

**HIGHLANDS CREEK
HOMES ASSOCIATION DECLARATION**

THIS DECLARATION is made as of the 9th day of July, 2001, by Highlands Group, a Kansas general partnership ("Developer").

WITNESSETH:

WHEREAS, Developer has executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "Highlands Creek" which plat includes the following described lots (the "Lots") and tracts:

Lots 1 through 71, and Tracts A, B, and C, HIGHLANDS CREEK, a subdivision in the City of Leawood, Johnson County, Kansas.

WHEREAS, Developer, as the present owner and developer of the Lots, desires to create and maintain a residential neighborhood and a homes association for the purpose of enhancing and protecting the value, desirability, attractiveness and maintenance of the property within the subdivision;

NOW, THEREFORE, in consideration of the premises contained herein, Developer, for itself and for its successors and assigns, and for its future grantees, hereby subjects all of the above-described lots to the covenants, charges, assessments and easements hereinafter set forth.

ARTICLE I. DEFINITIONS

For purposes of this Declaration, the following definitions shall apply:

(a) "Lot" means any lot as shown as a separate lot on any recorded plat of all or part of the Subdivision; provided, however, that if an Owner, other than the Developer, owns adjacent lots (or parts thereof) upon which only one residence has been, is being, or will be erected, then (i) for purposes of determining the amount of annual and special assessments due with respect thereto from time to time, such adjacent property under common ownership shall constitute such whole or partial number of Lots as may be specified in writing by the Developer, and (ii) for all other purposes hereunder, such adjacent property under common ownership shall be deemed to constitute only one "Lot."

(b) "Subdivision" means collectively all of the above lots in Highlands Creek, all Common Areas, and all additional property which hereafter may be made subject to this Declaration in the manner provided herein.

(c) "Developer" means Highlands Group, a Kansas general partnership, and its successors and assigns.

(d) "Owner" means the record owner(s) of title to any Lot, including the Developer.

(e) "Common Areas" means (i) any entrances, monuments, berms, street islands, and other similar ornamental areas and related utilities, lights, sprinkler systems, trees and landscaping constructed or installed by or for the Developer or the Homes Association at or near the entrance of any street or along any street, and any easements related thereto, in the Subdivision (ii) all platted landscape easements and all other landscape easements that may be granted to the Developer and/or the Homes Association, for the use, benefit and enjoyment of all Owners within the Subdivision, (iii) the Detention Area, and (iv) all other similar areas and places, together with all improvements thereon and thereto, the use, benefit or enjoyment of which is intended for all of the Owners within the Subdivision, whether or not any "Common Area" is located on any Lot.

(f) "Detention Area" means the real property described on Exhibit A attached hereto which (i) shall serve as a stormwater detention area (with dam and spillway) for the watershed in which the Subdivision is located and (ii) shall be platted as a separate tract in a later phase of the Subdivision.

(g) "Pool Area" has the meaning set forth in Article XIV below.

(h) "Homes Association" means the Kansas not-for-profit corporation to be formed by or for the Developer for the purpose of serving as the homes association for the Subdivision.

(i) "Board" means the Board of Directors of the Homes Association.

(j) "Certificate of Substantial Completion" means a certificate executed, acknowledged and recorded by the Developer stating that all or, at the Developer's discretion, substantially all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instrument in lieu thereof in Developer's absolute discretion at any time and for any limited purpose hereunder. The execution or recording of a Certificate of Substantial Completion shall not, by itself, constitute an assignment of any of the Developer's rights to the Homes Association or any other person or entity.

(k) "Turnover Date" means the earlier of: (i) the date as of which 90% of all of the Lots in the Subdivision (as then composed or contemplated by the Developer) have been sold by the Developer and the residences have been constructed thereon, or (ii) the date Developer, in its absolute discretion, selects as the Turnover Date for all or any specific portion of this Declaration.

(l) "City" means the City of Leawood, Kansas.

(m) "Recording Office" means the Office of the Register of Deeds of Johnson County, Kansas.

ARTICLE II. HOMES ASSOCIATION MEMBERSHIP

Until the Turnover Date, the Homes Association shall have two classes of membership, namely Class A and Class B. The Developer shall be the sole Class A member. Each Owner of a Lot, including the Developer as an Owner, shall be a Class B member. Until the Turnover Date, all voting rights shall be held by the Class A member, except that the Class B members shall have the sole right to vote on increases in annual assessments as provided in clause (c) of Section 2 of Article IV below.

After the Turnover Date, there shall be only one class of membership which shall consist of the Owners of the Lots in the Subdivision and every such Owner shall be a member.

Where voting rights exist based on Lot ownership, each member shall have one vote for each Lot for which he is the Owner; provided, however, that when more than one person is an Owner of any particular Lot, all such persons shall be members and the one vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot. During any period in which a member is in default in the payment of any assessment levied by the Homes Association under this Declaration, the voting rights of such member shall be suspended until such assessment has been paid in full.

Subject to the foregoing, the Homes Association shall be the sole judge of the qualifications of each Owner to vote and their rights to participate in its meetings and proceedings.

ARTICLE III. POWERS AND DUTIES OF THE HOMES ASSOCIATION

1. In addition to the powers granted by other portions of this Declaration or by law but subject to all of the limitations set forth in this Declaration, the Homes Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by the Board to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in the Homes Association's name, any and all building, use or other restrictions, obligations, agreements, reservations or assessments which have been or hereafter may be imposed upon any of the Lots or other part of the Subdivision; provided, however, that this right of enforcement shall not serve to prevent waivers, changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the Homes Association or other parties having the right to make such waivers, changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth. The expense and cost of any such enforcement proceedings by the Homes Association shall be paid out of the general funds of the Homes Association, except as herein provided. Nothing herein contained shall be deemed or construed to prevent the Developer or any Owner from enforcing any building, use or other restrictions in its or his own name.

(b) To acquire and own title to or interests in, to exercise control over, and to improve and maintain the Common Areas, subject to the rights of any governmental authority, utility or any other similar person or entity therein or thereto.

(c) To maintain public liability, worker's compensation, fidelity, fire and extended coverage, director and officer liability, indemnification and other insurance with respect to the activities of the Homes Association, the Common Areas and the property within the Subdivision.

(d) To levy the assessments and related charges which are provided for in this Declaration and to take all steps necessary or appropriate to collect such assessments and related charges.

(e) To enter into and perform agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer or other parties and the Homes Association and its members, and the sharing of the expenses associated therewith.

(f) To enter into and perform agreements with the Developer, other developers, other homes associations and other parties relating to the joint use, operation and maintenance of any recreational facilities and other similar common areas, whether in or outside the Subdivision, and the sharing of expenses related thereto.

(g) To have employees and otherwise engage the services of a management company or other person or entity to carry out and perform all or any part of the functions and powers of the Homes Association, including, without limitation, keeping of books and records, operation and maintenance of Common Areas, and planning and coordination of activities.

(h) To engage the services of a security guard or security patrol service.

(i) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the Subdivision; and to do any other things necessary or desirable in the judgment of the Board to keep any property in the Subdivision neat in appearance and in good order.

(j) To exercise any architectural, aesthetic or other control and authority given and assigned to the Homes Association in this Declaration or in any other deed, declaration or plat relating to all or any part of the Subdivision.

(k) To make, amend and revoke reasonable rules, regulations, restrictions and guidelines (including, without limitation, regarding the use of Common Areas) and to provide means to enforce such rules, regulations and guidelines.

(l) To exercise such other powers as may be set forth in the Articles of Incorporation or Bylaws of the Homes Association.

2. In addition to the duties required by other portions of this Declaration and by law, the Homes Association shall have the following duties and obligations with respect to providing services to all Owners within the Subdivision:

(a) To the extent not provided as a service by any governmental authority, the Homes Association shall provide for the collection and disposal of rubbish and garbage for each residence one day per week (which day, if possible, shall be the same for all residences).

(b) The Homes Association shall at all times, from and after its date of formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by or for the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or other similar person or entity.

(c) The Homes Association shall satisfy its obligations with respect to the Pool Area, as set forth in Article XIV, and with respect to the Detention Area, as set forth in Article XV.

The Board shall establish, maintain and expend a reserve for the future maintenance of the Detention Area. Until further action of the Board, the Board shall allocate to such reserve an amount at the rate of \$150.00 per year out of the annual assessment paid by each Lot then paying annual assessments.

ARTICLE IV. ANNUAL ASSESSMENTS

1. For the purpose of providing funds to enable the Homes Association to exercise the powers, render the services and perform the duties provided for herein, all Lots in the Subdivision, other than Lots then owned by the Developer, shall be subject to an annual assessment to be paid to the Homes Association by the respective Owners thereof as provided in this Article IV. The amount of such annual assessment per Lot shall be fixed periodically by the Board, subject to Section 2 below, and, until further action of the Board, shall be \$750.00 per year.

2. The rate of annual assessment upon each Lot in the Subdivision may be increased:

(a) By the Board from time to time, without a vote of the members, by up to \$100.00 per year for each of 2002 through 2006;

(b) After 2006, by the Board from time to time, without a vote of the members, by up to 10% over the rate of annual assessment in effect for the preceding year; or

(c) At any time by any amount by a vote of the members (being for this limited purpose solely the Class B members prior to the Turnover Date) at a meeting of the members duly called and held for that purpose in accordance with the Bylaws when a majority of the members present at such meeting and entitled to vote thereon authorize such increase by an affirmative vote for the proposed increase.

Notwithstanding the foregoing limits on annual assessments, the Board, without a vote of the members, shall always have the power to set, and shall set, the rate of annual assessment at an amount that will permit the Homes Association to perform its duties as specified in Section 2 of Article III above.

3. The annual assessments provided for herein shall be based upon the calendar year (commencing in 2001) and shall be due and payable on January 1st of each year; provided, however, that the first assessment for each Lot shall be due and payable only upon commencement of occupancy of the residence on the Lot and shall be prorated as of the date thereof. If the effective date of any increase in the rate of assessment is other than January 1st, a proper portion (as determined by the Board) of the amount of such increase for the remainder of such year shall be due and payable on such effective date. No Lot shall be entitled to receive any services to be provided by and through the Homes Association until such time as the first annual assessment has been paid with respect thereto.

ARTICLE V. SPECIAL ASSESSMENTS

1. In addition to the annual assessments provided for herein, the Board (a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent the Homes Association expends any money (for services, materials, and legal fees and expenses) to correct or eliminate any breach by such Owner of any agreement, obligation, reservation or restriction contained in any deed, declaration or plat covering such Lot (including, without limitation, to maintain or repair any Lot or improvement thereon) and (b) shall levy from time to time special assessments against each and every Lot (other than any Lot then owned by the Developer) in an equal amount that is sufficient, when aggregated, to enable the Homes Association to perform its duties as specified in Section 2 of Article III above that require any expenditure during any period in an amount in excess of the general and reserve funds of the Homes Association available therefor.

2. In the event an Owner fails to properly maintain, repair, repaint, and replace any improvements on the Owner's Lot, the Homes Association, acting through the Board and after giving adequate notice to the Owner of the need for the maintenance, repair, repainting, or replacement, may enter onto the Lot to perform such maintenance, repair, repainting, or replacement. The Homes Association's costs thereof, plus a reasonable overhead and supervisory fee, shall be payable by the Owner of the Lot and shall be a special assessment against and lien upon the Lot until paid by the Owner.

3. If any Owner commences a lawsuit or files a counterclaim or crossclaim against the Homes Association, the Board of Directors, or any committee, or any individual director, officer or committee member of the Homes Association, and such Owner fails to prevail in such lawsuit, counterclaim or crossclaim, the Homes Association, Board of Directors, or individual director, officer or committee member sued by such Owner shall be entitled to recover from such Owner all litigation expenses incurred in defending such lawsuit, counterclaim or crossclaim, including reasonable attorneys' fees. Such recovery right shall constitute a special assessment against the Owner's Lot and shall be enforceable against such Lot as provided herein.

4. Each special assessment shall be due and payable upon the Association giving notice of the assessment to the Owner of the Lot.

ARTICLE VI. DELINQUENT ASSESSMENTS

1. Each assessment shall be a charge against the Owner and shall become automatically a lien in favor of the Homes Association on the Lot against which it is levied as soon as the assessment becomes due. Should any Owner fail to pay any assessment in full within 30 days after the due date thereof, then such assessment shall be delinquent, the Owner shall be charged a late fee of 5% of the unpaid amount and the unpaid amount shall bear interest at the rate of 10% per annum from the delinquency date until paid, which late fee and interest shall become part of the delinquent assessment and the lien on the Lot. Should the Homes Association engage the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorneys' fees, shall, to the extent permitted by applicable law, be added to the amount of the assessment being collected and the lien on the Lot. Each assessment, together with late fees, interest thereon and collection costs, shall also be the personal obligation of the Owner of the Lot at the time when the assessment became due.
2. All liens on any Lot for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage now existing or which may hereafter be placed upon such Lot, as provided below. A foreclosure sale or deed in lieu of foreclosure thereunder shall automatically extinguish the lien hereunder for such assessments to the extent applicable to periods prior to the entry of the order allowing such foreclosure or the execution of a deed in lieu thereof but shall not release such Lot from liability for any assessment applicable to periods thereafter. If the Owner subsequently redeems the Lot from the foreclosure sale, the lien hereunder shall automatically be reinstated retroactively in full.
3. Payment of a delinquent assessment may be enforced by judicial proceedings against the Owner personally and/or against the Lot, including through lien foreclosure proceedings in any court having jurisdiction of suits for the enforcement of such liens. The Homes Association may file certificates of nonpayment of assessments in the Recording Office, and/or the office of the Clerk of the District Court for Johnson County, Kansas, whenever any assessment is delinquent, in order to give public notice of the delinquency. For each certificate so filed, the Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of \$200.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Lot.
4. Such liens shall continue for a period of five years from the date of delinquency and no longer, unless within such period suit shall have been instituted for collection of the assessment, in which case the lien shall continue until payment in full or termination of the suit and sale of the property under the execution of judgment establishing the same.
5. The Homes Association may cease to provide any or all of the services (including, without limitation, use of Common Areas and trash services) to be provided by or through the Homes Association with respect to any Lot during any period that the Lot is delinquent on the payment of an assessment due under this Declaration, and no such cessation of services shall result in a reduction of any amount due from the Owner before, during or after such cessation. No Owner may waive or otherwise avoid liability for any assessment by not using any Common Areas or declining any services provided through the Homes Association.
6. No claim of the Homes Association for assessments and charges shall be subject to setoffs or counterclaims made by any Owner.

ARTICLE VII. LIMITATION ON EXPENDITURES

Except for matters contemplated in Section 2 of Article III above, the Homes Association shall at no time expend more money within any one year than the total amount of the assessments for that particular year, plus any surplus and available reserves which it may have on hand from prior years. The Homes Association shall not have the power to enter into any contract which binds the Homes Association to pay for any obligation out of the assessments for any future year, except for (i) contracts for utilities, maintenance or similar services or matters to be performed for or received by the Homes Association or its members in subsequent years, and (ii) matters contemplated in Section 2 of Article III above.

ARTICLE VIII. NOTICES

1. The Homes Association shall designate from time to time the place where payment of assessments shall be made and other business in connection with the Homes Association may be transacted.
2. All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the person or last known person entitled to such notice at the address of the Lot. Notice to one co-Owner shall constitute notice to all co-Owners.

ARTICLE IX. EXTENSION OF SUBDIVISION

The Developer shall have, and expressly reserves, the right (but not the obligation), from time to time, to add to the existing Subdivision and to the operation of the provisions of this Declaration other adjacent or nearby lands (without reference to any street, park or right of way) (regardless of whether the additional property is part of the property platted as Highlands Creek or is known by a name other than Highlands Creek) by executing, acknowledging and recording a written instrument subjecting such additional property to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable, as solely determined by the Developer in its absolute discretion.

ARTICLE X. AMENDMENT AND TERMINATION

1. This Declaration may be terminated, amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by (a) the Owners of at least two-thirds (2/3) of the Lots within the Subdivision as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, the Developer; provided, however, the written consent of the City shall be required for the termination of this Declaration in its entirety or to any amendment, modification of termination of any provision of this Declaration regarding the Detention Area. If such consent of the City is requested,

it shall be made in writing to the City clerk. The City shall have 60 days, after receipt of the request, to rule on the request.

2. Anything set forth in Section 1 of this Article to the contrary notwithstanding, except the provision relating to the City's consent, the Developer shall have the absolute, unilateral right, power and authority to modify, revise, amend or change any of the terms and provisions of this Declaration, as from time to time amended or supplemented, by executing, acknowledging and recording a written instrument for such purpose, if (i) either the Veteran's Administration or the Federal Housing Administration or any successor or similar agencies thereto shall require such action as a condition precedent to the approval by such agency of the Subdivision or any part of the Subdivision or any Lot in the Subdivision, for federally-approved mortgage financing purposes under applicable Veterans Administration, Federal Housing Administration or similar programs, laws and regulations, (ii) the City requires such action as a condition to approval by the City of some matter relating to the development of the Subdivision, or (iii) a typographical or factual error or omission needs to be corrected in the opinion of the Developer. No such amendment by the Developer shall require the consent of any Owner.

3. If the rule against perpetuities is applicable to any right, restriction or other provision of this Declaration, such right, restriction or other provision shall terminate (if not earlier terminated) upon lapse of 20 years after the death of the last survivor of the now-living children and grandchildren of the individuals signing this Declaration on behalf of the Developer as of the date of such execution.

ARTICLE XI. ASSIGNMENT

1. The Developer shall have the right and authority, by written agreement made expressly for that purpose, to assign, convey, transfer and set over to any person(s) or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for any or all such purposes be the Developer hereunder with respect to the rights, benefits, powers, reservations, privileges, duties and responsibilities so assigned. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

2. The Homes Association shall have no right, without the written consent of the Developer, to assign, convey, or transfer all or any part of its rights, benefits, powers, reservations, privileges, duties and responsibilities hereunder.

ARTICLE XII. COVENANTS RUNNING WITH THE LAND

1. All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon all subsequent grantees of all parts of the Subdivision. By accepting a deed to any of the Lots, each future grantee of any of the Lots shall be deemed to have personally consented and agreed to the provisions of this Declaration as applied to the Lot owned by such Owner. The provisions of this Declaration shall not benefit or be enforceable by any creditor of the Homes Association (other than the Developer) in such capacity as a creditor.

2. No delay or failure by any person or entity to exercise any of its rights or remedies with respect to a violation of or default under this Declaration shall impair any of such rights or remedies; nor shall any such delay or failure be construed as a waiver of that or any other violation or default.

3. No waiver of any violation or default shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have.

ARTICLE XIII. SEVERABILITY

Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions or parts.

ARTICLE XIV. COMMON AREAS

1. The Developer shall have the right (but is not obligated) to construct and erect a swimming pool, parking lot, and/or other recreational facilities ("Pool Area") in a place within the Subdivision or on property near the Subdivision and to make such facilities available for use by residents of the Subdivision. The size and components of the Pool Area shall be determined by the Developer in its absolute discretion.

2. If the Pool Area is so constructed and made available for use by residents of the Subdivision, the following shall apply:

(a) Upon substantial completion and opening for use (as determined by the Developer), the Developer shall convey, without charge and free and clear of any mortgages or similar liens, title to the Pool Area (or the completed portion thereof) to the Homes Association. Such title transfer shall be by special warranty deed. Thereafter, the Homes Association shall cause property and liability insurance to be continuously maintained on the Pool Area and, so long as Developer owns any Lots in the Subdivision, cause the Developer to be named as an additional insured on such insurance coverage.

(b) The Homes Association shall pay (i) all operating expenses (as defined below) and (ii) all post construction capital expenditures (as defined below) relating to the Pool Area.

(c) For purposes hereof, the "operating expenses" of the Pool Area generally has the meaning attributed thereto under generally accepted accounting principles, consistently applied, but shall not include (i) any costs of the Developer of acquiring, developing, improving, constructing or erecting the Pool Area or the site on which such facilities are located, (ii) any depreciation or amortization of the costs described in clause (i)

above, or (iii) any financing or debt service expenses related to the costs described in clause (i) above.

(d) For purposes hereof, "post construction capital expenditures" means any expenditures to be made or incurred after the initial completion (as specified by the Developer) of the Pool Area for equipment, furniture, or other capital assets, including the expansion, addition or replacement of any equipment or facilities, and any other expenditures that would be capitalized under generally accepted accounting principles, consistently applied. All post construction capital expenditures shall be made at the discretion of the Homes Association.

(e) The Homes Association shall pay the amounts due from it under subsection (b) above out of the assessments collected from the Owners of the Lots subject to this Declaration.

3. Subject to Section 2 above, the Developer covenants and agrees to convey, by special warranty deed, all of its rights, title and interest in the Common Areas (except any part thereof that is within any Lot or outside of the Subdivision) to the Homes Association, without any cost to the Homes Association, at such time(s) as the Developer, in its absolute discretion, may determine, but in all events not later than one month after the Developer has recorded the Certificate of Substantial Completion. Notwithstanding the actual date of transfer, except as otherwise provided in an agreement with the Developer, the Homes Association shall at all times, from and after the date of its formation and at its expense, be responsible for properly repairing, replacing, controlling, maintaining, operating and insuring, as applicable, all Common Areas (except any part thereof that is within any Lot and has not been landscaped or otherwise improved by the Developer or the Homes Association), subject to any control thereover maintained by any governmental authority, utility or similar person or entity. Any transfer of title by the Developer shall not constitute an assignment by the Developer of any of its rights, as the developer of the Subdivision, pursuant to this Declaration or any other instrument, contract or declaration. In insuring the Common Areas, the Homes Association shall cause the Developer to be named as an additional insured on the insurance coverage until the recording of the Certificate of Substantial Completion.

ARTICLE XV. DETENTION AREA

1. The following provisions of this Article XV are required to be in this Declaration pursuant to the requirements of the City.

2. The maintenance of the Detention Area is the sole responsibility of the Owners, which Owners shall maintain the Homes Association to be used as the vehicle by which to fulfill the obligations of the Homes Association under this Article XV. Such delegation shall not, however, relieve the Owners of their responsibilities under this Article XV.

3. The Homes Association shall be responsible for properly maintaining the Detention Area, including, without limitation, correcting any effects of detrimental erosion, siltation or other damage caused by the flow of water through the Detention Area. Title to the Detention Area shall be conveyed to the Homes Association at such time as the Developer determines in its discretion.

4. The City is hereby released from any and all past, present or future liability for any damage that may be caused at any time to any person or to any real or personal property resulting from or related to, directly or indirectly, the City acting or failing to act with respect to the maintenance of the Detention Area. The City further is hereby released from any and all past, present or future obligations to expend any public funds or to take any other action to maintain or improve the Detention Area.

5. The Homes Association, or upon its failure, the Owners, will indemnify and hold harmless the City, its Mayor, the members of the City Council and the employees and agents of the City from and against any and all losses, damages, costs and expenses, including reasonable attorneys fees, that may be incurred or suffered by any of them as a result of or in connection with any claims that may be asserted against any of them in connection with the Detention Area. The Homes Association, or upon its failure, the Owners, will further be required to promptly reimburse the City for any public funds the City may expend with respect to maintenance of the Detention Area in the event the Homes Association fails to maintain the same, although the City is under absolutely no obligation to so maintain the Detention Area.

6. The Homes Association, or upon its failure, the Owners shall maintain adequate liability insurance to cover all reasonably insurable risks associated with the ownership or maintenance of the Detention Area and the covenants contained in this Article XV.

7. The Developer, the City and the Homes Association shall have the right to enforce proper siltation management on all parts of the Subdivision with respect to the Detention Area.

8. The Developer and the City shall be third-party beneficiaries of all provisions of this Declaration relating to the Detention Area, and the Developer and the City shall have the right to enforce all restrictions, obligations and other provisions regarding the Detention Area.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed the day and year first above written.

HIGHLANDS GROUP,
a Kansas general partnership

By: CASEY-MATT, INC., a partner

By: Don D. Donahoo, Pres
Don D. Donahoo, President

By: N.W. REALTY, INC., a partner

By: Kenneth E. Nichols, Pres
Kenneth E. Nichols, President

STATE OF KANSAS } SS
COUNTY OF JOHNSON }
FILED FOR RECORD

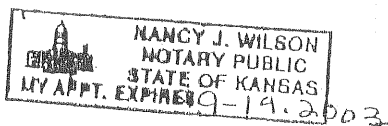
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REBECCA L. DAVIS
REGISTER OF DEEDS

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this 9th day of July, 2001, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Don D. Donahoo, President of Casey-Matt, Inc., a Kansas corporation, and Kenneth E. Nichols, President of N.W. Realty, Inc., a Kansas corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said corporations, in their capacities as partners in and on behalf of Highlands Group, a Kansas general partnership, and such persons duly acknowledged the execution of the same to be the act and deed of said corporations and partnership.

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



Nancy J. Wilson
Notary Public

NANCY J. WILSON
Print or Type Name

My commission expires:

9-19-2003

LEGAL DESCRIPTION AND DIAGRAM
OF DETENTION AREA

EXHIBIT A

A STORM DRAINAGE EASEMENT IN THE NORTHWEST QUARTER (1/4) OF SECTION 4, TOWNSHIP 14, RANGE 25 IN LEAWOOD, JOHNSON COUNTY, KANSAS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER (1/4) OF SAID SECTION 4; THENCE SOUTH 00 DEGREES 44 MINUTES 01 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER (1/4), A DISTANCE OF 1191.91 FEET; THENCE SOUTH 86 DEGREES 44 MINUTES 07 SECONDS EAST A DISTANCE OF 20.02 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF NALL AVENUE, AS NOW ESTABLISHED, SAID RIGHT-OF-WAY LINE BEING 20.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER (1/4) OF SAID SECTION 4, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 86 DEGREES 44 MINUTES 07 SECONDS EAST A DISTANCE OF 423.59 FEET; THENCE SOUTH 54 DEGREES 41 MINUTES 24 SECONDS EAST A DISTANCE OF 159.54 FEET; THENCE SOUTH 89 DEGREES 18 MINUTES 40 SECONDS EAST A DISTANCE OF 172.43 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 01 SECONDS WEST A DISTANCE OF 38.11 FEET; THENCE NORTH 85 DEGREES 33 MINUTES 52 SECONDS EAST A DISTANCE OF 10.47 FEET; THENCE NORTH 80 DEGREES 03 MINUTES 50 SECONDS EAST A DISTANCE OF 278.78 FEET; THENCE NORTH 78 DEGREES 44 MINUTES 36 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE NORTH 11 DEGREES 15 MINUTES 24 SECONDS WEST A DISTANCE OF 6.42 FEET; THENCE NORTH 78 DEGREES 44 MINUTES 36 SECONDS EAST A DISTANCE OF 79.65 FEET; THENCE SOUTH 11 DEGREES 15 MINUTES 24 SECONDS EAST A DISTANCE OF 57.45 FEET; THENCE SOUTH 09 DEGREES 17 MINUTES 31 SECONDS WEST A DISTANCE OF 38.34 FEET; THENCE SOUTH 78 DEGREES 18 MINUTES 43 SECONDS WEST A DISTANCE OF 107.10 FEET; THENCE SOUTH 80 DEGREES 03 MINUTES 50 SECONDS WEST A DISTANCE OF 100.00 FEET; THENCE NORTH 84 DEGREES 14 MINUTES 06 SECONDS WEST A DISTANCE OF 91.42 FEET; THENCE SOUTH 48 DEGREES 09 MINUTES 04 SECONDS WEST A DISTANCE OF 75.33 FEET; THENCE SOUTH 58 DEGREES 46 MINUTES 56 SECONDS WEST A DISTANCE OF 105.32 FEET; THENCE SOUTH 45 DEGREES 27 MINUTES 39 SECONDS WEST A DISTANCE OF 119.63 FEET; THENCE SOUTH 33 DEGREES 17 MINUTES 55 SECONDS WEST A DISTANCE OF 119.33 FEET; THENCE SOUTH 19 DEGREES 59 MINUTES 34 SECONDS WEST A DISTANCE OF 19.65 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 24 SECONDS WEST A DISTANCE OF 206.25 FEET; THENCE NORTH 36 DEGREES 09 MINUTES 48 SECONDS WEST A DISTANCE OF 436.50 FEET; THENCE NORTH 31 DEGREES 16 MINUTES 38 SECONDS WEST A DISTANCE OF 11.33 FEET; THENCE NORTH 23 DEGREES 34 MINUTES 14 SECONDS WEST A DISTANCE OF 90.29 FEET; THENCE NORTH 03 DEGREES 15 MINUTES 59 SECONDS WEST A DISTANCE OF 202.15 FEET TO A POINT ON SAID EAST RIGHT-OF-WAY LINE OF NALL AVENUE; THENCE NORTH 03 DEGREES 44 MINUTES 01 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 119.32 FEET TO THE POINT OF BEGINNING, CONTAINING 5.57 ACRES.

Easement Description

CONSTRUCTION ENGINEERING SERVICES
16310-C East 40 Highway
Independence, MO 64055
(816) 478-2323
FAX 476-2372
JOB NO.: 45/DESIGN.DWG

DATE: 09-01-20
SCALE: 1"=100'

100 0 100
SCALE IN FEET

FUTURE BAPTIST FOUNDATION

HIGHLANDS CREEK 1ST PLAT

DETENTION AREA
5.57 ACRES

FUTURE HIGHLANDS CREEK

FUTURE HIGHLANDS CREEK

20050311-0004844 03/11/2005
P: 1 of 3 F: \$15.00 11:21:31 AM
Register of Deeds T20050013275
Johnson Co ROD B:200503 P:004844

HIGHLANDS CREEK
HOMES ASSOCIATION DECLARATION
ADDITIONAL PHASE
(4th Plat)

THIS DECLARATION is made as of the 11th day of March, 2005, by Highlands Group, a Kansas partnership (the "Developer");

WITNESSETH:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas (the "Recording Office"), an additional plat of the subdivision known as "Highlands Creek"; and

WHEREAS, such plat adds the following lots to the subdivision (the "Additional Lots"):
Lots 72 through 123, HIGHLANDS CREEK 4th Plat, a subdivision
in the City of Leawood, Johnson County, Kansas.

WHEREAS, the Developer, as the owner of the Additional Lots, desires to subject the Additional Lots to the covenants, assessments, charges and other provisions contained in that certain Highlands Creek Homes Association Declaration, executed by the Developer and filed with the Recording Office as Instrument No. 3269166 in Book 7150 at Page 835 (the "Original Declaration").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Additional Lots shall be, and they hereby are, subject to the covenants, assessments, charges and other provisions set forth in the Original Declaration. As contemplated in Article IX of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots to all of the provisions of the Original Declaration as though the Additional Lots had been originally described therein and subject to the provisions thereof.

Tracts E and F of Highlands Group 4th Plat are "Common Areas" under the Original Declaration.

With respect to each Additional Lot, an initiation fee of \$200.00 shall be payable by the new Owner to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to each Lot:

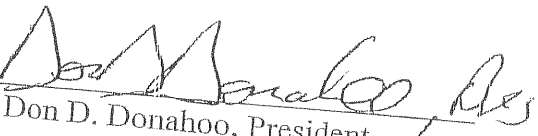
- (i) The initial occupancy of the residence on the Lot after the residence is constructed (which initiation fee is in addition to the first regular annual assessment, as it may be prorated); and
- (ii) Each subsequent transfer of ownership of the Lot for value.

Upon the initial occupancy of the residence on each Additional Lot, the Owner shall pay to the Homes Association an additional \$150.00 to pay for the cost of installing a mailbox and stand for the Additional Lot.

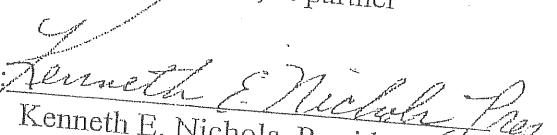
IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed the day and year first above written.

HIGHLANDS GROUP,
a Kansas general partnership

By: CASEY-MATT, INC., a partner

By: 
Don D. Donahoo, President

By: N. W. REALTY, INC., a partner

By: 
Kenneth E. Nichols, President

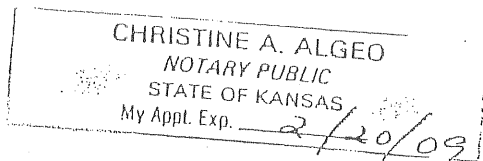
STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, That on this 11th day of March, 2005, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Don D. Donahoo, President of Casey-Matt, Inc., a Kansas corporation, and Kenneth E. Nichols, President of N. W. Realty, Inc., a Kansas corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said corporations, in their capacities as partners in and on behalf of Highlands Group, a Kansas general partnership, and such persons duly acknowledged the execution of the same to be the act and deed of said corporations and partnership.

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

My Commission Expires: _____

[SEAL]



Christine A. Algeo
Notary Public in and for said County and State

Print Name: Christine A. Algeo

**HIGHLANDS CREEK
HOMES ASSOCIATION DECLARATION
ADDITIONAL PHASES
(5th and 6th Plats)**

THIS DECLARATION is made as of the 20th day of December, 2006, by Highlands Group, a Kansas partnership (the "Developer");

WITNESSETH:

WHEREAS, the Developer has executed and filed with the Office of the Register of Deeds of Johnson County, Kansas (the "Recording Office"), two additional plats of the subdivision known as "Highlands Creek"; and

WHEREAS, such plats add the following lots to the subdivision (the "Additional Lots"):

Lots 124 through 161, HIGHLANDS CREEK 5TH PLAT, a subdivision in the City of Leawood, Johnson County, Kansas.

Lots 162 through 171, HIGHLANDS CREEK 6TH PLAT, a subdivision in the City of Leawood, Johnson County, Kansas.

WHEREAS, the Developer, as the owner of the Additional Lots, desires to subject the Additional Lots to the covenants, assessments, charges and other provisions contained in that certain Highlands Creek Homes Association Declaration, executed by the Developer and filed with the Recording Office as Instrument No. 3269166 in Book 7150 at Page 835 (the "Original Declaration").

NOW, THEREFORE, in consideration of the premises, the Developer, for itself and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Additional Lots shall be, and they hereby are, subject to the covenants, assessments, charges and other provisions set forth in the Original Declaration. As contemplated in Article IX of the Original Declaration, this instrument shall have the effect of subjecting the Additional Lots to all of the provisions of the Original Declaration as though the Additional Lots had been originally described therein and subject to the provisions thereof.

Tract G of Highlands Creek 5th Plat and Tract H of Highland Creek 6th Plat are "Common Areas" under the Original Declaration.

With respect to each Additional Lot, an initiation fee of \$200.00 shall be payable by the new Owner to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to each Lot:

(i) The initial occupancy of the residence on the Lot after the residence is constructed (which initiation fee is in addition to the first regular annual assessment, as it may be prorated); and

(ii) Each subsequent transfer of ownership of the Lot for value.

Upon the initial occupancy of the residence on each Additional Lot, the Owner shall pay to the Homes Association an additional \$150.00 to pay for the cost of installing a mailbox and stand for the Additional Lot.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed the day and year first above written.

HIGHLANDS GROUP,
a Kansas general partnership

By: CASEY-MATT, INC., a partner

By: *Don D. Donahoo, Pres.*
Don D. Donahoo, President

By: N. W. REALTY, INC., a partner

By: *Kenneth E. Nichols, Pres.*
Kenneth E. Nichols, President

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

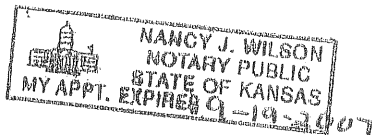
BE IT REMEMBERED, That on this 20th day of December, 2006, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Don D. Donahoo, President of Casey-Matt, Inc., a Kansas corporation, and Kenneth E. Nichols, President of N. W. Realty, Inc., a Kansas corporation, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said corporations, in their capacities as partners in and on behalf of Highlands Group, a Kansas general partnership, and such persons duly acknowledged the execution of the same to be the act and deed of said corporations and partnership.

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

My Commission Expires:

9-19-2007

[SEAL]



Nancy J. Wilson
Notary Public in and for said County and State

Print Name: Nancy J. Wilson