Site, Building or Structure thereon; provided, however, the violation of these Restrictions shall not defeat nor render invalid the lien of any Mortgage made in good faith and for value, nor the leasehold estate of any tenant except to the extent otherwise expressly provided in its lease. If any portion of the Property/Center is sold under foreclosure of any Mortgage, or deed in lieu thereof, any purchaser, and its successors and assigns, shall hold any and all of such Property purchased subject to all of the Restrictions and other provisions hereof as fully as if it were an original party to this Amended and Restated Declaration.

Section 18.04 No Waiver. The failure of the Developer, the City, the TIF Commission or any Record Owner to take action to enforce the provisions hereof or to enjoin their violation shall in no event be deemed a waiver of its or their right to subsequently do so, nor shall it be deemed a waiver of any subsequent default or of the continuation of any existing default.

Section 18.05 Severability. Invalidation of any part or parts of this Amended and Restated Declaration by judgment or court action shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 18.06 Term and Amendment. This Amended and Restated Declaration and these Restrictions shall run with the land and shall be binding upon and shall inure to the benefit of all parties and all persons claiming under or through the Developer or any Record Owner until expiration or termination of the TIF Plan in accordance with its terms (the “TIF Plan Termination”), at which time this Amended and Restated Declaration and the Restrictions shall be automatically extended for successive periods often (10) years; provided, however, that at any time the Record Owners of more than fifty percent (50%) of the acreage in the Center and the Developer (whose acreage may be included for the fifty percent (50%) computation and whose consent thereto shall be required so long as it owns or has any interest in any acreage subject to this Amended and Restated Declaration) may, by written Supplemental Declaration signed and acknowledged by them and recorded in the Office of the Recorder of Deeds for Clay County, Missouri, alter, amend, modify or restate these Restrictions, except that no amendment shall be made which shall change Section 3.06 hereof or which eliminates a Lot Owner’s access to its Lot or the provisions protecting Mortgages and leasehold estates in Section 18.03, without the agreement of one hundred percent (100%) of the Record Owners, or any provisions contained herein for the benefit of the City or the TIF Commission without its or their consent.

Section 18.07 Developer’s Right to Waive, Alter, Amend, Etc. Anything contained in Section 18.06 above or elsewhere in this Amended and Restated Declaration to the contrary notwithstanding, (a) with the consent of the TIF Commission and the City, the Developer reserves and shall have the absolute right,
power and authority to waive, alter, modify, vary, revise, amend or change any of the terms and provisions of this Amended and Restated Declaration at any time that it owns any of the Property/Center including, without limitation, to comply with any requirements which the State of Missouri, Clay County or the City, or any of their agencies, may impose as conditions precedent to any zoning, plat or plan approval of any development affecting any part of the Property/Center, and (b) no modification or amendment of this Amended and Restated Declaration may be made which in any manner adversely affects the maintenance and repair of any facilities created or installed by requirement of the City without first obtaining the written consent of the City to any such amendment or modification. Provided, however, that no subsequent waiver, alteration, modification, variance, revision, amendment or change to any of the terms or provisions of this Amended and Restated Declaration shall affect in any way any waiver, modification, variance, alteration, amendment, revision or change previously granted or made by the Developer with the consent of the TIF Commission and the City.

Section 18.08  TIF Plan Termination. Notwithstanding anything else to the contrary set forth in this Amended and Restated Declaration, upon and following the TIF Plan Termination, any requirement or provision in this this Amended and Restated Declaration for submission to, or the review, approval, and/or consent of, the TIF Commission, with respect to any matter in this Amended and Restated Declaration (all such submissions, review, consents and approvals in this Amended and Restated Declaration, collectively, the “TIF Commission Approvals”) the (a) requirements for TIF Commission Approvals, (b) any requirements for application by any party for any TIF Commission Approvals, (c) requirements for the submission of any documents, materials, or other information by any party with respect to any TIF Commission Approvals, and (d) the right of the TIF Commission to enforce any provision of the Declarations, shall, collectively, be automatically deemed to be deleted, waived, and eliminated herefrom and thereafter deemed null and void. Additionally, upon termination of the TIF Plan, the TIF Design Guidelines will be deemed null as they may otherwise be stated in this Amended and Restated Declaration to apply to the Property/Center.

ARTICLE XIX  
Miscellaneous

Section 19.01  Notices. All notices, consents, approvals or other communications (herein called the “Notices”) required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if hand delivered or sent by registered or certified mail, postage prepaid, if to the Developer, addressed to the Developer at the address therefor set forth the last assignee of the Developer’s rights hereunder filed of record in the Office of the Recorder of Deeds of Clay County, Missouri, or to the City or the TIF Commission at the City Hall of the City, or to any Record Owner at the address specified in the deed from the Developer to the Record Owner owning the Lot or Site in question, or at such other address as shall be furnished to the Developer by a Record Owner in accordance with the terms of this Section 19.01. The Developer or any Record Owner may change the address to which the Notices are to be sent in the manner hereinbefore provided. The Notices shall be deemed given on the date of delivery or the registration or certification thereof. The Developer shall not be bound by any change in record ownership of any Lot or Site until it has been given notice of such change in ownership in the manner herein provided for the giving of Notices.

Section 19.02  Consent by Acquisition of Title. Every person who now or hereafter owns or acquires any rights, title, estate or interest in or to any portion of the Property/Center covered hereby, is and shall be conclusively deemed to have consented to and agreed to every covenant, condition, restriction, reservation and easement contained herein, whether or not reference to this Amended and Restated Declaration is contained in the instrument by which such person acquired an interest in said property.
Section 19.03  **Governing Law.** This Amended and Restated Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of Missouri.

Section 19.04  **Developer's Right to Assign.** The Developer may, by appropriate agreement made expressly for that purpose, assign or convey to any person or entity all of the rights, reservations and privileges herein reserved by it, and, upon such assignment or conveyance being made, its assigns or grantees may at their option exercise, transfer or assign those rights, or any one or more of them, at any time or times in the same way and manner as though directly reserved by them or it in this Amended and Restated Declaration.

Section 19.05  **Rule Against Perpetuities.** Notwithstanding anything in this Amended and Restated Declaration to the contrary, the creation of any interest under this Amended and Restated Declaration shall vest, if at all, within the period of time measured by the life of the survivor of the now living children of Prince Charles, Prince of Wales, plus twenty-one (21) years.

Section 19.06  **Non-Terminable Agreement.** No breach of the provisions of this Amended and Restated Declaration shall entitle the Developer, any Owner or any other party to cancel, rescind or otherwise terminate this Amended and Restated Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which any party may have hereunder by reason of any breach of the provisions of this Amended and Restated Declaration. No breach of the provisions of this Amended and Restated Declaration shall defeat or render invalid the lien of any Mortgage made in good faith for value covering any part of the Property/Center and any Buildings, Structures or Improvements thereon.

Section 19.07  **Non-Dedication.** Nothing contained in this Amended and Restated Declaration shall be deemed to be a gift or dedication of any portion of the Property/Center to the general public or for any public use or purpose whatsoever, it being the intention of the Developer and all Lot Owners, and their successors and assigns, and that nothing in this Amended and Restated Declaration, expressed or implied, shall confer upon any Person, other than the Developer, the Lot Owners, the City and the TIF Commission, and their successors and assigns, any rights or remedies under or by reason of this Amended and Restated Declaration.

Section 19.08  **Estoppel Certificates.** The Developer and each Lot Owner or its successors or assigns (the “Responding Party”) shall at any time upon fifteen (15) days’ prior written notice from the Developer or any other Lot Owner or its successor or assigns (the “Requesting Party”) execute, acknowledge and deliver to the Requesting Party a statement in writing (i) certifying that this Amended and Restated Declaration is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Amended and Restated Declaration, as so modified, is in full force and effect); and (ii) acknowledging that there are not, to the Responding Party’s knowledge, any uncured defaults on the part of the Requesting Party, or specifying such defaults if any are claimed; and (iii) responding to such other information pertaining to this Amended and Restated Declaration as the Requesting Party may reasonably request. Any such statement may be conclusively relied upon by any prospective purchaser or Mortgagee of the Requesting Party’s Lot or of the business of the Requesting Party. Failure to deliver such statement within such time may be declared by the Requesting Party to be a default of this Amended and Restated Declaration or, at the option of the Requesting Party, be deemed to conclusively establish that this Amended and Restated Declaration is in full force and effect, unmodified except as provided in the Requesting Party’s initial notice and that the Requesting Party is in full compliance with all of the terms of this Amended and Restated Declaration. The provisions hereof shall not apply to or be binding upon the Developer at such time as it no longer owns any Lot in the Center.
Section 19.09  **No Partnership.**  Nothing in this Amended and Restated Declaration shall be construed to make the Developer, the Lot Owners, the City and/or the TIF Commission partners or joint venturers or render any of them liable for the debts and obligations of the others.

Section 19.10  **Multiple Counterparts.**  This Amended and Restated Declaration may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.
“DECLARANT”

CITY OF NORTH KANSAS CITY, MISSOURI,
a municipal corporation duly organized under the laws
of the State of Missouri

By: ______________________________________

Don Stielow, Mayor

[SEAL]

ATTEST:

Crystal Doss, City Clerk

APPROVED AS TO FORM:

Thomas E. Barzee, Jr., City Counselor

STATE OF )
 ) ss.
COUNTY OF )

On this day of _____________, 2020, before me personally appeared Don Stielow, to
me known to be the person described in and who executed the foregoing instrument, who being by me duly
sworn, did say such person is the Mayor of CITY OF NORTH KANSAS CITY, MISSOURI, a municipal
corporation duly organized under the laws of the State of Missouri, and acknowledged said instrument to
be such person’s free act and deed and the free act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the
day and year last above written.

Print Name:
Notary Public in and for said County and State

My Commission Expires:
AGREEMENT AND CONSENT OF THE TIF COMMISSION

The Tax Increment Financing Commission of the City of North Kansas City, Missouri, does hereby agree and consent to the foregoing Amended and Restated Declaration and to the imposition of the same on the Declaration Property.

TAX INCREMENT FINANCING COMMISSION OF THE CITY OF NORTH KANSAS CITY, MISSOURI,

By: ______________________________________

____________________, Chairman

[SEAL]

ATTEST:

________________________, Secretary

STATE OF )
COUNTY OF ) ss.

On this day of _______________, 2020, before me personally appeared ___________, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say such person is the Chairman of THE TAX INCREMENT FINANCING COMMISSION OF THE CITY OF NORTH KANSAS CITY, MISSOURI, a body created pursuant to § 99.820.2 of the Revised Missouri Statutes, and acknowledged said instrument to be such person’s free act and deed and the free act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Print Name:
Notary Public in and for said County and State

My Commission Expires:
EXHIBIT "A"
Legal Description of Declaration Property

Parcel 1:

Lot 1, Northgate Village Retail Center First Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 2:

Lot 2, Northgate Village Retail Center Second Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 3:

Lot 1, Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Parcel 1, Parcel 2 and Parcel 3, collectively, were formerly described as set forth on Exhibit A-1 attached hereto.
EXHIBIT "A-1"

A tract of land in the Northwest Quarter of Section 14, Township 50 North, Range 33 West of the Fifth Principal Meridian in North Kansas City, Clay County, Missouri, described as follows: Commencing at the Northeast corner of said Northwest Quarter; thence South 0°52'34" West along the East line of said Northwest Quarter, 245.94 feet; thence North 89°07'26" West, 50.00 feet to the intersection of the West right-of-way line of Swift Avenue, as now established and the Northerly right-of-way line of Buchanan Street, as established by the plat of “Northgate Village Senior Housing”, a subdivision of land in said North Kansas City; Said point also being the True Point of Beginning of the tract of land to be herein described; thence North 89°06'52" West along said Northerly right-of-way line, 201.22 feet; thence Southwesterly along said Northerly right-of-way line, along a curve to the left, being tangent to the last described course with a radius of 180.00 feet, a central angle of 61°07'07" and an arc distance of 192.01 feet; thence South 29°46'01" West along the Westerly right-of-way line of said Buchanan Street, 380.78 feet; thence Southerly along said Westerly right-of-way line, along a curve to the left, being tangent to the last described course with a radius of 180.00 feet, a central angle of 28°53'44" and an arc distance of 90.78 feet; thence South 0°52'17" West along said Westerly right-of-way line, 210.89 feet to the South right-of-way line of 29th Avenue, as now established; thence North 89°18'50" West along said South right-of-way line of said 29th Avenue to the Easterly right-of-way line of US Highway No. 71, also known as Burlington Avenue, as now established; thence North 0°52'17" East along said Easterly right-of-way line, 40.35 feet; thence Northeasterly along said Easterly right-of-way line, along a curve to the right, tangent to the last described course, having a radius of 1096.28 feet, a central angle of 45°25'02" and an arc distance of 869.00 feet; thence North 46°17'19" East along said Easterly right-of-way line, 168.74 feet to the South right-of-way line of 32nd Avenue, as now established; thence South 89°18'50" East along said South right-of-way line, 331.34 feet to the West right-of-way line of said Swift Avenue; thence South 0°52'34" West along said West right-of-way line, 215.78 feet to the Point of Beginning. Containing 5.940 acres, more or less.

Except that part thereof described as follows:

Lot 2, Final Plat of Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.
EXHIBIT ”B”
Legal Description of Declarant’s Property

Lot 2, Northgate Village Retail Center Second Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

(Such lot comprises .905 acre according to the recorded plat thereof.)

Lot 1, Northgate Village Retail Center Third Plat, a subdivision in North Kansas City, Clay County, Missouri, according to the recorded plat thereof.

(Such lot comprises 1.87 acres according to the recorded plat thereof.)
MEMORANDUM

TO: TIF Commissioners
FROM: Eric Berlin, City Administrator
DATE: September 10, 2020
RE: Northgate Village Updates

Historical Review

The original Northgate Village was identified as an area prime for redevelopment during the development of the 1996 Comprehensive Plan. The apartment complex consisted of 666 single-story “garden-style” apartments built between 1947 and 1951 and had served a useful life for most of its 50 plus year existence. Unfortunately, the last years of the complex saw an increasing amount of deterioration which became an increasing problem for the community and surrounding neighborhoods. At the time, these apartments constituted approximately one-quarter of the city’s residential population and spanned approximately 56 acres. Because the apartment complex represented a substantial portion of the city’s residential community, the City decided to take the significant step of designating the area for redevelopment purposes.

Project Authorization

In 1996, the City authorized the formation of the North Kansas City TIF Commission to help finance the Northgate Redevelopment project. In 1999 the City issued a Request for Proposals and selected the development team of Hunt-Midwest Enterprises and The Rainen Companies. The City was impressed with the proposal featured a mixed-use redevelopment that included single-family homes, townhomes, retail sites along Burlington Street, senior apartments, and multiple styles of apartment living. This proposal met many of the goals in the 1999 Comprehensive Master Plan including increasing homeownership and increasing residential options – specifically senior housing.
In February of 2000, the City adopted the Northgate Village TIF Plan and the Northgate Village Master Development Agreement. The development agreement between the City, TIF Commission, and the developers tasked the City with financing the public infrastructure improvements and executing any necessary regulatory approvals such as zoning, platting, and design approval. With the completion of these items, the City would then sell the property to either respective developers. Hunt-Midwest served as the general contractor for infrastructure and develop the single-family and rowhome residential properties. Rainen developed the market rate and senior living apartments. Hunt-Midwest and Rainen partnered to develop the retail pad sites. Given that the City took on the responsibility for the pre-development tasks, the parties agreed that the City would receive any proceeds through Tax Increment Financing (TIF) as reimbursement for those costs. The original Northgate Village Redevelopment timeline to completion was approximately eight years.

Beginning in 2000, the City attempted to purchase the property through negotiation but was unable to do so. A lawsuit was filed against the City by the Northgate owners. In the Spring of 2001, the City initiated condemnation proceedings. In late 2002, the City settled with the landowner for the final purchase price of 14 million dollars. The development agreement for the Northgate redevelopment (2000) established an eight-year time frame for the redevelopment. However, that schedule could not begin until the city took possession of the property, which occurred on January 30, 2002. Therefore the development timeline ran to January 29, 2010. Demolition of the original 666 unit apartment complex was completed in 2005.

In the summer of 2010, the developers proposed an extension of the MDA due to the economic downturn during the Great Recession and its impact on the project. A four-year extension to 2014 was granted. Four years later, the TIF Commission agreed to a four-year extension to 2018. In 2018, with Rainen not having constructed the planned 222 units of multi-family on the block bounded by 23rd, 25th, Buchanan and Swift (commonly called the “superblock”), the City advised Rainen of its intent to terminate the City’s development agreement with him. A termination agreement with Rainen was approved in August 2019.

**Development Agreement - Northgate Village Multi-family Development Completion**

An RFP for a new developer for the superblock was issued in August 2019. Ten proposals were received, and four development teams were selected for interviews. The City determined the proposal of STAR Acquisitions & Development, LLC (“the Developer”) to be the most advantageous for the City, and entered into negotiations with STAR for the sale and development of the property.
On August 4, 2020, the City Council executed a Development Agreement and a Real Estate Agreement with STAR Acquisitions & Development, LLC. The major business terms of the Development Agreement are as follows:

- The Developer will pay the City a purchase price of $3,000,000 for the property. The proceeds of this sale will be allocated to the Northgate Capital Project Fund, which serves as the TIF Special Allocation Fund which reimburses the City’s financial investment into the project.

- The Developer commits to build 300 Class A apartments. The development will also feature approximately 375 parking spaces.

- The current development budget is estimated to be $59 million, to be financed by the Developer with private debt (from a bank or other financial institution) and Developer equity.

- This project includes a Chapter 100 property tax abatement for fifteen years. Upon completion of the project, the City will receive an annual $300,000 payment in lieu of tax (PILOT) payment for 15 years. The PILOT payments are detailed in Exhibit B of the Development Agreement. The City will receive the full PILOT payment until the Northgate TIF project area expires in December 2032. The City and other taxing jurisdictions will split the PILOT payments for the remaining six years of the Chapter 100 abatement.

- The City will have no liability or financial risk with respect to payment of the Chapter 100 Bonds, since the bonds are payable solely from lease payments of the Developer. All of the Chapter 100 bonds will be purchased by the Developer and will not be sold to the public.

- Under the Development Agreement, the City Council agrees to approve the Chapter 100 bonds prior to the closing. This will be done at a later date by a separate ordinance approved by the City Council.

- As part of the Chapter 100 bond issuance, the Developer will receive a sales tax exemption on construction materials bought in Missouri that are used to construct the project.

- There is an extensive due diligence and City approval process that must be completed by the Developer prior to the sale of the site to the Developer. The City’s financial advisor has completed the preliminary financial due diligence. The Developer must present evidence of full project funding prior to their purchase from the City. In the event the Developer does not proceed with the project the City will have the right to repurchase the property for the original purchase price.

- The Developer will have to follow the City’s regular process relating to zoning, planning, TIF Commission design review, and other governmental approvals.
• The closing date for the Project is expected to occur in Spring, 2021. The project site will transfer to the Developer at closing.

• The City will have no financial liability for cost overruns or any other Developer obligations.

The execution of these agreements completes the development of the residential portion of the Northgate Village Redevelopment Project.

**RFP for the Development of the City-owned property located along Burlington/N Oak Trafficway, between E 29th Avenue and E 32nd Avenue**

Should the TIF Commission and City Council adopt the proposed Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements (CCRs) for the Northgate Village Retail Center, staff anticipates issuing a Request for Proposals (RFP) for the development of the property located along Burlington/N Oak Trafficway, between E 29th Avenue and E 32nd Avenue in late September.

This property is the last area of the Northgate Village Redevelopment Project without a development agreement. It has always been the City’s desire to have this area developed as a commercial or mixed-use site, but at this point, given the challenges associated with the site and the lack of success to date in developing the area commercially, the City will open up the area to proposals of any sort.

**TIF Commission Architectural Design Review Process**

On December 11, 2019, the TIF Commission recommended the Second Amendment to the Northgate Village TIF Plan to the City Council. On December 17, 2019, the City Council approved the Second Amendment to the Northgate Village TIF Plan, amending Exhibit 7 (Cost-Benefit Analysis) and Exhibit 9 (Architectural Design Review Guidelines).

With the execution of the Development Agreement for the City-owned land located at 23rd Avenue & Swift Street and the anticipation of an RFP for the development of the three lots on Burlington, staff would like to review the TIF Commission Architectural Design Review Process.

**Attachments:**
• TIF Architectural Design Guidelines
Exhibit 9 to Northgate Village Tax Increment Financing Plan

Architectural Design Review Guidelines

1. GENERAL PROCEDURES

A. Design review shall be required prior to issuance of a building permit by the Community Development Department.

B. When a building is being constructed according to plans previously reviewed and approved by the TIF Commission, additional design review shall not be required.

C. The following types of plans shall require design review and approval by the TIF Commission:

1. Construction of new buildings or structures, whether principal or accessory, within the area covered by the adopted TIF Plan, when appropriate plans have not previously been permitted by the Community Development Department.

2. Building renovations or additions resulting in exterior changes to an existing building.

D. City staff shall accept applications and schedule applicable meetings according to Section 17.08.010 of the North Kansas City Zoning Ordinance establishing common procedures.

E. Design review shall be conducted in accordance with the procedures and review criteria of the North Kansas City Zoning Ordinance Section 17.08.020.D, Review Criteria for Site Plans, and the design guidelines adopted as part of the applicable TIF Plan.

F. A design review decision may be appealed to the City Council, which shall evaluate the application according to the same standards and criteria set forth in the applicable TIF Plan.

F. The TIF Commission will enforce these Guidelines through the City’s inspection process or other appropriate means.

2. RESERVED

3. RESIDENTIAL DESIGN

A. Materials/Building. The exterior finish of all residential structures shall consist of one or more of the following: brick, stone, wood (clapboard, shingle, drop siding, primed board, board and batten), and stucco/plaster. Faux versions of these materials, including high quality vinyl siding, may be acceptable pending design review.

1. Dryvit and/or EFIS for single family residences are discouraged and shall be used only pursuant to design review.

2. Brick that is artificially colored or distressed is subject to City review.

3. Old (previously used) or frosted brick is not acceptable except as a paving material pending design review.
4. Sheet metal or ornamental metal panels are prohibited.

5. Two wall materials may be combined horizontally on one façade. The heavier material must be below.

6. Exterior chimneys shall be finished in brick, stone or stucco.

7. Gutters and downspouts shall be made of copper, galvanized metal, or prefinished aluminum.

B. Materials/Roof. Composite shingles, slate, and clay tile are permissible.

1. Roof materials should not have a reflective finish and should incorporate a color that compliments the overall character of the building.

2. Roof pitches should reflect the character of the surrounding neighborhoods.

C. Color. Application of color should reflect the existing and desired context of the neighborhood and surrounding areas (such as the single family homes on Fayette and Erie between E26th and E23rd), providing a complementary diversity.

1. Accent color may be provided through appropriate paint, accent features, lighting, and materials that serve to complement the architectural elements and lines within the neighborhood.

2. Monochromatic color schemes are acceptable.

3. Brick and glazing shall not be painted.

4. Stains and paints used for exterior walls shall conform to the existing appearance and character of the surrounding residential neighborhoods.

D. Windows. Colored or mirrored glazing is not acceptable. Insulated glazing and double pane insulated glazing are acceptable. Simulated true divided light is acceptable. Exterior snap-in grills are not acceptable.

E. Entries. Main building entries should face a public street or public open space such as a courtyard or greenspace. Secondary and upper floor entries from the interior of a block are acceptable. The front door to single-family homes and townhouses must be visible from the street.

F. Facade.

1. Multifamily buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections, recesses, and changes in floor level shall be used to relieve the visual effect of a single, long wall. Similarly, roof-line offsets shall be provided in order to enhance architectural interest, to add variety to the massing of a building, and to relieve the effect of a single, long roof. The exterior of a townhouse may be designed to appear as a single building, such as a large, single-family detached dwelling.
2. Window and door openings are to be proportional to the building and wall size and proportion.

G. Porch/Patio.

1. Single Family. A minimum of 75% of dwelling units shall have a front entrance articulated with a covered front entry porch. Wrap-around or side porches maybe acceptable where a front porch is impractical. Front porches shall generally be located on the front of the dwelling facing the sidewalk, but may occasionally be located on the side wall of a dwelling. The size of front entry porches shall be a minimum of 5 feet deep from the front wall of the dwelling to the enclosing porch rail, and a minimum of 8 feet long. Front porches may encroach into the front yard set-back.

2. Multi-family. First floor dwellings shall be provided with a terrace, and upper floor units shall be provided with a balcony, both with a minimum of 64 s.f. of usable area. Both terraces and balconies shall be recessed a minimum of 50% inside the exterior building wall of the dwelling. Terraces that are not fully recessed shall be provided with a transparent fence or low landscaping. Alternative outdoor spaces may be provided in-lieu of terraces or balconies pending design review.

3. Balconies, stoops, stairs, chimneys, open porches, bay windows and raised doorways shall be permitted to extend within the minimum front setback to a maximum of 12 feet. Open decks and patios may extend 12 feet into a rear yard setback.

H. Overhanging eaves may expose rafters. Flush eaves shall be finished by profiled molding or gutters.

I. Windows shall be set to the inside of the building face wall.

J. All rooftop equipment shall be enclosed in building material that matches the structure or is visually compatible with the structure.

K. All construction shall conform in street orientation and massing to adjacent neighborhoods. Multifamily buildings shall have an appropriate mix of 2 and 3 story buildings.

L. Within the Redevelopment Area, there shall be a generally continuous network of alleyways to the rear of single-family lots that shall connect to public streets within the neighborhood. Alleys in single-family residential neighborhoods shall be 20 to 24 feet wide containing a vehicular pavement width of at least 16 feet.

M. Single family development shall include a mix of housing styles and designs. There should be no discernable sequence or repetitive pattern to exterior façade design. To encourage a variety of façade types, no single exterior design may be located closer than four contiguous dwelling units to an identical exterior design within a facing block.

N. Fence style and design shall be generally complementary to the construction materials, with ultimate design approval provided by the Home Owners Association.
O. A minimum of 8% of residentially designated areas (single and multi-family) shall be maintained as usable, publicly accessible greenspace, either passive or active, not including landscaped buffers or project amenities (such as swimming pools and playing courts).

4. **COMMERCIAL DESIGN**

A. **General.** Commercial uses in commercial areas can be mixed and integrated provided such commercial uses conform to the" Permitted Uses and Restrictive Covenants" specified in the Development Agreement. Multi-building complexes, including building on adjacent lots in different ownership, shall exhibit a unity of design through the use of similar elements including, but not limited to: heights, roof lines, materials, colors, ornamentation and decoration, window arrangement, sign location on facades, and other themes.

B. **Materials.** At least 80% of the exterior finish material on all facades that face a street or provide public access shall be constructed of glass, brick, marble, real or cast stone, coarsely textured stucco, concrete, or wood. Dryvit or EFIS shall not be allowed.

1. Concrete may be either precast (excluding T-sections) or cast-in-place, with an exposed aggregate, bush-hammered, or similarly textured finish, including surface (painted) application of a sand or aggregate finish or casting of facing brick into the surface to give the appearance of a masonry wall.

2. Metal is permitted in a decorative or accessory role, using only concealed fasteners.

3. The use of wood may be limited by design review.

4. Two wall materials may be combined horizontally on one facade. The heavier material must be below.

5. Balconies, railings and porch structures shall be metal, wood, cast concrete or stone.

C. **Colors.** The primary colors of building exteriors shall be compatible with the colors of adjacent buildings and in character with the surrounding area, such as buildings at the intersection of Swift and Armour, generally providing a complementary diversity. Trim may be of a contrasting color.

D. **Façade.** Blank walls shall not face a public street or places of public access.

1. Walls facing a public street shall include windows and architectural features customarily found on the front façade of a building, such as awnings, cornice work, edge detailing, or decorative finish materials.

2. Façade openings, including porches, windows, and colonnades shall be vertical in proportion.

3. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, and others, where appropriate. Any such element
used shall be architecturally compatible with the style, materials, colors, and
details of the building as a whole, as shall the doors.

4. All sides of a building shall include similar details and materials so as to achieve
four-sided architecture and restrict the appearance of the back of a building facing
surrounding uses.

5. Retail storefronts are a key design consideration of a building and shall be
integral designed with the upper floors to be compatible with the overall façade
character. Ground floor retail, and restaurant uses shall have large pane display
windows. Such windows shall be framed by the surrounding wall and shall not
exceed 75% of the total ground level façade. Buildings with multiple storefronts
shall be unified through the use of architecturally compatible materials, colors,
details, awnings, signage, and lighting fixtures.

6. The glazed area of a façade above the first floor shall not exceed 35% of the total
area, with each façade being calculated independently.

7. In commercial buildings, the difference between ground floor commercial uses and
entrances for upper level commercial uses shall be reflected by the differences in
façade treatment. Storefronts and other ground floor entrances shall be accentuated
through the use of distinct but compatible exterior materials, signs, awnings and exterior lighting.

E. Orientation. Primary, ground-floor commercial building entrances may orient to plazas,
parks or streets. Where a commercial building orients to an interior block or parking lot, a
courtyard or green space shall buffer the entry of the building from the sidewalk and
pavement. The orientation shall be complementary to the use and location of surrounding
commercial buildings and residences. Secondary entrances from the interior of a block are
permitted.

F. Glass/Windows. Glass shall be clear or lightly tinted only. Opaque applications shall not
be applied to the glass surface. Windows shall be set to the inside of the building face wall.
Sliding doors and sliding windows are permitted in facades facing a public street with
justification and pending design review.

G. Roofs. Pitched roofs are preferred in-lieu of flat roofs.

1. Pitch shall be at least % inch vertical to 12 inches horizontal.

2. Cantilevered mansard roofs are prohibited.

3. All rooftop equipment shall be enclosed in building material that matches the
structure or is visually compatible with the structure.

4. Skylights shall be flat.

5. Parapets may be appropriate pending design review.

H. Site Design.
1. Parking lot pavement shall be shielded from the street by low berming to the maximum extent possible. Loading areas shall be buffered with landscape materials in conjunction with earthen berms. Other appropriate screening options may be permitted pursuant to design review.

2. The site shall provide a pedestrian-oriented environment to the extent possible, including measures for safety and ease of movement between streets and buildings, across parking lots, and between buildings; shelter from inclement weather, and use and enjoyment of outdoor space.

3. The Redeveloper shall submit a conceptual sign package to the City.

5. **COMMUNITY DESIGN**

   A. All building and parking lot design shall comply with applicable ADA accessibility requirements.

   B. A sidewalk network shall be provided on both sides of the street throughout the Redevelopment Area that interconnects all dwellings with other units, non-residential structures and common areas. Sidewalks shall be separate and distinct from motor vehicle circulation to the greatest extent possible, and shall be of a barrier-free design.

   C. Sidewalks shall be a minimum of 4 feet in width, expanding to 5-6 feet along major pedestrian routes and in commercial areas.

   D. Walkways shall be raised and curbed along commercial buildings and within parking lots, where suitable. Pedestrian street crossings shall be clearly delineated by a change in pavement color and/or texture. All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the character of the neighborhood.

   E. Street lights shall be decorative and blend with the character of the community and conform with all applicable North Kansas City standards.

   F. Streets and sites shall be provided with adequate lighting, while minimizing adverse impacts, such as glare and overhead sky glow, on adjacent properties and the public right-of-way.

   G. Along all parking areas, walkways, courtyards, and common/open space areas, 12 foot high decorative lamp posts shall be provided at regular intervals, as determined by design review. In parking lots, post heights may be extended to a maximum of 16 feet.

   H. Gateways and focal points shall be indicated by community markers, public art, or other appropriate features.

   I. The pedestrian streetscape shall be reinforced by shade tree plantings, walls, ornamental trees, hedges, or appropriate fences, such as wrought iron (and not including chain link).

   J. Exterior public and semi-public spaces, such as courtyards and plazas, shall be designed to be functional, to enhance surrounding buildings, and to provide amenities to users, in the form of textured paving, lighting and street trees. Courtyards shall have recognizable edges
defined on at least three sides by buildings, walls, and/or elements of landscaping in order to create a strong sense of enclosure.

K. On-street parking is permissible throughout the Redevelopment Area where street width is sufficient and shall be counted toward mandatory parking requirements.