



JANICE M. HAMMONDS, RECORDER OF DEEDS
ST. LOUIS COUNTY MISSOURI
41 SOUTH CENTRAL, CLAYTON, MO 63105

TYPE OF INSTRUMENT: AGRMT
GRANTOR: UNIVERSITY HILLS SUB BY TR ETAL
TO: [blank]
GRANTEE: [blank]

PROPERTY DESCRIPTION: SUR 378 T 45 R 6

Lien Number

Notation
X

Locator

NOTE: I, the undersigned Recorder of Deeds, do hereby certify that the information shown on this Certification Sheet as to the TYPE OF INSTRUMENT, the NAMES of the GRANTOR and GRANTEE as well as the DESCRIPTION of the REAL PROPERTY affected is furnished merely as a convenience only, and in the case of any discrepancy of such information between this Certification Sheet and the attached Document, the ATTACHED DOCUMENT governs. Only the DOCUMENT NUMBER, the DATE and TIME of filing for record, and the BOOK and PAGE of the recorded Document is taken from this CERTIFICATION SHEET.

RECORDER OF DEEDS DOCUMENT CERTIFICATION

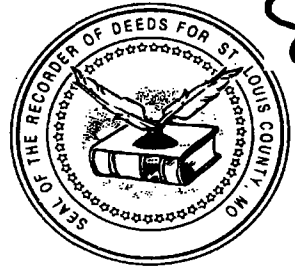
STATE OF MISSOURI)
SS.
COUNTY OF ST. LOUIS)

Document Number
1,878

I, the undersigned Recorder of Deeds for said County and State, do hereby certify that the following and annexed instrument of writing, which consists of 27 pages, (this page inclusive), was filed for record in my office on the 29 day of July 2003 at 03:11 PM and is truly recorded in the book and at the page shown at the top and/or bottom of this page.

In witness whereof I have hereunto set my hand and official seal the day, month and year aforesaid.

J. Ann Reber
Deputy Recorder



Janice M. Hammonds
Recorder of Deeds
St. Louis County, Missouri

- ___ N.P
- ___ N.P.C
- ___ N.N.C.
- ___ N.N.I.

RECORDING FEE \$98.37
(Paid at the time of Recording)

Mail to:
CUNNINGHAM, VOGEL
75 W. LOCKWOOD #1
ST LOUIS MO 63119

Destination code: M

B-15126 P-0298/0324

_____[Space Above this Line for Recording Data]_____

Title of Document: University Hills Subdivision
 Second Revised and Restated Indenture

Date of Document: June 5, 2003

UNIVERSITY HILLS SUBDIVISION
SECOND REVISED AND RESTATED INDENTURE

THIS SECOND REVISED AND RESTATED INDENTURE, made this 5th day of June, 2003, is entered into by the TRUSTEES of University Hills Subdivision with the consent of the owners of lots in the University Hills Subdivision (as defined herein) identified in Exhibit A hereto:

WITNESSETH, THAT:

WHEREAS, the University Hills Subdivision (the "Subdivision") is comprised of certain real property located in the City of University City, St. Louis County, Missouri, as depicted generally on Exhibit C, and as more particularly described in Exhibit B and the SUBDIVISION PLAT; and

WHEREAS, the University Hills Subdivision is an approved subdivision development in accordance with the applicable ordinances of the City of University City and St. Louis County, and said Subdivision has hereto been governed by a certain Indenture executed by Cyrus Crane Wilmore Organization, Incorporated dated March 12, 1923 (recorded in the Records of the County of St. Louis, State of Missouri, at Book 580, Page 340) as heretofore supplemented and amended by a First Supplemental Indenture thereto dated April 7, 1924 (recorded at Book 641, Page 145 of said Records), a Second Supplemental Indenture dated April 19, 1924 (recorded at Book 650, Page 60 of said Records), a Third Supplemental Indenture dated March 31, 1925 (recorded at Book 690, Page 345 of said Records), a Fourth Supplemental Indenture dated June 27, 1952 (recorded at Book 3035, Page 423 of said Records), a Fifth Supplemental Indenture dated July 17, 1962 (recorded at Book 4869, Page 496 of said Records), a Sixth Supplemental Indenture dated January 12, 1965 (recorded at Book 5888, Page 5 of said Records), a Seventh Supplemental Indenture dated June 5, 1975 (recorded at Book 6798, Page 1748 of said Records), and an Eighth Supplemental Indenture dated June 28, 1989 (recorded in Book 8557, Page 1251 of said Records) (collectively, the "Original Indenture") and is currently governed by a Revised and Restated Indenture dated December 7, 2000 (recorded at Book 12829, Page 1589/1620, St. Louis County Recorder of Deeds); and

WHEREAS, the undersigned TRUSTEES currently hold the Trust properties (as defined in Article I) IN TRUST for the use and benefit of the owners and residents of the lots in the Subdivision under terms spelled out in said Revised and Restated Indenture (hereinafter referred to as the "First Revised and Restated Indenture"); and

WHEREAS, the undersigned TRUSTEES desire to revise and restate the First Revised and Restated Indenture in order to clarify certain matters and more fully express what the TRUSTEES believe to be the intent and desire of the owners of the lots in the Subdivision who consented to its adoption; and

WHEREAS, at a meeting held pursuant to proper notice on the 5th day of June, 2003, a majority of the owners in attendance voted for the adoption of this Second Revised and Restated Indenture (hereinafter referred to as the "Second Restated Indenture") (see Exhibit A), as required by Section 5.02 of the First Revised and Restated Indenture.

NOW, THEREFORE, the Owners agree and declare as follows:

ARTICLE I.

GENERAL PROVISIONS

Section 1.01. Definitions

Capitalized terms defined in this Second Restated Indenture shall have the meanings ascribed to them in the definitions below (unless otherwise specified or the context shall prohibit):

- (a) “BUILDING” is a STRUCTURE designed or built for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind and includes Single Family Dwellings and Principal Buildings as well as any buildings accessory thereto.
- (b) “BUILDING, ACCESSORY” means a Building which is located on the same lot as, and of a nature customarily incidental and subordinate to, another Building or Structure and the use of which is clearly incidental and subordinate to that of the other Building or Structure.
- (c) “BUILDING, PRINCIPAL” means a BUILDING in which the dominant use of the LOT is conducted. Terraces, decks, porches and covered patios are considered part of the Principal Building.
- (d) “EXCEPTED LOTS” as used in Article III means those lots in Blocks 11, 12 and 13 (Flynn Park); all Lots in Block 15 and all Lots in Block 16, as shown on the University Hills Subdivision plat attached as Exhibit C.
- (e) “EXEMPTED LOTS” means all the Lots south of Pershing Boulevard and labeled as Blocks A and B on the Subdivision plat attached as Exhibit C.
- (f) “FRONTAGE” means a part of a Lot abutting a street.
- (g) “LOT” or “LOTS” means a parcel or parcels of real estate delineated as an individual lot or lots on the SUBDIVISION PLAT and subject to the limitations set forth on Exhibit C pertaining to the EXEMPTED LOTS and the PERSHING LOTS.¹
- (h) “MORTGAGE” also refers to a deed of trust.
- (i) “MORTGAGEE” also refers to the beneficiary under a deed of trust.
- (j) “OWNER” or “OWNERS” means the record owner, whether one or more persons or entities, of the fee simple title to any LOT (which definition does not include EXEMPTED LOTS except with respect to certain special assessments as provided in Exhibit B) situated upon the Properties (as more specifically described in Exhibit A), but shall not mean or refer to any MORTGAGEE unless and until such MORTGAGEE has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. Each OWNER is a member of the Subdivision. Persons or entities owning EXEMPTED LOTS are not OWNERS for voting purposes.
- (k) “OWNERS in Attendance” means all VOTING OWNERS present either in person or by proxy at a meeting of the OWNERS.
- (l) “PERSHING LOTS” means all Lots in Blocks 14 and 15 with frontage on Pershing Avenue with the exception of Lot 1, Block 15 and Lot 18, Block 14, as identified on Exhibit C hereto.

¹ Note that the lots in Blocks 11, 12 and 13, although originally platted as individual lots, have been combined into parcels owned by the University City School District and the City of University City. For purposes of this Second Restated Indenture, the combined parcels in Blocks 11, 12 and 13, will be treated as single Lots.

(m) "RESIDENCE LOTS" means all Lots in the Subdivision excluding the EXCEPTED LOTS.

(n) "SINGLE FAMILY DWELLING" means and refers to a BUILDING which was initially constructed to contain one dwelling unit.

(o) "STRUCTURE" means a combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water.

(p) "SUBDIVISION PLAT" means and refer to the Subdivision Plat as approved by the City of University City and as recorded in the St. Louis County Recorder's Office, together with any Subdivision Plat amendments previously recorded or as may be duly recorded from time to time. The Subdivision Plat is incorporated by reference herein.

(q) "TRUSTEES" means the Trustees of University Hills Subdivision or their authorized agents.

(r) "TRUST PROPERTY" means those areas of land owned by the TRUSTEES including the strips or parcels of land in the Subdivision which are delineated and set apart on the SUBDIVISION PLAT as boulevards, avenues, drives, alleys and walks and including any easements, licenses or other occupancy or use rights, as well as any improvements thereon including streets, subdivision entrance areas and monuments, street lights, storm water control easement areas and facilities, treeways, walkways, fences gates, retaining walls and any other facilities, all held by the TRUSTEES *in trust* for the use and benefit of the OWNERS and residents of the Subdivision.

(s) "VOTING OWNER" means the person designated to cast a vote for a LOT that is owned jointly, as tenants in common or otherwise held or controlled by more than one person.

Section 1.02. Effect of Second Restated Indenture

This Second Restated Indenture supersedes and replaces the First Revised and Restated Indenture (except as otherwise provided herein), and the property described in Exhibit B and currently known as "University Hills Subdivision" is and shall be held, transferred, sold, conveyed and occupied subject to the Second Restated Indenture. The recitals preceding the substantive body of this Second Restated Indenture are hereby incorporated as a binding part of this Second Restated Indenture, and the attached exhibits are incorporated herein by reference.

Section 1.03. Status of OWNERS

Each present and future OWNER of any LOT subject to this Second Restated Indenture shall, for so long as it retains its status as an OWNER, have all of the rights, privileges, duties and liabilities as are prescribed with respect to OWNERS under the terms and provisions of this Second Restated Indenture.

Section 1.04. Duration

The covenants and restrictions of this Second Restated Indenture shall run with and bind the Properties in perpetuity until the subdivision is vacated or unless terminated as provided herein. This Second Restated Indenture may be terminated by an instrument by which OWNERS of two-thirds (2/3) of the frontage feet of the LOTS take such action. No such agreement of termination shall be effective unless made and recorded one (1) year in advance of the effective date of such termination, and unless written notice of the proposed agreement of termination is sent to every OWNER at least ninety (90) days in advance of any action taken. In the event the subdivision is vacated, this Second Restated Indenture shall terminate and thereafter fee simple title to the TRUST PROPERTY shall vest in the OWNERS as tenants in common, absent a different required disposition (i.e., conveyance to the city, sale,

condemnation, etc.). The rights of the tenants in common in the TRUST PROPERTY shall only be exercisable appurtenant to and in conjunction with their LOT ownership.

ARTICLE II.

DUTIES, POWERS, ELECTION AND MEETINGS OF TRUSTEES

Section 2.01. TRUSTEES' Duties And Powers

The rights, powers, duties and obligations of the TRUSTEES shall include, without limitation, the following:

(a) To acquire and hold the TRUST PROPERTY, to exercise control over the TRUST PROPERTY, maintain, improve and operate same with streets, alleys, sidewalks, paths, tree lawns, landscaping, shrubbery, decorations, fences, retaining walls, and structures of any kind or description, and any and all other types of facilities in the interest of the health, welfare, safety, recreation, entertainment, education and for the general use of the OWNERS and residents of the Properties, to grant such easements and rights-of-way over the TRUST PROPERTY to such utility companies or public agencies or others as they shall deem necessary or appropriate, to make rules and regulations, not inconsistent with the law and this Second Restated Indenture, for the use and operation thereof and in every and all respects govern the operation, functioning and usage of said TRUST PROPERTY.

(b) To maintain, repair, reconstruct and replace as needed, at the TRUSTEES' sole expense, any an all retaining walls, fences and gates or other structures constituting a part of the TRUST PROPERTY.

(c) To exercise such control over the easements, streets, drives, trail systems, fences, retaining walls, tree lawns, walkways and rights-of-way (except for such as may hereafter be dedicated to public bodies or agencies) as necessary to maintain, repair, supervise and ensure the proper use thereof including the right (to themselves and to others to whom they grant permission) to construct, operate and maintain on, under and over said easements, streets, drives, trail systems, fences, retaining walls, walkways and rights-of-ways, street lights, sewers, pipes, poles, wires and other facilities and public utilities for service to the Lots within the lands subject hereto, provided that no above ground structure, other than required street lights, may be erected within a cul-de-sac, divided street entry island, or median strip without the written approval of the City of University City; and to establish traffic regulations for the use of such streets, drives and walkways, to operate and maintain a system of street lights and pay electric utility payments on same at such time as said system is completed and delivered to the TRUSTEES, and to operate and maintain any storm water control easement and facilities, including any other retention areas, serving any portion of the TRUST PROPERTY, which have not been accepted for maintenance by the appropriate public body, agency or utility company; and, subject to safeguarding the welfare of OWNERS and residents and their rights to quiet enjoyment of their property, to permit access for the general public to the streets and park areas within the Subdivision.

(d) To plant, care for, maintain, spray, trim, protect and replace trees, shrubbery and vegetation on the TRUST PROPERTY, to decorate and maintain the entranceways to the Subdivision by appropriate landscaping or by a subdivision sign or in such other manner as the TRUSTEES shall deem appropriate.

(e) To clear rubbish and debris and remove grass, weeds, dead or decaying trees or limbs, and any hazardous condition from any LOT, and to assess the owners thereof with the reasonable expense so incurred, which shall be a lien against such LOT. The TRUSTEES, or their agents or employees, shall not be deemed guilty or liable for any manner of trespass for any such abatement or removal.

(f) To require a deposit, bond, cash escrow or other acceptable guarantee (collectively "guarantee") in favor of the TRUSTEES from the owner or his/her agent, to guarantee that all building materials or debris, deposited on the TRUST PROPERTY in connection with the work on such building structure, be removed and the TRUST PROPERTY restored to a condition equal to that existing before the commencement of such work. The trustees shall repay such deposit to the person entitled to receive same, when the provisions of this section are complied with. If the owner or agent does not timely restore the TRUST PROPERTY to a condition equal to that existing before commencement of the work, the TRUSTEES shall use the guarantee to restore the disturbed area.

(g) At the discretion of the TRUSTEES, to provide security service and facilities and to provide for the collection of trash, rubbish and garbage and otherwise to provide such services as shall be in the interest of the health, safety and welfare of the OWNERS and residents, and to enter into and assume contracts for such purposes covering such periods of time as they may consider advisable.

(h) In exercising the rights, powers and privileges granted to them, and in discharging the duties imposed upon them by the provisions of this Second Restated Indenture, from time to time to enter into contracts, hire contractors, agents and other employees as they deem necessary or advisable, retain consultants and/or legal counsel to advise the TRUSTEES or to institute and prosecute such suits as they deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as TRUSTEES.

(i) To receive, hold, convey, dispose of and administer in trust for any purpose mentioned in this Second Restated Indenture any gift, grant, conveyance or donation of money or real or personal property.

(j) With regard to all property, real, personal or mixed, owned or held by the TRUSTEES in trust for the OWNERS, the full and unqualified right, power and authority to:

(1) Make all contracts and incur all liabilities necessary, related or incidental to exercise of the TRUSTEES' powers and duties hereunder, including the construction of improvements.

(2) Purchase insurance against risks, casualties and liabilities of every nature and description.

(3) Borrow money, including making a permanent, temporary or construction loan, encumber and hypothecate same, make and execute promissory notes or incur liabilities and obligations secured by deed of trust, mortgage, lien or encumbrance on same.

(k) In the event it shall become necessary for any public agency to acquire all or any part of any TRUST PROPERTY for any public purpose, the TRUSTEES are hereby authorized to negotiate with such public agency for such acquisition and to execute such instruments as may be necessary for conveyance to any such public agency. Should acquisitions by eminent domain become necessary, only the TRUSTEES need be made parties, and any monies, damage payments or condemnation award shall be held by the TRUSTEES for the benefit of the OWNERS of the LOTS subject hereto.

(l) The TRUSTEES shall deposit the funds coming into their hands, as TRUSTEES, in a state or national bank protected by the FDIC. The signatory(ies) on the account or accounts shall be bonded for the proper performance of the signatory's duties in an amount to be fixed by the TRUSTEES.

(m) Notwithstanding any other condition herein, the TRUSTEES shall make suitable provision for compliance with all applicable subdivision and other ordinances, rules and regulations of St. Louis County and the City of University City, and for such purposes shall not be limited to the maximum assessment provided for herein. Specifically and not by way of limitation, the TRUSTEES shall make

provision for the maintenance and operation of all street lights, streets, roadways and easements not otherwise accepted by a public agency or utility.

(n) At their discretion, the TRUSTEES are authorized to enter into licensing agreements with commercial entities for the maintenance, repair and operation of any portion of the TRUST PROPERTY, for the benefit of the OWNERS and residents of the Subdivision.

(o) At their discretion, the TRUSTEES are authorized to establish any neighborhood construction stipulations or regulations that the TRUSTEES deem necessary to: Protect the residents of the Subdivision during construction; ensure timely and proper completion of projects; secure the proper upkeep during, and clean-up upon completion of, any construction project; maintain and protect the TRUST PROPERTY during the project; and, protect the general health, safety and welfare of the OWNERS, residents and guests of the Subdivision.

(p) All rights, powers, duties, privileges and acts of every nature and description conferred upon the TRUSTEES by the terms of this Second Restated Indenture may be executed and exercised by a majority vote of the TRUSTEES, unless otherwise provided herein. The TRUSTEES shall not be personally liable for their acts in performance of their duties, except for dishonesty or acts criminal in nature.

Section 2.02. Selection of Board of TRUSTEES; Meetings of OWNERS

(a) *Number of TRUSTEES.* The Subdivision's Board of TRUSTEES shall consist of three (3) TRUSTEES, which shall be elected by the OWNERS, as provided below, subject to removal with or without cause by a majority vote of the OWNERS.

(b) *TRUSTEES to be OWNERS.* All TRUSTEES elected subsequent to the execution of this Second Restated Indenture shall be OWNERS. If any OWNER is a corporation, partnership or trust, then any partner, officer, director, employee or agent of such corporation or partnership or trustee of such trust may be a TRUSTEE.

(c) *Vacancy.* Should any elected Trustee die, resign, cease to be an OWNER or otherwise cease to hold office, or decline to act or become incompetent or unable for any reason to adequately discharge the duties, or avail himself or herself of or exercise the rights and powers hereby granted or bestowed upon the TRUSTEES, then and thereupon, the remaining TRUSTEES shall have the exclusive right to designate the successor thereto for his or her unexpired period of service as provided for hereunder. In the event that the provisions of this Indenture cannot be fulfilled by reason of unfilled vacancies among the Board of TRUSTEES, an OWNER may petition the remaining TRUSTEES to fill said vacancy within thirty (30) days. Expiration of the term of a trustee does not create a vacancy for the purposes of this section. Upon expiration of a TRUSTEE'S term, if a successor has not been elected, that trustee whose term has expired shall continue as TRUSTEE until his or her successor is duly elected by the OWNERS. If there are no remaining TRUSTEES, or if the remaining TRUSTEES fail or refuse to act, the OWNERS at a special meeting called pursuant to Section 2.02(e), may fill any vacancies.

(d) *Terms.* Any individual holding the position of TRUSTEE on the date this Second Restated Indenture is enacted will remain in said position until the expiration of his or her term under the First Restated Indenture. Upon the respective expiration of the term of each of such TRUSTEES, a successor TRUSTEE shall be elected by the OWNERS, and each such successive TRUSTEE shall serve for a term of three (3) years, to the end that one (1) TRUSTEE shall thereafter be elected at each annual meeting of the OWNERS of the Subdivision.

(e) *Annual and Special Meetings.* There shall be an annual meeting of the OWNERS, to be held either in the Spring or in the Fall of each year, at the discretion of the TRUSTEES, during the term of this Second Restated Indenture. There may be special meetings of the OWNERS as may be called by any one of the TRUSTEES or by a group of OWNERS representing a majority of the Lots within the

Subdivision or as otherwise specifically provided herein. At least ten (10) days' written notice of the time and place of any annual or special meeting shall be given to the OWNERS by the TRUSTEE(s) or OWNERS calling said meeting, by depositing same in the United States mail, properly addressed to the address shown on the real estate tax assessment records for each OWNER and with postage prepaid. All meetings are to be held in the St. Louis County.

(f) Voting. For all purposes of this Indenture, including the Revenue Provisions (Article IV), each LOT is entitled to one (1) vote regardless of the number of owners. If a LOT is owned jointly or as tenants in common, only one person shall be entitled to cast a vote for the owners of that LOT (such person shall be referred to as the "VOTING OWNER" and shall be agreed upon and designated as such by the Owners). The vote of a VOTING OWNER binds all owners of a LOT. A disagreement among owners of a LOT with respect to any issue (including, but not limited to, a vote to be cast at a Qualified Subdivision Meeting as defined in Article IV) or the failure to agree upon and designate a VOTING OWNER will result in no vote being counted on that issue with respect to that LOT. A corporation, if an OWNER, shall act through its president or through some other officer or director as the corporate board of directors designates in writing. A partnership, if an OWNER, shall act through a partner as designated by the partnership in writing. A trust or estate, if an OWNER, shall act through its trustee or personal representative. If there is more than one such trustee or personal representative, then the trustees shall designate in writing which of them shall be entitled to vote. If a LOT is owned by two or more natural persons, not acting as fiduciaries, a written designation will not be required unless a dispute arises as between the owners of the LOT. All required written designations of VOTING OWNERS shall be submitted to and held by the TRUSTEES. If votes are cast for any LOT for which written designations are required but not submitted as herein provided or if more than one vote is cast by two or more owners of any LOT, that LOT shall not be entitled to a vote on the issues for which the votes were cast. Any OWNER who has failed to pay any assessments due and payable within thirty (30) days after notice of such assessment, in addition to other penalties as described in this Indenture, shall not be entitled to vote at any annual or special meeting provided for herein. The person or persons receiving the highest number of votes cast shall be deemed elected and shall, upon his, her or their acceptance in writing, at once succeed to, be vested with, and possess and enjoy as a joint tenant but not as a tenant in common, with the remaining TRUSTEES, all of the estate, rights, interests, privileges and powers by this Second Restated Indenture granted to the TRUSTEES and be subject to all the obligations contained. In case of a conflict between the general provisions of this subsection and those contained in the Revenue Provisions of Article IV or any other section, the more specific voting provisions of the Revenue Provisions or other section shall control.

(g) Quorum. Except as where specifically provided in these Second Restated Indentures, any business relevant to the affairs of the Subdivision may be transacted at any annual or special meeting described above, provided that a quorum is present. A quorum is present at a meeting of the OWNERS if the OWNERS IN ATTENDANCE represent twenty percent (20%) of the Lots. A quorum is present at a meeting of the TRUSTEES if a majority of the TRUSTEES are in attendance. Any actions of the OWNERS at any annual or special meeting shall be by a majority of votes cast as such meeting except as may be otherwise provided. All actions of the TRUSTEES shall be by majority vote. Action may also be taken by the TRUSTEES outside of a meeting pursuant to unanimous written consent of the TRUSTEES.

Section 2.03. Reservation of Expenditures

The TRUSTEES, as TRUSTEES of the Subdivision, shall have the right to receive and retain any money consideration that comes to them, for any reason whatsoever, in respect of the TRUST PROPERTY. Such money shall be reserved for future use to benefit the TRUST PROPERTY, as shall be determined by the TRUSTEES. The TRUSTEES further reserve the right to receive and retain any monies, damage payments or condemnation awards for any easement or other interest granted or condemned as to any street or TRUST PROPERTY within the Subdivision.

ARTICLE III.

PROPERTY RIGHTS AND USE RESTRICTIONS

Section 3.01. Easements and Property Rights:

(a) Subject to the provisions of Section 3.01(b) hereof, every OWNER and every resident of any LOT in the Subdivision shall have a license to use and enjoy the TRUST PROPERTY, and such license shall be appurtenant to and shall pass with the title to every LOT.

(b) The above-described license shall be subject to the following:

(1) The right of the TRUSTEES to borrow money for the purpose of maintaining the TRUST PROPERTY and in aid thereof to mortgage or otherwise burden or encumber said TRUST PROPERTY;

(2) The right of the TRUSTEES to take such steps as are reasonably necessary to protect and maintain the TRUST PROPERTY against foreclosure;

(3) The right of the TRUSTEES to promulgate rules and regulations governing the use of TRUST PROPERTY, as well as rules and regulations pertaining to such subjects as home maintenance, water run-off, animal control, security, insurance and garbage disposal;

(4) The right of the TRUSTEES to dedicate or transfer all or part of the TRUST PROPERTY to any public agency or authority for such purposes and subject to such conditions as may be agreed upon by the TRUSTEES and any public agency or authority; and

(5) The right of the TRUSTEES to grant such easements and rights of way to such utility companies or public agencies or authorities or other entities as they shall deem necessary or appropriate and to permit appropriate access to the general public.

(c) All rules and regulations promulgated pursuant to this Indenture with respect to OWNERS and residents of the LOTS shall be applied equally to all such OWNERS and residents.

(d) Every utility easement on each LOT shall constitute a utility easement to serve any other LOT. In the event that any utilities and connections therefor serving a LOT are located in part on a LOT other than the LOT being served by such utilities and connections, the utility company, the owner of a LOT being served, and the contractors and employees of such company or owner, shall have the right and easement to enter upon the LOT in which the utility line or connection is located for the repair, maintenance and replacement of such line or connection.

(e) Although the PERSHING LOTS are located within the subdivision, they are not entitled to the rights and benefits conferred upon the Lots by this Second Restated Indenture because they are not generally subject to Assessments.

Section 3.02. Use Restrictions

(a) The following restrictions shall apply to all Lots (including both Residence and Excepted Lots) and to each present OWNER and/or resident of a LOT and each and every subsequent resident of a LOT and/or OWNER of any Lot therein, their grantees, lessees, successors and assigns:

(1) No BUILDING or STRUCTURE shall be used for a purpose other than that for which the building or structure was originally designed, without prior written approval of the TRUSTEES.

(2) Except for as set forth in Section 3.03(a)(4), no commercial activity of any kind shall be conducted on any LOT without the prior written approval of the TRUSTEES. Special

consideration shall be given by the TRUSTEES to any proposed commercial activity incident to the sale of residences within the subdivision.

(3) No noxious or offensive activity shall be carried on upon any portion of the Subdivision, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood.

(4) Each OWNER shall maintain and keep his or her LOT in good order and repair.

(5) No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind, shall be brought onto or kept on any portion of the Subdivision, except that a reasonable number of dogs, cats, or other household pets (except house pets with vicious propensities) may be kept or maintained on any LOT, without the prior written approval of the TRUSTEES. The keeping of any pet, which by reason of its vicious propensities, noisiness or other factor is a nuisance or annoyance to the neighborhood, is prohibited. The TRUSTEES have the authority to promulgate any reasonable rules and regulations governing the keeping of pets.

(6) No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any LOT without the prior written approval of the TRUSTEES, provided, however, that nothing herein shall prohibit signs erected or displayed on Lots in connection with political, governmental, or subdivision activities or with the construction, sale or rental of homes; provided that no sign or notice stating price or terms in dollars and cents shall be put up on any LOT. No signs are allowed on the TRUST PROPERTY except as authorized in writing by the TRUSTEES.

(7) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any LOT at any time as a residence temporarily or permanently. Construction trailers, sheds, materials, equipment and facilities may be maintained on a LOT only during the construction of a residential dwelling thereon.

(8) No exterior free-standing or attached receiver, dish, antenna, mast, or similar appliance over 2 meters shall be installed or maintained on any RESIDENCE LOT without the prior written approval of the TRUSTEES. In no instance shall any such appliance be located in the front yard of a residential dwelling.

(9) No LOT shall be resubdivided nor shall a fractional part of any LOT be sold without the consent of the TRUSTEES. This provision shall not, however, require the consent of the TRUSTEES for the sale of an entire LOT as shown on the SUBDIVISION PLAT.

(10) Without prior written approval of the TRUSTEES, no boat, trailer, truck, camper or recreational vehicle, of any type or description, shall be placed or stored in any unenclosed area on any LOT, nor shall the same be parked for any time on the unpaved portion of any LOT or on any street overnight. The TRUSTEES have authority to promulgate any further rules and regulations on this subject and on the parking of motor vehicles of any type or description, including automobiles as they shall deem necessary.

(11) Any OWNER who rents or leases a LOT, BUILDING or home within the Subdivision to a tenant is required to ensure that said tenant complies with the provisions of this Second Restated Indenture.

(12) No BUILDING, nor part thereof, including a deck, porch or patio, fence, wall, retaining wall, railing or other STRUCTURE shall be commenced, erected, altered or maintained upon any LOT, nor shall any exterior addition to or exterior change or alteration in any improvement thereon be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and locations of the same shall have been submitted to and approved by

the TRUSTEES and any required improvement guarantee is established. The TRUSTEES shall only approve such fencing for such LOTS, or portions thereof, as may be required by appropriate governmental authorities, or as may be required in the opinion of the TRUSTEES because of particular physical characteristics of the subject LOT or its surrounding property which tend to make such proposed fencing necessary or desirable, and/or for safety or health reasons. If the fencing is erected, it shall be done so with the most aesthetically desirable side facing outward. The height of any fence should not exceed six feet. If the TRUSTEES fail to give written approval or disapproval thereof within thirty (30) days after all necessary plans and specifications have been submitted, such plans and specifications shall be deemed approved by the TRUSTEES as submitted. If the proposed new building or modification complies with this Second Restated Indenture, the TRUSTEES shall approve any proposed new building or modification to an existing building.

(13) Pursuant to execution of this Second Restated Indenture, OWNERS are deemed to have permission to proceed with the demolition of any STRUCTURE on such OWNER's property. This permission is deemed granted only so long as no other structure is being erected in place of the demolished structure. If construction of a replacement structure is intended, the OWNER must proceed pursuant to Section 3.02(a)(12) as herein described.

(14) The OWNER will not raise the grade of any LOT above present grade at the front building line or more than two feet higher than the highest point of the sidewalk in front of said LOT, whichever is higher, without the written consent of the TRUSTEES.

(15) The OWNER will not erect any BUILDING on any LOT of which any wall will extend beyond or encroach in front of the building line or building lines of such LOT as delineated or designated upon the plat of said subdivision. Enclosed porches or sun-rooms or sun-parlors shall be deemed part of a BUILDING.

(16) Notwithstanding anything in subparagraph (15) above, unenclosed porches, balconies, porte cocheres and terraces, whether covered or uncovered, may extend up to eight (8) feet beyond the building lines. Bay, bow, oriel, dormer or other projecting windows; stairway landings, stoops and ramps; and the cornices, spouting, chimneys, brackets, pilasters, grill work, trellises and other similar projections, including projections for purely ornamental purposes, may extend up to five (5) feet in front of any building line.

(17) Every BUILDING on every LOT shall have a pitched roof and shall be faced on all sides with the same material; and all garages (not built as part of the PRINCIPAL BUILDING) or ACCESSORY BUILDINGS shall also have pitched roofs; all BUILDINGS, including ACCESSORY BUILDINGS such as garages and outbuildings shall have exterior walls of brick, stone, concrete, cement on hollow block or cement on metal lath, and garages and outbuildings shall follow the same general plan of architecture and building material as used in the main building on such LOT.

(18) No OWNER shall make or permit to be made any connection with any wires, water pipe, gas pipe, sewer pipe or conduits, except under such rules and regulations as may be prescribed by the company or utility owning the same, or by any public authority, and by such additional rules and regulations as may be prescribed by the TRUSTEES; nor shall any OWNER employ or permit to be employed any teams of men for the removal of garbage, waste or litter, except under such rules and regulations as may be established by the TRUSTEES from time to time for such purposes.

(19) The requirements in this Second Restated Indenture with respect to materials and style in the construction of BUILDINGS are intended to further the following purposes:

- A. To ensure consistency of style and materials within each LOT; and
- B. To ensure aesthetic harmony within the subdivision as a whole by, among other things, limiting the types of building materials that may be used and placing certain restrictions on the dimensions, placement and style of STRUCTURES that may be erected.

Section 3.03. RESIDENCE LOT Restrictions

(a) The following additional general restrictions shall apply to RESIDENCE LOTS and each OWNER of a RESIDENCE LOT covenants that:

- (1) Not more than one dwelling house shall be erected on any RESIDENCE LOT, nor shall more than one family live in any residence on a RESIDENCE LOT;
- (2) Except as set forth in §3.02(16), no PRINCIPAL BUILDING or portion thereof including terraces, decks, porches and patios on any Residence Lot, shall extend beyond any building line of such LOT.
- (3) No STRUCTURE, or portion thereof, on any RESIDENCE LOT, shall extend beyond the following setback lines:

| Setbacks | |
|-----------------|--|
| <i>Yard</i> | <i>Required Setback from Property Line</i> |
| Front | Twenty (20) feet |
| Side | Five (5) feet |
| Rear | Twenty-five (25) feet* |

**Exceptions to the rear setback requirements:* Terraces, patios, decks, pergolas, gazebos, and other such STRUCTURES and ACCESSORY BUILDINGS such as detached garages may encroach into the rear setback for a distance of up to ten (10) feet (leaving a rear setback of 15 feet).

- (4) The total number of square feet in the footprint (lot coverage) of any SINGLE FAMILY DWELLING including balconies, terraces, verandas, bays, cantilevers, decks, porches and stoops plus any outbuildings (including detached garages or storage structures) may not encompass more than thirty-five percent (35%) of the total square footage of the LOT upon which it is proposed to be placed.
- (5) No residence, STRUCTURE or BUILDING on any RESIDENCE LOT, or any portion thereof, shall be used exclusively for commercial purposes. However, home business as an accessory use to the private residence is permitted provided that the home business, in the judgment of the Trustees, does not cause excessive vehicular traffic, require significant on-street parking, or disrupt the adjoining and adjacent property owners' quiet enjoyment of their property.
- (6) No OWNER shall erect or permit to be erected on any RESIDENCE LOT (except on Lots herein specifically excepted) any flat or apartment building or use or permit a house on a RESIDENCE LOT to be used as a flat or apartment.

(7) No BUILDING or STRUCTURE shall be erected that is more than two and one-half stories high.

(8) Garages or outbuildings on all RESIDENCE LOTS in the Subdivision must be built within or attached to and form part of the PRINCIPAL BUILDING, or if built separately, they must be built as near to the rear lot line as setback restrictions permit. The entrance to any garage built within or attached to the PRINCIPAL BUILDING on any LOT shall not face the front property line of the LOT as shown on the plat. In the case of a LOT with frontage on two of the private streets of the subdivision, the entrance of any garage built within or attached to the PRINCIPAL BUILDING on such LOT may face the side property line of that LOT.

Section 3.04. Use Restrictions – Certain Excepted Lots

| Block | Lots | Uses & Restrictions |
|------------|------------|--|
| 11, 12, 13 | Flynn Park | Public school or park purposes |
| 15 | 5,6,7 | Private residence; apartments designed for and occupied by not more than four (4) families |
| | | <ul style="list-style-type: none"> • <u>HEIGHT.</u> No building shall exceed thirty-five (35) feet or two and one-half (2-1/2) stories. No building shall be less than two full stories. |
| | | <ul style="list-style-type: none"> • <u>REAR YARD.</u> There shall be a rear yard having a minimum depth of twenty (20) feet including a landscape buffer. |
| | | <ul style="list-style-type: none"> • <u>SIDE YARD.</u> There shall be a side yard on either side of the building used exclusively for residential purposes, of not less than six (6) feet; provided, however, that this regulation may be waived for buildings or parts of buildings used in whole or in part for any commercial purposes allowed by the zoning regulations of University City. |
| | | <ul style="list-style-type: none"> • The building material used in the erection of buildings on these Excepted Lots shall be of the same character and kind as for the RESIDENCE LOTS unless written consent is secured from the TRUSTEES. |
| | | <ul style="list-style-type: none"> • Every building shall have a pitched roof. |
| 16 | All Lots | Private residence; apartment buildings; Lot area of not less than two thousand (2,000) square feet per family; each such apartment building to be not more than 2-1/2 stories; designed for not more than for four families, and not to be occupied at any time by more than four families; every building shall have a pitched roof. |

Section 3.05. Non-conforming Uses and Variances.

(a) *Nonconforming Uses.* No building or structure existing on the date of his Second Restated Indenture shall be required to be demolished or modified and no use discontinued merely because, at that date, it fails to comply with the requirements of this Second Restated Indenture. However, no BUILDING or STRUCTURE that is not in conformance with the requirements of Section 3.02(a)(15) or (16) or Section 3.03(a)(2), (4) or (6) may be expanded or enlarged, and no non-conforming use may be expanded or enlarged, after the effective date of this Second Restated Indenture. Modifications to an existing nonconforming building, or a new building on the same LOT occupied by a nonconforming BUILDING (for example, a new garage) shall comply with the Indenture and further the purposes stated above in Section 3.02(a)(19) to the extent reasonably feasible in view of all the circumstances, in the judgment of the TRUSTEES. The TRUSTEES shall refuse to approve any modification or new construction on a Lot with a nonconforming BUILDING if in their opinion the new construction will be detrimental to the above purposes. If a BUILDING that is not in compliance with the

Second Restated Indenture is completely destroyed, from whatever cause, then, after demolition, any new building erected on the LOT must be in compliance with the Indenture without regard to the status of the destroyed building. If a nonconforming building is more than fifty percent (50%) destroyed, from whatever cause, the TRUSTEES may require the nonconforming structure to be demolished in whole or in part as a prerequisite to any new or replacement construction on the LOT. In no instance may the reconstruction, restoration or replacement of part of a partially destroyed building, where the original building violated, and the resulting building will continue to violate Section 3.02(a)(15) or (16) or Section 3.03(a)(2), (4) or (6), result in a building which contains a larger square footage or occupies a larger percentage of its LOT than the building occupied prior to destruction.

(b) *Variance.* Pursuant to execution of this Second Restated Indenture, the TRUSTEES are authorized to appoint a Variance Review Committee (VRC) to consider applications from OWNERS requesting a variance from complete compliance with the provisions contained in Article III of this Second Restated Indenture where strict compliance would result in undue hardship or practical difficulties provided that the hardship or difficulties were not self-created. The authority to grant such variance vests in VRC only if there is no objection raised by adjoining LOT OWNERS after notice is given to such LOT OWNERS by the Applicant. The VRC shall have the authority to attach to variances granted under this Subsection any conditions deemed necessary and appropriate. The VRC shall have no power to re-hear requests for variances that have previously been denied unless the Applicant can show a substantial change in circumstances with regard to the LOT itself. The VRC shall adopt, with the TRUSTEES approval, procedures, guidelines and/or policies governing its consideration of applications for variance. With respect to materials used on the exterior walls of buildings, the VRC may approve the use of materials which differ from those specified in this Second Restated Indenture only if the substituted materials resemble the specified materials in appearance. The VRC shall be made up of five (5) OWNERS and its members shall serve two (2) year terms. The VRC members shall serve at the pleasure of the TRUSTEES and can be removed by a majority vote of the TRUSTEES at any time without cause.

ARTICLE IV.

REVENUE PROVISIONS

Section 4.01. Assessments.

In order to provide the means necessary for the TRUSTEES to perform their duties and obligations that are imposed upon them by the provisions of this Indenture and to secure the various ends contemplated by this Indenture the TRUSTEES shall have the power to impose a **General Assessment** for each calendar year on each LOT in the Subdivision in accordance with all of the requirements of the **Revenue Provisions**. Notwithstanding the foregoing, certain property will be exempt or partially exempt from said assessments as hereinafter described in this Article IV.

Section 4.02. Definitions.

The definitions contained in this Section shall be used for purposes of the **Revenue Provisions**, except as otherwise specifically stated.

(a) "**Assessable Front Footage**" as used with respect to any LOT in the Subdivision means the total frontage of that LOT measured in linear feet on one or more of the private streets of the Subdivision as shown on the recorded plat thereof which were private streets on January 1, 2000 (disregarding fractions of feet); provided, however, that:

(1) With respect to any LOT (other than Flynn Park as set forth below) the front and side of which are on two intersecting streets that were private streets on January 1, 2000, only

one-half (½) of each foot of the total frontage on the front and side streets of that LOT shall be an **Assessable Front Foot**;

(2) Lots 2, 3 and 4 of Block 15, which abut the alley running from Purdue Avenue west to Jackson Avenue, shall have Assessable Front Footage solely for purposes of any Special Assessment that includes funds for the repair, reconstruction, or maintenance of that alley; and

(3) The parcels of realty known as "Flynn Park", originally subdivided and platted as individual lots in Blocks 11, 12, and 13 of the Subdivision, have been combined into parcel(s) owned by the University City School District and the City of University City and shall be treated as one (1) LOT that is *not* a corner lot for the purpose of determining that Lot's Assessable Front Footage on Kingsbury Boulevard and Midvale Avenue.

(4) It is the intent of the **Revenue Provisions** that the Owners of the PERSHING LOTS shall not be subject to any assessments made by the TRUSTEES arising from any PERSHING LOT'S front footage on Pershing Avenue.

(b) "**Assessable Front Foot**" means a linear foot of the **Assessable Front Footage**.

(c) "**Assessable Owner**" means any person or persons who holds any legal title to any LOT in the Subdivision that shall have any **Assessable Front Footage** whose name(s) appears on the title to that LOT, as determined on any relevant date by the real estate records of the St. Louis County Recorder of Deeds; provided, however, that, with respect to any LOT that is subject to a deed of trust, any person who holds any equitable interest in that LOT, as shown on the County records, shall be an "**Assessable Owner**" for purposes hereof. If a LOT has been divided into more than one unit to which there is legal title, then that LOT shall be represented by and bound by the duly appointed representative of the association that owns the common areas of that LOT and that representative shall be the OWNER of that LOT for all purposes of this Indenture. The TRUSTEES may rely on a person's assertion that that person is the duly authorized representative of an association, trust or legal entity unless the TRUSTEES have written notice to the contrary.

(d) "**Assessment**" means any assessment imposed under this Article IV.

(e) "**Authorized Amount**" for purposes of any **General Assessment** means the maximum amount per **Assessable Front Foot** that the TRUSTEES are authorized to assess in accordance with the requirements set forth in Section 4.05 of the **Revenue Provisions**, with and without a vote of the **Assessable Owners** at a **Qualified Subdivision Meeting** as set forth in Section 4.05.

(f) "**Base Amount**" for purposes of any **General Assessment** means the maximum amount per **Assessable Front Foot**, less the **Capital Improvement Fund**, that the TRUSTEES are authorized to assess without a vote of the **Assessable Owners** at a **Qualified Subdivision Meeting** in accordance with the requirements set forth in Section 4.05 of the **Revenue Provisions**.

(g) "**Capital Improvement Fund**" means that separate amount funded by a portion of the **General Assessment** that is held and expended in accordance with the provisions of Section 4.03 of the **Revenue Provisions**.

(h) "**General Assessment**" means that assessment made by the TRUSTEES in accordance with the provisions of the **Revenue Provisions** to fund the annual budget of the Subdivision for each calendar year and shall include the amounts, if any, that shall be allocated to the **Capital Improvement Fund**.

(i) "**Improvement**" means any construction, reconstruction, removal, placement, or replacement, in whole or in part of any tree, street, avenue, drive, entrance pylon, gate, alley, sidewalk, crosswalk, park, gutter, curb, sewer, pipes, conduits and any type of transmission systems, or any other

substantial capital asset deemed reasonably appropriate for the use of the Subdivision by the TRUSTEES and shall not include ordinary repair and maintenance.

(j) "One-Time Assessment" for purposes of any General Assessment means the additional amount per Assessable Front Foot for one specific calendar year that is authorized by a majority of votes cast at a **Qualified Subdivision Meeting**.

(k) "Qualified Subdivision Meeting" means a meeting held in accordance with the provisions of Section 4.05.

(l) "Revenue Provisions" means this Article IV.

(m) "Special Assessment" means any assessment made by the TRUSTEES under the provisions of Section 4.04 of the **Revenue Provisions**.

Section 4.03. General Assessment; Components, Amount.

In any calendar year, the maximum amount of the **General Assessment** that may be imposed by the TRUSTEES and payable by the **Assessable Owners** to the TRUSTEES with respect to each **Assessable Front Foot** in the Subdivision shall be a sum of (i) the **Base Amount**, (ii) the **Capital Improvement Fund** Amount and (iii) any **One-Time Assessment** (authorized by a vote of the **Assessable Owners** at a **Qualified Subdivision Meeting** for that Calendar year). The amount payable with respect to any LOT for any Calendar year shall be the **General Assessment per Assessable Front Foot** multiplied by that LOT'S total **Assessable Front Footage**. Notwithstanding anything herein to the contrary, the **General Assessment per Assessable Front Foot** in any calendar year shall not exceed the **Authorized Amount**.

(a) **Base Amount.** The **Base Amount** for the calendar year 2001 shall be Three Dollars (\$3.00). The **Base Amount** for the calendar year 2002 shall be Three Dollars and Seventy-Five Cents (\$3.75). The **Base Amount** for the calendar year 2003 shall be Four Dollars and Fifty Cents (\$4.50). The **Base Amount** for the calendar year 2004 shall be Five Dollars and Twenty-Five Cents (\$5.25). See *Table 4.03*. Thereafter, the **Base Amount** shall remain at the previous year's rate and may only be increased or decreased by two-thirds of the votes cast at a **Qualified Subdivision Meeting**. Once changed, the **Base Amount** shall remain at the level so established until changed again by two-thirds of the vote cast at a subsequent **Qualified Subdivision Meeting**.

*Table 4.03 – General Assessments**

| Year | 2001 | 2002 | 2003 | 2004 | 2005-2010 |
|---------------------------------|---------------|---------------|---------------|---------------|---------------|
| Base Amount | \$3.00 | \$3.75 | \$4.50 | \$5.25 | \$5.25 |
| Capital Improvement Fund | \$0.50 | \$0.50 | \$0.50 | \$0.50 | \$0.50 |
| Total General Assessment | \$3.50 | \$4.25 | \$5.00 | \$5.75 | \$5.75 |

*Amounts subject to change as provided herein if approved by **Assessable Owners** at a **Qualified Subdivision Meeting**

(b) **Authorized Amount.** The initial **Authorized Amount** for the Calendar year 2001 shall be Four Dollars and Sixty Cents (\$4.60) and shall increase to Five Dollars (\$5.00) in 2002; Five Dollars and Fifty Cents (\$5.50) in 2003 and Six Dollars (\$6.00) in 2004. The **Authorized Amount** shall increase by twenty percent (20%) of the 2004 **Authorized Amount** (\$6.00) on the day of the tenth anniversary of the recordation of the Second Restated Indenture, and on the corresponding day at the end of each succeeding ten year period the **Authorized Amount** shall further increase by twenty percent (20%) of the **Authorized Amount** for the preceding 10 year period.

(c) **Capital Improvement Fund.** In addition to the **Base Amount** of the **General Assessment**, an amount of Fifty Cents (\$0.50) per **Assessable Front Foot** of each **General Assessment** shall be allocated to the **Capital Improvement Fund** and held, administered, and distributed in accordance with the provisions of this subsection; provided, however, that when no more contributions can be made to the **Capital Improvement Fund** because that fund has reached its contribution limit, then the entire **General Assessment** for that year may be used for the general purposes as set forth in these **Revenue Provisions**.

(1) In order to provide for **Improvements** as the need arises, the TRUSTEES shall hold and administer that portion of each **General Assessment** that is allocated to the **Capital Improvement Fund** as provided in this subsection. No additions shall be made to the fund in any calendar year that the balance of the fund equals or exceeds One Hundred Thousand Dollars (\$100,000.00) at the beginning of that year (referred to as the "Contribution Limit"). The TRUSTEES shall expend assets of the **Capital Improvement Fund** at such time(s) and in such amounts, as they deem appropriate for any Improvement.

(2) The **Capital Improvement Fund** shall be operated, managed, and administered by the TRUSTEES as a separate fund and not commingled with other assets of the Subdivision. Separate records and books shall be maintained and shall be available for inspection by OWNERS.

(3) The TRUSTEES are empowered to invest assets of the **Capital Improvement Fund** in US Treasury Bills, Notes, or Bonds with maturity not to exceed three years or in cash accounts or cash equivalent accounts that are insured by FDIC or FSLIC.

(4) In addition to the annual **Capital Improvement Fund** provided for herein, the TRUSTEES, in conjunction with University City or St. Louis County, are authorized to fund capital improvements through the use of Neighborhood Improvement District notes or bonds, as provided for in the Neighborhood Improvement District Act, §§ 67.453-67.475, RSMo 2000, as amended.

Section 4.04. Special Assessments.

If the TRUSTEES determine that the cost of any **Improvement** cannot be paid from the funds raised by any **General Assessment**, then, to the extent the funds in the **Capital Improvement Fund** are insufficient for such purposes, the funds necessary for the expenditure for that Improvement shall be raised by a **Special Assessment** as provided in this Section.

The TRUSTEES may also levy a **Special Assessment** for Litigation Costs. The term "Litigation Costs" means any expenditure incurred or reasonably anticipated to be incurred by any TRUSTEE in relationship to any claim asserted by or against that TRUSTEE in that TRUSTEE'S capacity as a TRUSTEE, whether or not a court action has been filed, for: (1) personal injuries or death; (2) for damage to property; or (3) enforcement of the provisions of the Indenture. Litigation Costs shall include all costs, expenses, and payments incurred by the TRUSTEES in connection with any such claim, including, but not limited to, all attorneys' fees, court costs, other expenses, interest, awards, judgments, and settlement payments. Any **Special Assessment** for Litigation Costs shall be made in accordance with the provisions of this Section and other applicable **Revenue Provisions**.

Whenever the TRUSTEES shall determine that a **Special Assessment** is needed, then the TRUSTEES shall determine or estimate the total amount to be expended. Any **Special Assessment** shall be equal to the costs determined or estimated for the **Improvements** to be made or litigation costs to be incurred and shall be assessed against each and every LOT. The amount of any **Special Assessment** made against any LOT shall be determined by multiplying the total amount of that **Special Assessment** by a fraction, the numerator of which shall be the total **Assessable Front Footage** of that LOT and the denominator of

which shall be the total **Assessable Front Footage** of all LOTS with **Assessable Front Footage**. Any **Special Assessment**, except for a **Special Assessment** for Litigation Costs, shall only be levied after approval by a majority of votes cast at a **Qualified Subdivision Meeting**.

In addition, notwithstanding anything herein to the contrary, the TRUSTEES may levy, without the need for a Qualified Subdivision Meeting or any other approval from the **Assessable Owners**, a **special assessment** against any LOT (including the PERSHING LOTS) and/or OWNER for purposes of clearing rubbish and debris and removing grass, weeds, or dead or decaying trees or limbs, and any hazardous condition from any LOT where the OWNER has failed to do so or for repairing any damage cause by a OWNER or such OWNER's employees, contractors, agents, invitees or tenants. Such assessments are subject to and governed by the provisions of Section 4.06. The Assessment Notice need not meet the requirements of Section 4.05(a)(7).

Section 4.05. Procedures, Notices, Meetings.

Any assessment, whether **General** or **Special**, shall be made by the TRUSTEES in conformance with the **Revenue Provisions** and shall be payable at such time or times, in one sum or in installments, and at such place as shall be specified by the TRUSTEES, in the discretion of the TRUSTEES.

(a) *Assessment Notice.* The TRUSTEES shall cause a written or printed notice (the "Assessment Notice") to be delivered to an **Assessable Owner** representing that LOT not less than ten (10) days before any Assessment, whether General or Special, listed on that notice is due. Any **Assessment** listed in a proper Assessment Notice shall be payable for each LOT promptly on the date specified in that Assessment Notice. An Assessment Notice shall, at a minimum, contain the following information:

- (1) The amount of any **General Assessment**
- (2) The amount of any increase in the **Base Amount**.
- (3) The amount of any **One-Time Assessment**.
- (4) The amount and purposes of any **Special Assessment**.
- (5) The manner in which each **Assessment** due is to be paid (the "due date"), whether in one sum, or in installments and the due date(s) thereof.
- (6) The address to which payment(s) should be delivered and the acceptable form(s) of payment.
- (7) An Assessment Notice may contain notice of a **One-Time Assessment**, notice of an increase in the **Base Amount**, or notice of a **Special Assessment** (other than a **Special Assessment** for Litigation Costs) only if that action has been duly authorized at a **Qualified Subdivision Meeting**.

(b) *Qualified Subdivision Meeting.* A **Qualified Subdivision Meeting** is a meeting that complies with the following requirements.

- (1) A written or printed Meeting Notice (as defined below) shall be delivered to an **Assessable Owner** not less than ten (10) days before the date set for the **Qualified Subdivision Meeting**.
- (2) A **Qualified Subdivision Meeting** must have a quorum consisting of twenty percent (20%) of the **Assessable Owners**.

(3) Minutes of the **Qualified Subdivision Meeting** shall be kept, and a copy thereof shall be mailed to an **Assessable Owner** within ninety (90) days after the **Qualified Subdivision Meeting**.

(4) A **Qualified Subdivision Meeting** shall be held on the second Wednesday of September of the appropriate calendar year or such other date that is set forth in the Meeting Notice that is within 60 days after that Wednesday. Any **Qualified Subdivision Meeting** may also include the election of a TRUSTEE or TRUSTEES of the Subdivision as provided by other provisions of this Indenture, and any other business of the Subdivision that the TRUSTEES deem appropriate.

*For all purposes of a **Qualified Subdivision Meeting**, including, but not limited to the determination of whether or not a quorum is present, an **Assessable Owner** shall be deemed to be present at such a meeting if the **Assessable Owner's** signed Proxy is presented at such meeting.*

(c) *Meeting Notice; Contents.* Any Meeting Notice shall, at a minimum, contain the following information:

(1) The date, time, and place of the meeting;

(2) The amount of any **One-Time Assessment**, the amount of any increase of the Base Amount that is being requested by the TRUSTEES, and/or the proposed amount and purpose of any Special Assessment that is being requested;

(3) A statement of income and expenditures for the preceding calendar year;

(4) A statement of income and expenditures for the current calendar year, showing actual figures to within two months of the date of the Meeting Notice and, separately, anticipated income and expenditures for the balance of the year; and

(5) A proposed budget showing anticipated income and expenditures for the subsequent full calendar year.

(6) The Meeting Notice may, but is not required to, include notification of the vote on the election of any Trustee or TRUSTEES or be included in any other type of notice required by the provisions of this Indenture or found desirable by the TRUSTEES.

(d) *Notice; Receipt by Assessable Owner.* Any notice required under the **Revenue Provisions** shall be deemed received by an **Assessable Owner** upon the happening of one of the following:

(1) Delivery of said notice personally to that **Assessable Owner**, his or her agent, or any person of over the age of fifteen (15) found on the LOT in which that **Assessable Owner** has an interest,

(2) By depositing such notice in a United States Postal Service Mailbox addressed to the **Assessable Owner** at the last known post office address of that **Assessable Owner**, or

(3) Posting such notice conspicuously upon the LOT in which an **Assessable Owner** has an interest.

(e) *Failure to Follow Procedures; Effect.* The good faith failure by the TRUSTEES to comply with any of the procedures set forth in this Section shall not invalidate any otherwise valid increase or decrease in any **Assessment** under this Article unless such noncompliance is objected to by an **Assessable Owner**, in writing and received by the TRUSTEES, within 90 days of date of the alleged noncompliance.

Section 4.06. Liens, Enforcement of Assessments.

As soon as an Assessment Notice is served in accordance with the provisions of Section 4.05(a) of the **Revenue Provisions**, each Assessment contained in such notice (whether **General** or **Special** and whether or not for addition to the **Capital Improvement Fund**) shall become to the extent of and for the amount payable, a charge or lien upon each LOT, and improvements thereon, properly assessed upon the interest of all OWNERS therein (herein a "Lien"). Any Lien shall continue in full force until all assessed amounts are fully paid. All unpaid Assessments shall constitute a first lien against a LOT superior to any lien or encumbrance that may have been created against said LOT or any improvements thereon either before or after the **Assessment** was made. All persons acquiring, whether voluntarily or involuntarily, any interest in a LOT subject to a Lien shall take the same subject to the Lien and the right or power in the TRUSTEES to assess the same for the purposes of this Indenture. The OWNER of any LOT at the time of any **Assessment**, whether **General** or **Special** shall also be personally liable to the TRUSTEES for the payment of that **Assessment**, together with all interest, attorney's fees, and costs. If there is more than one owner, then their liability shall be joint and several.

If an **Assessment** is not paid on the due date, as established by the TRUSTEES, then such **assessment** shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the LOT involved, which shall bind SUCH LOT in the hands of the then OWNER, his or her heirs, devisees, personal representatives, successors and assigns. In addition to such lien, the personal obligation of the then OWNER to pay such assessment shall remain his personal obligation and shall also pass to his successors in title, whether or not expressly assumed by them.

If an **Assessment** is not paid within thirty (30) days after the delinquency date, such **Assessment** shall bear interest from the date of delinquency at an annual rate equal to the maximum statutory rate, and the TRUSTEES may bring legal action against the OWNER(s) personally obligated to pay same, and, in addition, may execute and acknowledge an instrument reciting the levy of the assessment with respect to such LOT and cause same to be recorded in the Office of the Recorder of Deeds of St. Louis County and thereafter institute any appropriate legal action to enforce such lien, including, without limitation, by foreclosure and public sale. Upon payment, the TRUSTEES shall execute and record (at the expense of the OWNER of the affected LOT), a release of such lien. All costs, including reasonable attorneys' fees, incurred by the TRUSTEES in enforcing the payment of any **Assessment** shall be paid by the OWNER in default and the amount of such costs, including reasonable attorneys' fees, shall be a lien against the LOT involved until paid.

Such sale or transfer shall not relieve such LOT or OWNER from liability for any **Assessments** thereafter becoming due, nor from the lien of any subsequent **Assessment**. Any **Assessments** which become uncollectible by reason of foreclosure, or deed in lieu thereof, and may be recovered through the next succeeding annual **general assessment** upon all LOTS.

The TRUSTEES may institute and prosecute any legal proceedings at law or in equity, or both, against the OWNER or OWNERS of any LOT with respect to which an **Assessment** has not been paid when due and all persons claiming through or under them, to compel the payment of that **Assessment** with interest, costs, and attorneys fees. Each LOT with respect to which an **Assessment** has not been paid is liable to be sold under the order or decree of any court of competent jurisdiction under appropriate legal proceedings in like manner as if the **Assessment** so due and unpaid with interest, costs, and attorney's fees was secured by a first mortgage on that LOT. Out of the proceeds of any such sale, the full amount of the **Assessment** in default, with interest, costs, and attorneys' fees shall be paid to the TRUSTEES. The purchaser or purchasers, however, at any such sale shall take subject to this Indenture and to all of the covenants, easements, provisions, power and rights herein contained, created, or granted, in the same manner and to the same extent as if the OWNER or OWNERS of the LOT had sold that LOT voluntarily subject to the provisions hereof, excepting, of course that such sale shall clear the property sold from the

Lien of the particular **Assessment** in default on account of which said sale occurred.

Section 4.07. Assessments – Purpose.

The **Assessments** levied under this Section shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Subdivision and in particular for the rendering of services in the furtherance of such purposes, including the carrying out of all functions herein authorized, and for the acquisition, improvement, maintenance and operation of the TRUST PROPERTY including, but not limited to, the payment of taxes and insurance thereon, debt service and repair, maintenance, replacements and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof, and for such needs as may arise.

ARTICLE V.

MISCELLANEOUS

Section 5.01. Enforcement.

The TRUSTEES, or the OWNER of any LOT subject to this Second Restated Indenture, shall have the right to enforce, by any proceeding at law or in equity, all of the covenants, conditions, restrictions and provisions hereof, either to restrain or enjoin a violation or to recover damages. Failure or forbearance by the TRUSTEES or any OWNER to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any legal action filed by the TRUSTEES against a OWNER or if the TRUSTEES retain legal counsel without filing a legal action in order to enforce any covenant or restriction herein contained or adopted by or with the approval of the TRUSTEES or any action to recover damages on account of breach of any such covenant, restriction, rule or regulation, the OWNER of said LOT shall be personally liable for and shall pay the TRUSTEES' reasonable attorneys' fees and costs incurred with or without legal action. If said attorneys' fees and costs are not paid by the OWNER of said LOT within thirty (30) days after the TRUSTEES have given written notice thereof to the OWNER of said LOT by certified mail, return receipt requested, then said fees and costs shall thereafter bear interest at the maximum statutory rate and the TRUSTEES may execute and acknowledge an instrument reciting said debt and causing same to be recorded in the St. Louis County Recorder of Deeds; thereupon said debt shall become a continuing lien on the property of the OWNER of said LOT which shall bind the OWNER of said LOT, his heirs, successors and assigns. Said lien shall be enforceable and governed by Article IV of this Second Restated Indenture. No legal action shall be brought against the TRUSTEES for their alleged failure to enforce any provisions of this Second Restated Indenture.

Section 5.02. Amendments.

Except for any proposal that would raise, reduce or eliminate assessments (which are governed by Article IV), the provisions of this Restated Indenture may be amended, modified or changed from time to time by a majority vote of all OWNERS in attendance at a meeting convened pursuant to notice of such purpose. Such amendment, modification or change may include fundamental changes such as dedication of any portion of the TRUST PROPERTY to an appropriate public agency or any amendment to this Restated Indenture. Any proposal, the effect of which would be to reduce or modify the obligation or right granted to or imposed upon the TRUSTEES with respect to maintenance of the TRUST PROPERTY, or to eliminate the requirement that there be TRUSTEES, will require supermajority vote of two-thirds (2/3) of all Owners within the Subdivision. Any amendment, modification or change enacted pursuant to this Subsection shall be recorded in the Office of the Recorder of Deeds of St. Louis County, Missouri.

Section 5.03. Effect of Transfer of LOT.

All rights and obligations herein granted or required shall carry over to the OWNERS' heirs, successors and assigns as well as to any purchaser or other transferee of any LOT subject to this Second Restated Indenture, even if this Second Restated Indenture is not expressly mentioned in the deed or other instrument conveying ownership.

Section 5.04. Notice.

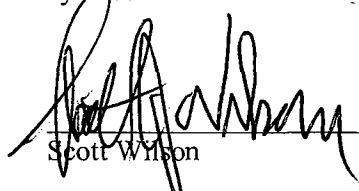
Any notice required to be sent under the provisions of this Second Restated Indenture shall be deemed effective upon:

- (a) Delivery of said notice personally to the OWNER (as identified in the real estate tax assessment records of St. Louis County, his or her agent, or any person of over the age of fifteen (15) found on the LOT in which that OWNER has an interest,
- (b) By depositing such notice in a United States Postal Service Mailbox addressed to the OWNER at the last known post office address (according to the real estate tax assessment records of St. Louis County of that **Assessable Owner**, *or*
- (c) Posting such notice conspicuously upon the LOT in which an OWNER has an interest.

Section 5.05. Effect of Invalid Covenant or Restriction.

Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

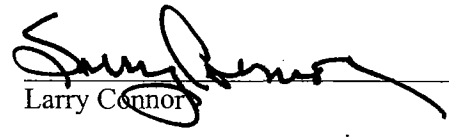
IN WITNESS WHEREOF, the TRUSTEES hereby execute this Second Restated Indenture on this 26th day of July, 2003.



Scott Wilson



Jim Wheeler




Larry Connor

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 26th day of July, 2003, before me appeared Scott Wilson, Jim Wheeler and Larry Connor, the above named TRUSTEES, to me well known to be the persons described in and who executed the foregoing Second Revised and Restated Indenture, and each of the them acknowledged that he had executed the same as his free and voluntary act and deed in his capacity as such Trustee.

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



Notary Public

My term expires:

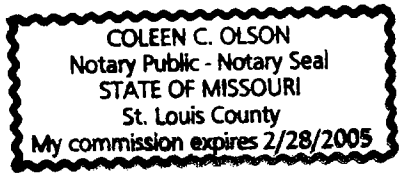


EXHIBIT A

I hereby certify and affirm that at a duly noticed and called meeting of the Owners of the University Hills Subdivision held on June 5, 2003, there was a quorum of Owners in Attendance. I further certify and affirm that there were 16 Owners in Attendance and that 16 of the Owners in Attendance voted in favor of the Second Revised & Restated Indenture thereby approving the passage of the Second Revised & Restated Indenture.



TRUSTEE

Date: July 26th, 2003

[Attach List of Owners Voting for Second Revised & Restated Indenture]

+ Quorum of Proxys = 85/35%

EXHIBIT B**PROPERTY SUBJECT TO THIS SECOND RESTATED INDENTURE**

The EXEMPTED LOTS shall not be subject to this Second Restated Indenture and the PERSHING LOTS shall not be subject to the assessments provided for in this Second Restated Indenture arising out of the PERSHING LOTS frontage on Pershing Avenue; provided, however, that the owners of the PERSHING LOTS shall be subject to any special assessments made by the TRUSTEES with respect to any benefit conferred upon a Pershing Lot with regard to maintenance, repair, restoration, or reconstruction of improvements on or in the TRUST PROPERTY. While these EXEMPTED LOTS and PERSHING LOTS are located within and part of the Subdivision, because they are not be subject to Assessments generally, they shall not be entitled to any of the rights and benefits conferred by this Second Restated Indenture upon the Subdivision Lots.²

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Second Restated Indenture is now located in the City of University City, St. Louis County, Missouri and is the land described particularly in the Original Indenture and in the SUBDIVISION PLAT.

A tract of land containing Ninety-six (96) acres, more or less, being all of the land owned by James G. Greveling, in U.S. Survey 378, Township 45 North, Range 6 East, in said St. Louis County, Missouri. Bounded North by Delmar Boulevard, East partly by Wellesley Avenue, a private street thirty (30) feet wide, as shown on Plat of University Heights No. 3, recorded in Plat Book 7, page 68, St. Louis County Recorder's Office, and by the West Line of West Portland Place, South by the south line of Block Sixteen (16) of Kingsbury Place in said U.S. Survey 378, and West by the West line of said U.S. Survey 378, excepting a ten (10) foot strip dedicated for road, according to instrument recorded in Book 412, Page 345, St. Louis County Recorder's Office.

² Any owner of an EXEMPTED LOT or PERSHING LOT may petition the TRUSTEES for inclusion in the Subdivision (including paying all Assessments) and the TRUSTEES, at their discretion, upon a unanimous vote of the TRUSTEES, may allow such OWNER and LOT to be a part of the Subdivision.

EXHIBIT C

Depiction of University Hills Subdivision

Note that while these EXEMPTED LOTS and PERSHING LOTS are located within and platted as part of the Subdivision on the SUBDIVISION PLAT (as shown generally on Exhibit C), because these EXEMPTED LOTS and PERSHING LOTS shall not be subject to Assessments generally, they shall not be entitled to any of the rights and benefits conferred by this Second Restated Indenture upon the Subdivision Lots.

