



\* 2 0 1 5 0 5 1 9 0 0 7 7 0 \*

GERALD E. SMITH, RECORDER OF DEEDS  
ST. LOUIS COUNTY MISSOURI  
41 SOUTH CENTRAL, CLAYTON, MO 63105

TYPE OF INSTRUMENT: AMDT  
GRANTOR: HILLCREST SUBDIVISION  
TO:  
GRANTEE:

PROPERTY DESCRIPTION: HILLCREST SUB PB:

Lien Number

Notation

Locator

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

RECORDER OF DEEDS DOCUMENT CERTIFICATION

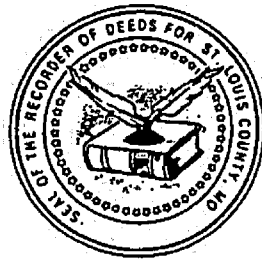
STATE OF MISSOURI )  
SS.  
COUNTY OF ST. LOUIS )

Document Number  
00770

I, the undersigned Recorder of Deeds for said County and State, do hereby certify that the following and annexed instrument of writing, which consists of 13 pages, (this page inclusive), was filed for record in my office on the 19 day of May 2015 at 04:56PM and is truly recorded in the book and at the page number printed above.

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

MM  
Deputy Recorder



Gerald E. Smith  
Recorder of Deeds  
St. Louis County, Missouri

Mail to:

First American Title NCS Saint Louis  
8182 Maryland Ave., Ste 400  
Saint Louis, MO 63105

Destination code: 4002

RECORDING FEE 57.00  
(Paid at the time of Recording)

**Amended and Restated Indenture of Hillcrest Subdivision**

This document is made by the undersigned Trustees of Hillcrest subdivision as of April 28, 2015, to-wit: Jean Hamilton, Stan Mulvihill and Jane Klamer.

**Whereas**, as of April 24, 1912 an Indenture ("Indenture") was made with respect to the creation of a subdivision known as "Hillcrest" located partly in the City of St. Louis and the County of St. Louis, State of Missouri which preface was as follows (*hereinafter is a transcription of the original preface with modification noted in bold font*):

THIS INDENTURE, Made this 24<sup>th</sup> day of April , A.D., Nineteen Hundred and Twelve, by and between the TITLE GUARANTY TRUST COMPANY, a corporation of the State of Missouri, party of the first part, hereinafter called the "Company", and JAMES M, FRANCISCUS, WILLIAM A. GIRALDIN AND A. R. SCHOLLMEYER, hereinafter called the "Trustees", Parties of the Second Part, WITNESSETH:

That WHEREAS, the Company is the owner of a tract of land situated partly in the City of St. Louis and partly in the County of St. Louis, State of Missouri, described as follows, to-wit:

All that part of lot numbered one (1) of the Subdivision of the Gratiot League Square in United States Survey Two Thousand and Thirty-seven (2037), more particularly described as follows, to-wit:

Beginning at a point in the West line of Skinker Road in said City where the South line of land now or formerly of Thomas K. Skinker intersects the same, being Three Hundred and Thirty-Nine (339) feet Two (2) inches South of the North line of said Gratiot League Square, thence running Westwardly along said South line of said land now or formerly of Thomas K. Skinker and parallel to said North line of said Gratiot League Square Two Thousand Nine Hundred and Fifty-three (2953) feet Five and One-half (5½) inches, more or less, to the South-West corner of said land now or formerly of Thomas K. Skinker, thence Northwardly along the West line of said Thomas K. Skinker's land and parallel to said West line of said Skinker Road Two Hundred and Seventy-nine (279) feet Two (2) inches, more or less, to a point Sixty (60) feet South of said North line of said Gratiot League Square, then Westwardly along a line Sixty (60) feet South of and parallel to said North line of said Gratiot League Square, thence Three

Hundred and Fifty-four (354) feet more or less, to the East line of the land in said County of St. Louis heretofore conveyed by Virginia R. S. Buchanan, Mary I. Maffitt and husband, and Anna B. Skinker to the Academy of the Sisters of St. Joseph, by deed dated October 29<sup>th</sup>, 1909 and recorded in the Office of the Recorder of Deeds of the said County of St. Louis in book 240, at page 377, thence Southwardly along said East line of said land now or formerly of the Academy of the Sisters of St. Joseph One thousand and seventy-two (1072) feet, more or less, to the South line of said Lot Numbered One (1), thence Eastwardly along said South line of said lot numbered one (1) Three Thousand Two Hundred and Ninety-three (3293) feet, more or less, to said West line of said Skinker Road, and thence Northwardly along said West line of said Skinker Road Seven Hundred and Ninety-two (792) feet, more or less, to the point of beginning, and containing Sixty and Six tenths (60.6) acres, more or less, being the same land acquired by the said Company from the New Haven Investment Company, by deed dated March 1<sup>st</sup>, 1912, and recorded in the office of the Office of the Recorder of Deeds of the City St. Louis, in Book 2529 at Page 43 and in the Office of the Recorder of Deeds of the County of St. Louis in Book 297, at page 18.

And WHEREAS, The Company has caused said tract of land to be laid out as a residence subdivision under the name of HILLCREST, and a Plat thereof to be made and recorded in the Office of the Recorder of Deeds for said County of St. Louis, Plat Book Six (6) at Page Seventy-Six (76), and has also caused a Plat of the portion of thereof lying within said City to be made and submitted to and approved by the Board of Public Improvements in said City and filed for record in the Office of the Recorder of Deeds for said City, in Plat Book 19 (original left blank), at Page 14 (original left blank); and

WHEREAS, It is the purpose of the Company and the Trustee that said Subdivision shall be and remain a first class residence district; Now, Therefore, In consideration of the premises and to the end that this purpose may be fully accomplished, The Company does hereby declare as follows: (End of transcription of original preface)

and

**Whereas**, this Indenture was recorded in the records of both jurisdictions: in Book 2545 at Page 51 of the St. Louis City Recorder's Office, and in Book 298 at Page 31 of the St. Louis County Recorder's Office; and

**Whereas**, the current Trustees are Jean Hamilton, Stan Mulvihill and Jane Klamer, having succeeded to the rights and responsibilities of the original Trustees; and

**Whereas**, this Indenture has not previously been amended, but the term has been extended by the terms of that certain Consent to Extension of Restrictions Hillcrest Subdivision Located in the City and County of St. Louis, Missouri, filed for recording on November 23, 1949 in Book 315 at Page 2 of the St. Louis County Recorder's office and in Book 2618 at Page 238 of the St. Louis City Recorder's Office; and

**Whereas**, paragraph "Seventeenth" of the Indenture contains provisions which were ruled unenforceable by the Supreme Court of the United States in 1948 in the matter of

*Shelley v. Kraemer* 334 U.S. 1, 68 S.Ct. 836, 92 L.Ed. 1161 (1948) which matter arose in the City of St. Louis with respect to a restrictive covenant similar to that found in paragraph "Seventeenth"; and

**Whereas**, paragraph "Seventeenth" is repugnant to residents of Hillcrest, regardless of its efficacy; and

**Whereas**, Section 213.041.1 of the Missouri Revised Statutes directs the "Board of Directors of a homeowner' association" (to) amend, without the approval of the owners, any declaration or other governing document that includes a restrictive covenant in violation of Section 213.040 (of the Missouri Revised Statutes), and (to) restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document"; and

**Whereas**, paragraph "Seventeenth" in the Indenture violates Section 213.040 of the Missouri Revised Statutes; and

**Whereas**, the Trustees act as the "board of directors of a homeowners' association" with respect to the covenants in the Indenture;

**Now Therefore**, in consideration of the premises, the undersigned Trustees hereby amend and restate the numbered paragraphs of the Indenture of Hillcrest Subdivision, to remove the terms of paragraph "Seventeenth" without further modifications to the Indenture, to wit: (following is a transcription of the terms of the Indenture except as modified in bold type)

FIRST: That parcels of land designated on said Plat as Aberdeen Place and Arundel Place running East and West and De Mun Avenue, University Lane and Dartford Avenue running North and South through said Tract, and the alleys designated thereon are hereby set apart for the common benefit of all persons now or hereafter occupying any lot in said Subdivision, to be used by all such persons and those dealing with them freely and without obstruction as private streets and private alleys forever.

SECOND: The title to the parcels of land so set apart is hereby conveyed to and vested in JAMES M. FRANCISCUS, WILLIAM A. GIRALDIN and A. R. SCHOLLMEYER, and their successors as joint tenants and not as tenants in common, to be held by them IN TRUST for use as private streets and private alleys forever.

THIRD: Said Trustees shall have the power to grant to any person or corporation undertaking to furnish electricity, heat, light, water, power or gas or any convenience desirable for a residence district, the right to place the necessary poles, wires, pipes, conduits or other implements upon, in or under any of said streets and alleys and to make contracts for supplying the occupants of the land abutting upon said streets with such utilities, all such poles, wires, pipes, conduits or other implements shall at all times be subject to the reasonable control and regulation of said Trustees and all sewer connections shall be made under permits to be issued by said Trustees.

FOURTH: Said Trustees shall have power and it shall be their duty as and when they shall deem it necessary to cause the following work to be done in and upon said tract, namely, the said streets with their sidewalks and the said alleys shall be kept clean, cleared of ice and snow, lighted, sprinkled, repaired, maintained and reconstructed; the sewers in said streets and alleys shall be cleaned, repaired, maintained and reconstructed; trees and shrubs shall be planted and cared for and lawns and grass plots shall be made, mowed and kept in order in and along the sidewalks; garbage, ashes and other refuse accumulated on any street, lot or alley or any other place in said tract shall be removed; said tract shall be adequately policed and any Taxes or Assessments for maintenance or extension of the joint district sewer, which may be levied upon said streets and alleys, or either of them, shall be paid.

FIFTH: To enable said Trustees to pay the cost of such work and the incidental expenses of the same and of administering their said tract, they shall have power to made assessments upon and against the several lots or parcels of land in said tract and against the owners thereof apportioned to and against each as hereinafter stated, not to exceed Fifty Cents per front foot in any one year, but this limitation shall not be applied to any assessment levied for the purpose of

constructing or reconstructing any street, alley, sidewalk or sewer built in said tract, or for the maintenance or extension of the joint district sewer built by Robert S. Brookings, Thomas K. Skinker and Thomas S. Maffitt, Trustees under an agreement with Thomas K. Skinker, Virginia R. S. Buchanan, et al, dated August 16<sup>th</sup>, 1909, and duly recorded in the office of the Recorder of Deeds in the County of St. Louis, in book 248, at page 1, and in the office of the Recorder of Deeds in the City of St. Louis, in Book 2368, at page 121.

For the purpose of ascertaining the total number of front feet to be assessed under this Agreement, the said Trustees shall add, first, the width of all regular lots on Aberdeen Place and Arundel Place and add thereto the average width of the fractional lots in Blocks One (1), Two (2), Three (3), Four (4), Five (5) and Six (6), adjacent to Skinker Road and DeMun Avenue; second, the width of all lots in Block Nine (9) with the exception of Lots one (1) and Two (2); said Lot One (1) for the purposes of this agreement shall be considered as having a frontage or width of eighty (80) feet and Lot Two (2) as having a frontage or width of forty (40) feet; third, Lot Fifteen (15) in Block Eight (8) shall be considered as having frontage or width of One Hundred and Thirty-five (135) feet.

SIXTH: The total annual expenditure for the cost of maintenance, etc., as provided in the Fourth Paragraph of this Instrument shall be divided by the total number of front feet ascertained as above and thereupon an assessment shall be made against each owner in HILLCREST, in proportion to the number of front feet contained in his parcel based on the frontage above stated, and any expenditure made for the reconstruction of sewers or inlets or for any assessment made by Brookings, Skinker, and Maffitt, Trustees, against the Sixty and Six-tenths (60.6) Acre Tract first herein described, shall be paid out of assessments levied against all of the lots or parcels in HILLCREST, based upon the front footages as hereinbefore stated.

SEVENTH: Every assessment made for the construction or reconstruction of any alley or any portion thereof between cross streets, or for the reconstruction of any street or any portion thereof between cross streets shall be apportioned to and against each owner or group of joint owners abutting such street or alley or portion thereof, in proportion which his frontage bears to the total cost of such improvements, and the cost of such improvements shall be paid, as follows:

Of Aberdeen Place or any portion thereof between cross streets by the owners fronting on the portion improved.

Of Arundel Place or any portion thereof between cross streets by the owners fronting on the portion improved.

One Half (1/2) the cost of Dartford Avenue by the owners of lots in Block Nine (9) and one-half (1/2) by the owners of Western Three Hundred and Sixty (360) feet, more or less, of Blocks Six (6), Seven (7), and Eight (8) in proportion to the Frontage of each.

Of University Lane by the owners of Lots extending from a line Six Hundred and Sixty (660) feet East of Dartford Avenue to a line Thirteen Hundred and Sixty (1360) feet East of and parallel thereto.

Of DeMun Avenue by the owners of parcels extending from a line Thirteen Hundred and Sixty (1360) feet, more or less, East of Dartford Avenue, Eastwardly to the City Limits.

The cost of constructing or reconstructing of any alley or any portion thereof shall be paid by the owners of parcels abutting on the same and in proportion to their frontages as hereinbefore determined, but the cost shall be assessed for each Block separately.

EIGHTH: Before any street or portion thereof between cross streets, sidewalk or sewer shall be reconstructed or any alley shall be constructed or reconstructed, the Trustees shall call a meeting of the owners of all lots and parcels of ground abutting such street or portion thereof, sidewalk, sewer, alley or portion thereof and shall submit at said meeting plans and specifications of the work proposed to be done and the material or materials to be used (in the

alternative if the Trustees so deem best) together with the estimate of the cost of such work. It shall also be the duty of the Trustees to ascertain the number of front feet of each parcel of ground which will be subject to an assessment for such projected improvement and to submit at the meeting along with the plans and specifications and estimates above prescribed a schedule showing the number of front feet in each lot or parcel of ground subject to assessment, and the votes shall be cast and counted according to said schedule. Said meeting shall be held during business hours at some convenient place in the City or County of St. Louis to be designated by Trustees and at least Ten (10) days notice of such meeting shall be given by mail to each owner or group of joint owners of a lot or parcel of ground subject to assessment and also by publication in at least One (1) newspaper published in the City of St. Louis. At such meeting each person shall have the right to cast the number of votes equal to the number of front feet in the lot or parcel of ground owned by him and subject to assessment. If any lot or parcel or ground be owned by more than one person then each owner shall have the right to cast the number of votes equal to his aliquot share of the whole.

NINTH: No street, alley, sidewalk or sewer shall be constructed or reconstructed if the owners of a majority of front feet subject to assessment therefore shall vote against construction or reconstruction at said meeting.

TENTH: Every assessment hereby authorized shall become a lien against any lot or parcel of ground to which it relates whenever it shall be so declared by said Trustees by instrument in writing executed, acknowledged and recorded in the Offices of the Recorder of Deeds of the City of St. Louis and of the County of St. Louis, Missouri, in the manner provided for conveyances affecting Real Estate. The recording of any such assessment shall be taken as a demand for payment therefore and the same shall bear interest at the rate of Eight (8%) per



annum, beginning Thirty (30) days after the date of record. Upon payment of any assessment so recorded, satisfaction thereof shall be acknowledged by instrument duly executed, acknowledged and recorded by the Trustees at the expense of the lot owners.

ELEVENTH: If the said tract shall be taken into the limits of any City, the Trustees shall have power to convey said streets and alleys, including the sidewalks in and the sewers under said streets to said City for public use as streets, alleys, walks and sewers respectively, if the City will accept the same, provided the Trustees first obtain the written consent of the owners of two-thirds (2/3) of the number of front feet in said tract.

TWELFTH: Whenever any one or more of said Trustees or their successors appointed as herein provided, shall die or resign or shall become non-residents of both the City and the County of St. Louis, or shall cease to have any interest in said tract either as lot owner or as owner of stock in any corporation owning the land, then the remaining Trustee or Trustees shall by written instrument appoint a successor or successors who shall reside in either the City or County of St. Louis, and shall be interested in said tract either as Lot owner or stockholder as above provided; said instrument shall be executed, acknowledged and recorded as may be required by Law for an instrument affecting Real Estate. It shall set forth the name of the person who has ceased to be Trustee and whose place is to be filled and the name of the appointee, and the cause of the vacancy and as soon as said instrument shall be recorded, the appointee shall be immediately substituted as Trustee and shall have all the right, title and powers and be subject to all the duties conferred and imposed by this instrument as fully as if he were named herein as Trustee.

THIRTEENTH: The Trustees hereby provided for shall keep minutes of their proceedings; any two of them may exercise the powers of the Board; they shall serve without pay, except for expenses reasonably incurred.

FOURTEENTH: Building lines are hereby established as shown on said Plat and no building shall be erected upon or project into the space between any building line and the adjacent street, except that the open porch, platform, terrace or steps in front of the main door of any house may extend beyond the building line not more than ten (10) feet and the roof and cornice not more than four (4) feet. All buildings must have their main door or entrance facing Aberdeen Place, Arundel Place, Dartford Avenue or Wydown Boulevard, respectively. No outbuilding shall be erected within twenty (20) feet of DeMun Avenue, University Lane or Dartford Avenue, or within forty (40) feet of Skinker Road, or on the rear of lot One (1), Block (9) within forty (40) feet of Dartford Avenue except by permission of the Trustees.

FIFTEENTH: No building shall have appurtenant to it a Lot less than fifty (50) feet in width; nor more than One (1) building shall be erected on each Lot or parcel of ground, but appurtenant to any dwelling house and used on in connection with it, there may be a suitable carriage house, garage or other subsidiary building. No building shall be used or occupied for any business purposes or for any purpose except that of a private residence, a church or library, except that physicians may maintain offices in their residences for consultation with patients. No business shall be carried on and no alcoholic or malt liquors shall be sold and no nuisance of any kind shall be committed or allowed on said tract, and burning soft or bituminous coal shall be considered a nuisance within the meaning of this provision. No apartment house or flats shall be allowed in said tract, nor shall any house erected on any of the lots in said tract be occupied by more than One (1) family. No building shall be allowed, the walls of which shall be nearer than

Five (5) feet to the side lines of the Lot on which it stands, but this restriction shall not apply to porte-cocheres or cornices which may extend to the Lot lines. No tight board fences shall be erected on any of the lots in said tract, but all partition and alley fences shall be constructed of wire or of wood with openings aggregating Fifty percent (50%), or shall be hedges. No dwelling house shall be erected on any lot which shall cost less than Five Thousand Dollars (\$5,000), or be less than two stories in height. Bungalows with at least two sleeping rooms on second floor shall be considered as complying with this provision.

SIXTEENTH: No frame or wooden building shall be allowed. This provision shall not exclude wooden porches or porte-cocheres nor shall it exclude buildings whose outer walls are in part made of wood, any such building may be erected if the plans therefore are first submitted to and approved by all of the Trustees of said tract by written endorsement made upon such plans.

SEVENTEENTH: **Intentionally Omitted.**

EIGHTEENTH: The restrictions herein contained are to be construed as independent and in the event that anyone of them shall be unenforcible or otherwise fail, the valid or binding effect of the others shall not thereby be affected.

NINETEENTH: All the foregoing restrictions numbered 14, 15, 16, (**Intentionally Omitted**) and 18 shall be and remain in force until the First day of January, Nineteen Hundred and Fifty, but any one or more of them may be extended beyond that time, provided that before that date the consent shall be obtained of the owners of Three fourths (3/4) of the total number of front feet in said tract; such consent shall be evidenced by written instrument executed, acknowledged and recorded as required by Law for instruments affecting Real Estate.

TWENTIETH: All or any of the foregoing restrictions may be released and extinguished by written instrument executed, acknowledged and recorded as required by Law for instruments



State of Missouri )  
 ) SS  
County of St. Louis )

On this 6<sup>th</sup> day of May, in the year 2015, before me Jeanne M.V. Kadane,  
a Notary Public in and for said state, personally appeared **Jean Hamilton**, Trustee of Hillcrest,  
known to me to be the person who executed the within Amended and Restated Indenture of Hillcrest  
Subdivision on behalf of the Trustees of Hillcrest subdivision and acknowledged to me that she  
executed the same for the purposes therein stated.

Jeanne M.V. Kadane  
(official signature and official seal of notary)



State of Missouri )  
 ) SS  
County of St. Louis )

On this 7 day of May, in the year 2015, before me Martha Hosna,  
a Notary Public in and for said state, personally appeared **Stan Mulvihill**, Trustee of Hillcrest, known  
to me to be the person who executed the within Amended and Restated Indenture of Hillcrest  
Subdivision on behalf of the Trustees of Hillcrest subdivision and acknowledged to me that he  
executed the same for the purposes therein stated.

Martha Hosna  
(official signature and official seal of notary)



MARTHA HOSNA  
My Commission Expires  
May 26, 2017  
Jefferson County  
Commission #13417073