

## DECLARATION OF COVENANTS AND RESTRICTIONS

**THIS DECLARATION OF COVENANTS AND RESTRICTIONS** (this “**Declaration**”) is made as of \_\_\_\_\_, 2018, (the “**Effective Date**”) by **THE JUNIOR COLLEGE DISTRICT OF METROPOLITAN KANSAS CITY, MISSOURI A/K/A METROPOLITAN COMMUNITY COLLEGE** (hereinafter “**MCC**” or “**Grantor**”), for itself, the City of Lee’s Summit, Missouri by and through the Lee’s Summit Parks and Recreation Board (hereinafter “**LSPR**” or “**Grantee**”), with an address of 220 SE Green Street, Lee’s Summit, Missouri 64063, Attn: Administrator, and the future owners of the property herein defined.

### **1. PRELIMINARY**

1.1. **Purpose.** Grantor (hereinafter, the “**Declarant**”) is the Owner of the real property located in Lee’s Summit and Kansas City, Jackson County, Missouri (the “**Property**”), as generally depicted at the location shown on **Exhibit A** attached and incorporated herein (the “**Locator Map**”), and legally described as **Exhibit A-1** attached and incorporated herein. As of the Effective Date, the Property is publicly owned and used as a junior college educational facility (the “**Existing Use**”). To ensure any development and redevelopment of the Property is commenced, completed, and thereafter maintained, repaired, replaced, and utilized in a manner complementary to the Existing Use, Declarant hereby declares that each Owner of any portion of the Property, inclusive of any individual parcels which are a part thereof (each, a “**Parcel**” and collectively, the “**Parcels**” which are a part of the Property) shall hold, lease, sell, gift, convey, develop, construct, improve, maintain, repair, replace, and utilize the Property in accordance with the terms, provisions, and limitations set forth in this Declaration.

1.2. **Definitions.** The following defined terms shall have the meanings set forth below for purposes of this Declaration.

(a) “**Building**”: Any permanently enclosed structure placed, constructed or located on a Parcel, which shall include any appurtenant canopies and supports. A Building shall not include freestanding structures like billboards, fences, radio towers, or freestanding structures with interior surfaces not normally accessible for human use, such as tanks, smokestacks, or similar structures. The term “**Building**” is inclusive of a single Building and multiple Buildings.

(b) **“Monument Signs”**: Any monument sign now or hereinafter designated on Final Project Plans. The term “Monument Signs” is inclusive of a single Monument Sign and multiple Monument Signs.

(c) **“City”**: The City of Lee’s Summit and/or Kansas City, Missouri.

(d) **“Claims”**: Causes of action, claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys’ fees and court costs).

(e) **“Common Area”**: All those areas on each Parcel, excluding any Building or Service Areas. Canopies which extend over the Common Area, together with any columns or posts supporting same, shall be deemed to be a part of the Building to which they are attached and not a part of the Common Area. Any Parcel encumbered with a Common Area shall not be construed as permanently encumbered, and such Parcel or any portion thereof may, at any time hereafter, be improved with a Building and appurtenances as contemplated by this Declaration at which time, any Common Area displaced by a Building shall no longer be deemed to be a Common Area.

(f) **“Consenting Owner”**: As long as Declarant owns fee simple title to any portion of the Property, Declarant shall be deemed the sole Consenting Owner; however, if Declarant no longer owns fee simple title to any portion of the Property, the Consenting Owners shall be defined as the party or parties owning fee simple title to a majority of the acreage of the Property. The term “Consenting Owner” is inclusive of a single Consenting Owner and multiple Consenting Owners.

(g) **“Declarant”**: The Junior College District of Metropolitan Kansas City, Missouri a/k/a Metropolitan Community College.

(h) **“Declaration”**: This Declaration of Covenants and Restrictions.

(i) **“Final Project Plans”**: The term defined in Section 2.1 herein.

(j) **“Floor Area”**: The total number of square feet of floor space on each floor in a Building, including basement, subterranean, balcony and mezzanine space, irrespective of whether actually occupied. Floor Area shall be measured from the exterior line of the exterior walls and from the center line of any party or common interior walls without deduction for columns, walls or other structural or non-structural components; provided, however, in no event shall Service Areas be included in such calculations.

(k) **“Governmental Regulations”**: Any or all laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, or conditions of approval or authorization of the City, the State, and any governmental entity, agency or political subdivision whether now in force or which may hereafter be in force. Governmental Regulations shall also include industry standard, recommended design, engineering, and construction requirements.

(l) **“Improvement” or “Improvements”**: Any Building, Monument Sign or Common Area improvements located on the Property.

(m) **“Lienholder”**: Any mortgagee under a mortgage, a grantee under a deed to secure debt, or a trustee or beneficiary under a deed of trust constituting a lien on any Parcel.

(n) **“Occupant”**: Any Person or Prime Lessee from time to time entitled to the use and occupancy of any portion of a Building in the Property under an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement.

(o) **“Owner”**: The record holder of fee simple title to a Parcel, and his, hers or its or heirs, personal representatives, executors, assignees, subsidiaries, affiliates, successors and assigns.

(p) **“Parcel”** or **“Parcels”**: All of the Property in the Property, inclusive of any individual subdivided or split parcels which are a part thereof, and as each may be created, reduced and/or reconfigured, as the case may be, in accordance with the terms hereof.

(q) **“Permittee”**: All Occupants and the officers, members, managers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, assignees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Property.

(r) **“Person”**: Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity, individually and collectively.

(s) **“Project”**: All work of any nature performed on a Parcel in connection with the construction, repair, replacement, alteration, expansion, relocation or demolition of any Improvement.

(t) **“Project Proposal”**: Any and all relevant and detailed information for a Project, including, but not limited to, site plans, exterior elevations (including proposed materials), landscaping plans, and plans and specifications identifying the location, number of levels, height, size and shape, location, dimension of the proposed Project, and any other documentation as may be reasonably required by the Consenting Owners set forth in such detail and with such specificity as would enable each of the Consenting Owners to ascertain the suitability of the Project for the Property, and the Project’s conformance with the requirements of this Declaration.

(u) **“Prime Lessee”**: An Occupant of an entire Parcel who is not the Owner of such Parcel pursuant to an agreement by which such Prime Lessee is subject to all obligations and responsibilities relating to the ownership and operation such Parcel and any business thereon.

(v) **“Service Areas”**: The sidewalks attached to and/or adjoining a Building, trash compactors and enclosures, exterior lighting attached to a Building, drive-up or drive-through customer service facilities directly adjacent or in close proximity to a Building, side yards and rear yards used for outdoor storage (provided such outdoor storage does not interfere with the flow of vehicular traffic), loading docks, electrical facilities and transformers, truck ramps and other similar exclusive service facilities and outward extensions, and customer pickup areas directly adjacent or in close proximity to a Building, whether or not described, labeled or depicted as such on the Locator Map. The Service Areas are the exclusive property of the Owner of the Parcel on which such Services Areas are located, and not part of Common Area.

(w) **“Property”**: Collectively, all of the Parcels which comprise the Property.

(x) **“Sign”**: Any writing (including letter, word, or numeral); pictorial representation (including illustration or declaration); emblem (including device, symbol or trademark); flag

(including banner or pennant); or any other figure of similar character, which (i) is a Structure or any part thereof, or is attached to, painted on or in any other manner affixed to or represented on or in a Building or other Structure, (ii) is used to announce, direct attention to, or advertise, and (iii) is visible from outside a Building. A sign erected or required by Governmental Regulations shall not be deemed to be a Sign.

(y) **“Locator Map”**: The site plan of the Property shown on **Exhibit A** attached hereto, as the same may be amended from time to time by the Declarant.

(z) **“State”**: The State of Missouri.

(aa) **“Structure”**: Any physical object temporarily or permanently affixed to any portion of the Parcel or to any Building, except grass, shrubbery, trees or other landscaping or a Sign.

(bb) **“Utility Lines”**: Those facilities and systems for the transmission or other provision of utility services, including, but not limited to, water drainage, detention or retention systems or structures, water mains, sewers, lift stations, water sprinkler system lines, electrical conduits or systems, gas mains, boxes, junctions, sources, feeds, and other mechanical or utility infrastructure serving the Property, and other public or private utilities providing service to the Property, in common, and the Improvements.

## 2. DEVELOPMENT

2.1. **Building Location.** All Buildings shall be placed or constructed upon the Parcels only in the location, and only for the Floor Area permitted by the Final Project Plans permitted by the City which shall, in all events, be consistent with these Declarations. Buildings may be located (or relocated) anywhere on the Parcel, provided the total Floor Area of all Buildings constructed upon a Parcel does not exceed Floor Area assigned to such Building permitted by the Final Project Plans approved permitted by the City. All unimproved portions of a Parcel shall be covered by decomposed granite, gravel, sod, hydro-seed or as otherwise permitted by Governmental Regulations and kept weed free and clean at the subject Owner’s sole cost and expense until such time as Buildings are constructed thereon.

2.2. **Subdivision:** Declarant may subject all or any portion of the Property to one or more plats or minor subdivision lot splits, in furtherance of Declarant’s objective to develop, improve and convey the Property. Except as provided above, no Parcel may be subdivided, and no portion of any Parcel may be split and separately sold, leased or rented, unless and until a plan for such proposed subdivision, split, or separate sale, leasing or renting shall have been submitted to and approved to the Consenting Owners, in writing. Nothing herein shall be deemed to require or obligate the Consenting Owners to approve any such subdivision plan. If approved, the Owner submitting any such subdivision plan shall be responsible at its sole cost for ensuring that the same complies with all applicable Governmental Regulations and for obtaining all necessary governmental approvals and consents.

2.3. **Utility Separation and Extension.** To facilitate the subdivision or lot split of all or a portion of the Property (by Declarant or, with the consent of the Declarant, a Consenting Owner, pursuant to Section 2.3 above), any and all Utility Lines, at the request of the Declarant or Consenting Owner owning the Property that is the subject of any subdivision or lot split, will be subject to separation and/or extension, in order to ensure the newly established lot, tract or parcel of the Property has adequate access to all available Utility Lines, at the lowest possible cost to the party so creating the lot, tract or parcel, as may be required to operate the lot, tract or parcel and to secure approval to such Utility Lines as may be

required to obtain subdivision or lot split approval from the City. The cost of any such separation and /or extension of Utility Lines shall be borne by the Declarant or Consenting Owner, as applicable, requiring the separation and/or extension of the Utility Lines. The location of such separated and/or extended Utility Lines shall be established by Declarant or Consenting Owner, as applicable, requiring the new Utility Line service, with the input of the applicable utility provider or City, in its capacity as the permitting authority. Consent to the proposed location of the extended and/or separated Utility Lines shall not be unreasonably withheld, condition or delayed on the part of the Declarant or Consenting Owner, as applicable, which owns the Property from which the Utility Lines to be separated and/or extended are located.

#### **2.4. Type and Design of Improvement.**

(a) All Improvements located within the Property shall not exceed the height, restrictions permitted by applicable zoning regulations..

(b) All Improvements shall conform to the requirements of this Declaration, as applicable, and shall provide for first-class materials and Buildings of at least the same quality as the presently Improvements existing on the Property as of the Effective Date.

(c) All Improvements shall be designed to blend complement the Improvements located on the Property as the same may be updated from time to time pursuant to plans approved pursuant to Section 9.6 below, and provide the appearance of a unified, integrated complex, including, but not limited to, with respect to building materials and the color treatment and exterior materials to be used in the Project.

#### **2.5. Signage.** All signs on the Property shall conform with the following standards:

(a) No sign or sign face on the Property may contain any obscene or pornographic material.

(b) No exterior Building or free-standing sign shall utilize flashing, moving or audible lights or appurtenances.

### **3. RESTRICTIONS ON USE**

#### **3.1. Property Restrictions.**

(a) Except as otherwise expressly set forth in this Declaration and, further, except as provided or offered in connection with LSPR's public purpose, no portion of the Property shall be used for any of the following purposes: two and four-year degree awarding programs, trade schools, and corporate training programs (excluding that Parcel of the Property set forth on **Exhibit B** attached and incorporated by referenced) (the "**MCC Parcel**"); in-store and on-site retail sales of non-service consumables; gun range, the sale of guns; warehouse as a primary use (excluding that which is place at time this Declaration is filed); a retail movie theater, (excluding that which exists at the time this Declaration is filed), amusement park, carnival, circus, arcade; bar as a primary use; health care or drug treatment center; blood or plasma clinic;; sale or repair of cars, trucks, motorcycles, boats, trailers, or mobile homes (including without limitation automobile, brake, muffler, transmission, tire, lubrication or oil change operation or sale of automobile, truck or boat parts or accessories); funeral parlor; massage services, except those

offered in connection with health and fitness facilities; manufacturing; mortuary; any establishment engaged in the business of selling, exhibiting or delivering pornographic or obscene materials; liquor store; salt dome; street and vehicle maintenance facilities; gas station; car wash, heavy equipment sales and rental; vehicle storage or towing; a so-called “head shop,” “vape shop,” “hookah bar,” or other establishment purveying tobacco, marijuana, e-cigarette, or other non-food consumables; billboards; agricultural; off-track betting parlor; junk yard; recycling facility or stockyard; a mini-storage or self-storage facility; a discotheque, dance hall, comedy club, night club or adult entertainment facility; billiard or pool hall; game parlor or video arcade (which shall be defined as any store containing more than three (3) electronic games); playground or playhouse; temporary structures; industrial, residential or manufacturing uses, or for the use, storage, disposal or handling of hazardous materials or underground storage tanks; animal shelter, commercial kennel or breeding facility; laundromat; mining; any use which requires off-site parking to accommodate such use, pursuant to Governmental Regulations; traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fireworks, food trucks, sales by transient merchants utilizing vehicles or booths and other promotions of any nature, and no lease, sublease, license or sublicense, the intended duration of which is fewer than thirty (30) days.

(b) No portion of the Property shall be used in a way which creates strong, unusual, noxious or offensive odors, fumes, dust or vapors; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; creates unusual fire, explosive or other hazards, or materially increases the rate of insurance for any other Parcel, Owner or Occupant.

(c) For purposes of this Declaration, all Service Areas shall be the sole exclusive property of the Owners of the Buildings associated with such areas and each Owner shall have the exclusive right to use such areas for whatever purpose such Owner deems appropriate, so long as such purpose is consistent with this Declaration.

(d) For purposes of this Declaration, Persons who are not Owners or Occupants or licensees thereof engaging in the following activities in any portion of the Property will not be considered to be Permittees under this Declaration: (i) exhibiting any placard, sign, or notice that does not advertise an existing business in the Property; (ii) distributing any circular, handbill, placard, or booklet promoting an existing business in the Property; (iii) soliciting memberships or contributions for an existing business in the Property; (v) failing to follow regulations relating to the use of the Property.

(e) This Declaration is not intended to, and does not, create or impose any obligation on an Owner to operate, continuously operate, or cause to be operated a business or any particular business in the Property or on any Parcel.

#### **4. MAINTENANCE STANDARDS**

##### **4.1. Maintenance Obligations:**

4.1.1. **Owner Obligations:** Each Owner shall maintain, or cause to be maintained, such Owner’s Parcel and all Improvements located thereon, at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Maintaining, repairing and resurfacing, when necessary, all paved surfaces to the same or better standard which currently exists at the time of conveyance of the Parcel;

(b) Ensuring the Parcel and all Improvements thereon are and remain free of papers, debris, filth and refuse, except debris and refuse shall be allowed in properly sealed or covered containers located within Service Areas of the Property;

(c) Removing and washing or thoroughly sweeping the Parcel and the Common Area located thereon to the extent reasonably necessary to keep the Common Area in a clean and orderly condition, unobstructed, and if applicable, free from ice and snow;

(d) Placing, painting, maintaining, repairing, replacing and repainting, as and when necessary, any painted Improvements and all directional signs, markers, striping and pedestrian crossings upon or within the Common Area;

(e) Maintaining, repairing and replacing, when necessary, (i) Service Areas, and (ii) traffic directional signs, markers and lines, and all informational signs such as "Handicapped Parking", in good repair and condition;

(f) Operating, maintaining, and timely repairing and replacing, when necessary, such artificial lighting facilities as shall be reasonably required, including, but not limited to, poles, pole bases, wiring, lamps, ballasts, lenses, photocells, time clocks, and contacts. Each Owner shall maintain and provide electricity to all lighting fixtures attached to its respective Building(s) or Common Area, at its sole cost and expense;

(g) Maintaining and watering all landscaped areas in the same or better condition which currently exists at the time of conveyance of the Parcel; maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines in the same or better condition which currently exists at the time of conveyance of the Parcel; removing dead shrubs and other landscaping, and replacing such shrubs and other landscaping as necessary in the same or better condition which currently exists at the time of conveyance of the Parcel; keeping all lawn grass and landscaped beds relatively weed free and mowed with such frequency as is required to maintain lawn grass at no higher than three inches, or in the same or better condition which currently exists at the time of conveyance of the Parcel.

(h) Maintaining, repairing and replacing, when necessary, any Common Area retaining or other walls, fences, and walls;

(i) Maintaining, repairing and replacing, when necessary, all Common Area storm drains, sewers, lift stations and other Utility Lines not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Improvements located in the Property;

(j) Performing itself or contracting with a competent third party or parties to perform any of the services described herein;

(k) Supervising traffic at entrances and exits to the Property and within the Property if necessary as conditions reasonably require in order to maintain an orderly and proper traffic flow, to the same extent and level which is provided on the remainder of the Property by Declarant; and

4.1.2. **Occupant Obligations:** Each Occupant shall maintain, or cause to be maintained, its Building and the Common Area on its leased, subleased or licensed Parcel at all

times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Removing all papers, debris, filth and refuse from the Common Area and washing or thoroughly sweeping the Common Area to the extent reasonably necessary to keep the Common Area in a clean and orderly condition, unobstructed, and if applicable, free from ice and snow;

(b) Keeping the Common Area and all common Utility Lines free from any obstructions, unless such obstruction is permitted under the provisions of this Declaration; and

(c) Keeping the Common Area free of elements of blight, and any other conditions which violate or, if left unaddressed, would result in blight or blighting conditions, to the same or better extent which the Declarant performs.

4.2. **Duty to Maintain.** Each Owner shall be responsible for the maintenance and lighting of its own Parcel.

## 5. LIGHTING

Each Owner hereby covenants and agrees to keep its Parcel fully illuminated each day from dusk to at least 11:00 p.m. unless the Consenting Owners agree upon a different time. Each Owner further agrees to keep any exterior Building security lights on from dusk until dawn. During the term of this Declaration, each Owner grants an irrevocable license to each other Owner for the purpose of permitting the lighting from one Parcel to incidentally shine on the adjoining Parcels. Unless otherwise approved in writing by the Declarant, all exterior lighting fixtures and facilities on any portion of the Property shall harmonious in appearance with the lighting existing on the Property as of the Effective Date, and shall not exceed Governmental Regulations for average lighting output.

## 6. SUCCESSORS AND ASSIGNS

This Declaration shall inure to the benefit of and be binding upon the Owners, and each such Owner's heirs, personal representatives, Occupants, successors and assigns, as applicable, and upon any Person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise.

## 7. DEFAULT

7.1. **Default:** In the event any Owner or Occupant fails to perform any other provision of this Declaration, which failure continues for a period of ten (10) days' after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default and any other Owner or Prime Lessee may thereafter institute legal action against the defaulting Owner or Occupant for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law; provided, however, that the defaulting Owner or Occupant shall not be deemed to be in default if such failure to perform cannot be rectified within said ten (10) day period and such Owner or Occupant is diligently proceeding to rectify the particulars of such failure and rectifies same within a period not to exceed thirty (30) days; provided further, however, that in the event of an emergency, such failure shall be deemed a default if such failure is not rectified in a period reasonable for the nature and circumstances of such emergency.



7.2. **Remedies Cumulative:** In addition to the remedies set forth in this Declaration, each Person entitled to enforce this Declaration shall be entitled to exercise all other remedies provided by law or in equity to the same extent as if fully set forth herein word for word. No remedy herein conferred upon or reserved to any Person shall exclude any other remedy herein, by law or in equity, but each shall be cumulative.

7.3. **Indemnification by Owners:** Each Owner shall, to the extent permitted by applicable law, defend, indemnify, protect and hold the other Owners and Occupants harmless for, from and against any and all Claims in connection with the loss of life, personal injury and/or damage to property (i) arising from or out of any occurrence in or upon the indemnifying Owner's Parcel, including an Owner's or Occupant's own negligence; (ii) occasioned wholly by any negligent or willful act or omission of the indemnifying Owner, its Occupants or their respective agents, contractors, servants or employees; or (iii) in connection with the failure to comply with the provisions of this Declaration. If a Consenting Owner shall, without fault, be made a party to any litigation commenced by or against the Owner or Occupants of another Parcel, or if a Consenting Owner shall, in its reasonable discretion, determine that it must intervene in such litigation to protect its interest hereunder, the indemnifying Owner shall defend such Consenting Owner using attorneys reasonably satisfactory to such Consenting Owner and shall pay all costs, expenses and reasonable attorneys' fees and costs in connection with such litigation. Nothing in this Declaration shall constitute a waiver of or otherwise negatively affect any Owner's sovereign immunity as provided by applicable law.

## 8. PROPERTY DAMAGE AND EMINENT DOMAIN

8.1. **Damage to Buildings.** If any of the Buildings located on any Parcel are damaged or destroyed by fire or other cause, the Owner of such Parcel shall promptly cause either (i) the repair, restoration, or rebuilding of the Building so damaged or destroyed to a condition and an architectural style existing immediately prior to the damage or destruction, (ii) the rebuilding of a completely new Building (subject to the approval process set forth in this Declaration) and (iii) the razing of any damaged Building, the filling of any excavation, and performance of any other work necessary to put such portion of the Property in a clean, sightly and safe condition. Any Parcel on which a Building is not reconstructed following a casualty or "Taking" (as defined below) shall be (i) graded or caused to be graded by the Owner thereof to the level of the adjoining property and in such a manner as not to adversely affect the drainage of the Property or any portion thereof, (ii) covered by decomposed granite, gravel, sod, hydroseed or as otherwise permitted by Governmental Regulations, and (iii) kept weed free and clean at the subject Owner's sole cost and expense until such time as Buildings are reconstructed thereon.

8.2. **Casualty Damage to Common Area.** In the event any of the Common Area is damaged or destroyed by any cause whatsoever, whether insured or uninsured, during the term of this Declaration, the Owner upon whose Parcel such Common Area is located shall repair or restore such Common Area at its sole cost and expense with all due diligence.

8.3. **Eminent Domain.** In the event the whole or any part of the Property shall be taken or damaged by right of eminent domain or any similar authority of law or any transfer in lieu thereof (a "Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken and to such Owner's Lienholders or Occupants, as they may have agreed between or among themselves or as determined by applicable law, and in the absence of any such Declaration, as provided by law, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Declaration.

## 9. GENERAL PROVISIONS

9.1. **Covenants Run With the Land.** The terms of this Declaration shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcels and each part thereof, and shall run with the land. No Owner shall have the right to apply for a variance from the City, the result of which would be to circumvent or violate the spirit of this Declaration.

9.2. **Duration.** Except as otherwise provided herein, the term of this Declaration shall be for fifty (50) years (the “**Primary Period**”) from the Effective Date. Notwithstanding the foregoing, upon the expiration of the Primary Period, the term of this Declaration shall automatically renew for successive periods of ten (10) years each (each such period being referred to as an “**Extension Period**”) unless, at least ninety (90) days prior to the date of expiration of the Primary Period or Extension Period then in effect, the Consenting Owner delivers to the other Owners in the Property written notice of termination, in which event, this Declaration shall automatically expire at the end of the Primary Period or Extension Period then in effect. Upon termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.

9.4. **Injunctive Relief.** In the event of any violation or threatened violation by any Person of this Declaration, any or all of the Owners and Prime Lessees of the property included within the Property shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Declaration or provided by law or in equity.

9.5. **Modification and Termination.** This Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of all of the Consenting Owners (and, if applicable, the Prime Lessees of a Consenting Owner’s Parcel) at the time of such modification or termination, and then only by written instrument duly executed and acknowledged by all of the Consenting Owners and Prime Lessees and recorded in the office of the recorder of the county in which the Property is located. No modification or termination of this Declaration as provided herein shall adversely affect the rights of any senior Lienholder unless such Lienholder consents in writing to the modification or termination. All amendments shall be recorded with costs of recording to be paid by the party requesting the amendment.

9.6 **Process for Approval.** Prior to undertaking any material exterior modification, amendment, expansion, alteration, rehabilitation, renovation or reconstruction (each, a “**Project**”), any and all relevant and detailed information for the Project shall be set forth in Project Plans, including, but not limited to, site plans, exterior elevations (including proposed materials), landscaping plans, and plans and specifications identifying the location, number of levels, height, size and shape, location, dimension of the proposed Project, and any other documentation as may be reasonably required to illustrate the development plan for the proposed Project shall be set forth in such detail and with such specificity as would enable (i) each Consenting Owner to ascertain the suitability of the Project when referenced against the other Improvements on the Property, and (ii) the Project’s conformance with the requirements of this Declaration. Such Project Plans shall be submitted to the Consenting Owners for review and approval in accordance with Section 9.7 below.

9.7. **Method of Approval.** Unless otherwise provided in this Declaration, whenever approval, consent or satisfaction (collectively, an “**approval**”) is specifically required of an Owner pursuant to the express terms of this Declaration (or any Exhibit hereto), it shall not be unreasonably withheld, conditioned or delayed. Unless provision is made for a specific time period, approval or disapproval by the Consenting Owner (excluding the Owner submitting the Project Plans) shall be given within thirty (30) days after receipt of written request for approval. For so long as the Declarant is the only Consenting Owner, approval shall be at the discretion of the Chancellor of MCC or his or her designee. If an Owner neither approves nor disapproves within the required time period, then the Owner requesting approval shall have the right to send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within fifteen (15) days shall be deemed approval, then the failure to respond within such fifteen (15) day period shall constitute the approval of the Owner from whom approval was requested. Except with respect to approvals which are deemed approved pursuant to the preceding sentence, all approvals (including conditional approvals) and disapprovals shall not be effective unless given or made in writing. If an Owner disapproves, the reasons therefor shall be stated in reasonable detail in writing. An Owner’s approval of any act or request by another Owner shall not be deemed to waive or render unnecessary approval of any similar or subsequent acts or requests.

9.7 **Multiple Owners.** In the event an Owner sells its Parcel and becomes the Prime Lessee thereon, said Prime Lessee is hereby appointed the entity to give the consent for said Parcel on behalf of the Owner thereof and is hereby granted all of the rights and remedies granted to the Owner of said Parcel so long as it is the Prime Lessee of said Parcel, anything in this Declaration to the contrary notwithstanding.

9.8 **Breach Shall Not Permit Termination.** It is expressly agreed that a breach of this Declaration shall not entitle any Owner to terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration. Any breach of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Declaration shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee’s sale or otherwise.

9.9 **Notices.** All notices, statements, demands, approvals and other communications given pursuant to this Declaration will be in writing. Notices to be given hereunder may be personally delivered with written receipt acknowledged, sent by registered or certified mail, postage prepaid, return receipt requested, or sent by overnight delivery service using any reputable commercial overnight delivery service (such as Federal Express, UPS, etc.), to the physical address of such Owner’s Property set forth in the official records of the City.

9.10 **Waiver.** The failure of a Person to insist upon strict performance of any of this Declaration or other terms and provisions contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Declaration or other terms and provisions contained herein by the same or any other Person.

9.11 **Attorneys’ Fees.** If any Owner institutes any action or proceeding against any other Owner relating to the provisions of this Declaration or any default hereunder, the unsuccessful Owner in such action or proceeding will reimburse the successful Owner therein for the reasonable expenses of attorneys’ fees and disbursements incurred by the successful Owner.

9.12 **Severability.** If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration

or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

9.13 **Not a Partnership.** The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Owners. Each Owner shall be considered a separate party and no Owner shall have the right to act as agent for another, unless expressly authorized to do so herein or by separate written instrument signed by the Owner to be charged.

9.15 **Captions and Headings.** The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or Declarations contained herein.

9.16 **Interpretation.** Whenever the context requires construing the provisions of this Declaration, the use of a gender shall include both genders, use of the singular shall include the plural, and the use of the plural shall include the singular. The word “**including**” shall be construed inclusively, and not in limitation, whether or not the words “**without limitation**” or “**but not limited to**” (or words of similar importance) are used with respect thereto. The provisions of this Declaration shall be construed as a whole and not strictly for or against any party. Unless otherwise provided, references to Articles and Sections refer to the Articles and Sections of this Declaration.

9.17 **Entire Declaration.** This Declaration contains the entire agreement with respect to this Declaration affecting the Parcels, and supersedes all prior Declarations, oral or written.

9.18 **Joint and Several Obligations.** In the event any Owner hereto is composed of more than one person, the obligations of said Owner shall be joint and several.

9.19 **Recordation.** This Declaration shall be recorded in the office of the recorder of the County in which the Property is located.

9.20 **Limitation on Liability.** Except as specifically provided below, there shall be absolutely no corporate or personal liability of persons or corporations who constitute a respective Consenting Owner hereunder, including, but not limited to, officers, directors, employees or agents thereof, with respect to any of the terms, covenants, conditions and provisions of this Declaration. In the event of a default of a respective Consenting Owner hereunder, the Owner who seeks recovery from such Consenting Owner shall look solely to the interest of such Consenting Owner in such Consenting Owner’s Parcel for the satisfaction of each and every remedy of the non-defaulting Owner; provided, however, the foregoing shall not in any way impair, limit or prejudice the right of any Owner (i) to pursue equitable relief in connection with this Declaration, including a proceeding for a temporary restraining order, preliminary injunction, permanent injunction or specific performance; and (ii) to recover from such Consenting Owner all losses suffered, liabilities incurred or costs imposed arising out of or in connection with, or on account of, a Consenting Owner’s breach of its obligation to carry Owner Liability Insurance, or to fund its self-insurance obligation, if applicable.

9.21 **Lienholder Protection.** This Declaration shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, (i) no breach hereof shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value (hereafter, a “**Mortgage**”), but this Declaration shall be binding upon and effective against any Person (including, but not limited to, any Lienholder) who acquires title to

any Parcel or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise; and (ii) the liens and encumbrances contained in any Mortgage held by any Lienholder shall be prior and superior to any and all liens that may be asserted against any one or more Parcels as a result of any Owner or Occupant defaulting in any obligation under this Declaration.

9.22 **Time of Essence.** Time is of the essence with respect to the performance of each obligation of this Declaration.

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IN WITNESS WHEREOF, MCC has declared this instrument effective as of the Effective Date first above written.

**THE JUNIOR COLLEGE DISTRICT OF  
METROPOLITAN KANSAS CITY,  
MISSOURI, Seller**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF MISSOURI            )  
  )  ss.  
COUNTY OF JACKSON        )

On this \_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_, who stated that s/he is the \_\_\_\_\_ of THE JUNIOR COLLEGE DISTRICT OF METROPOLITAN KANSAS CITY, MISSOURI, known to me to be the person who executed the within instrument on behalf of said body, and acknowledged to me that s/he executed the same for the purposes therein stated.

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

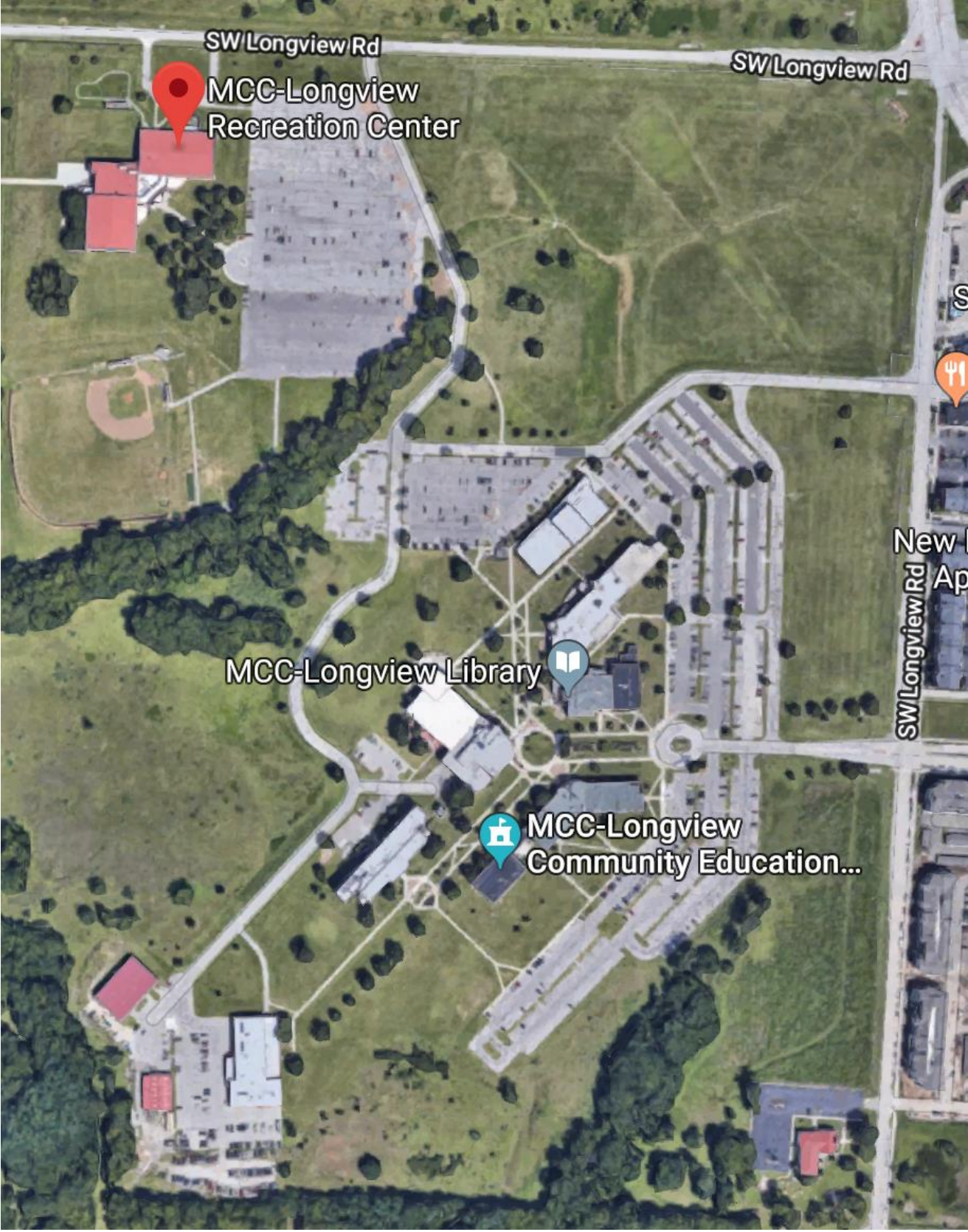
\_\_\_\_\_  
Notary Public in and for said County  
and State

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A**  
**LOCATOR MAP**





**EXHIBIT B**

**LEGAL DESCRIPTION OF MCC PROPERTY**

**[TO BE APPENDED]**