

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR STREAM CORRIDORS**

THIS DECLARATION setting forth maintenance obligations of certain stream corridors is made on this _____ day of _____ 2021, by (Owner) _____, a (Corporation/Limited Liability Company) _____, hereinafter referred to as the Landowner.

WHEREAS, the Landowner is the owner of and constitutes all of the owners of the following described real estate, hereinafter referred to as the Final Plat, lying and situated in the County of Johnson, State of Kansas, to wit:

_____, a subdivision of land in the city of Shawnee, Johnson County, Kansas; and,

WHEREAS, the term "landowner" as used in this Declaration shall refer to the owner of the Final Plat, as well as all subsequent owners, successors, or assignees of any portion thereof whether held severally or collectively, and shall include, without being limited to, all subsequent owners of individual lots, and any homes or business association that may own any lots, tracts, parcels of land, or portions thereof, held in common, and all other owners of lesser rights within said Final Plat; and,

WHEREAS, the Landowner desires to develop said Final Plat, which contains one or more natural streams on (Lot/Tract) _____ of the Final Plat; and,

WHEREAS, the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code* provide for the preservation of natural streams by the designation of stream corridors and maintained by the establishment of restrictive covenants; and,

WHEREAS, the Landowner desires to designate one or more stream corridors on the Final Plat to protect and preserve such natural streams in accordance with the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code*, incorporated herein by this reference, and this Declaration; and,

WHEREAS, in order to insure the proper and adequate maintenance of such natural streams, it is necessary to establish binding covenants, conditions, and restrictions applicable to a designated stream corridor in compliance with legal requirements; and,

WHEREAS, the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code* requires a landowner to place certain restrictions and responsibilities for the maintenance and use of a stream corridor; and,

WHEREAS, the City of Shawnee, Kansas, hereinafter referred to as Shawnee, has approved and thereby established one or more stream corridors shown on said Final Plat, which are subject to the conditions and stipulations hereinafter set forth, including the recordation of this Declaration.

NOW, THEREFORE, the Landowner does hereby establish the following regulations, stipulations, and standards pursuant to the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code* as covenants, conditions, restrictions, and easements on said Final Plat:

1. The Landowner shall provide and is responsible for all maintenance of the designated stream corridors shown on the Final Plat including, without being limited to, the streambed and all existing and future bank stabilization measures, as necessary to insure that all such facilities remain in proper working condition in accordance with approved design standards and all applicable legal requirements.

2. Landowner agrees to implement, maintain, and monitor the designated stream corridors to prevent activities prohibited by the *Shawnee Design and Construction Manual* or *Shawnee Municipal Code*, which interfere with the preservation of such designated stream corridors.

3. The Landowner agrees to limit uses of a designated stream corridor to those allowed pursuant to the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code*.

4. The Landowner will remove obstructions and excessive silt deposits within such designated stream corridors, which might cause flooding of buildings, roadways, or other properties.

5. The Landowner understands that the following activities are prohibited within a designated stream corridor except where and to the extent allowed pursuant to the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code*:

- Regular mowing,
- Clearing of healthy vegetation, and
- Disposal of grass clippings, leaves, or other yard waste and debris.

6. If required by Shawnee at any time, the Landowner shall dedicate, at no cost to Shawnee, such permanent storm drainage easements, stormwater management easements, and temporary construction easements as may be required within the Final Plat as necessary to maintain a designated stream corridor.

7. The Landowner shall defend, indemnify, and hold Shawnee harmless from any and all damage, loss, claims, or liability of any kind whatsoever arising from the installation, maintenance, repair, operation, or use of a designated stream corridor or any facilities related thereto.

8. It is understood by the Landowner that Shawnee is under no past, present, or future obligation to expend public funds or take any other action whatsoever to maintain or improve any storm drainage system in a designated stream corridor. Shawnee and the Landowner shall have the right to enforce the provisions of this Declaration and to reimbursement of fees and other expenses reasonably incurred in enforcing the rights hereunder. However, Shawnee has no duty or obligation to enforce the provisions of this Declaration.

9. If, after thirty (30) calendar days prior written notice sent to the Landowner, the Landowner shall fail to maintain a designated stream corridor as set forth herein, Shawnee may perform all necessary repair or maintenance work, and may assess the Landowner and all lots and tracts within the Final Plat for the reasonable and actual cost of the work. If the assessment for such costs is unpaid after thirty (30) calendar days from the date of billing, the City Clerk, at the time of certifying City taxes, shall certify such costs to the County Clerk to be collected by the County Treasurer and paid to the City and collected in the same manner as City taxes are collected and paid, with instructions to extend the same on the tax roll of the County against the lots and tracts within the Final Plat. Reimbursement of such cost may further be collected by the City in accordance with KSA 12-6a17 or KSA 12-1673.

10. The Landowner agrees to provide, without being limited to, the minimum maintenance within a designated stream corridor, or any portion thereof, in accordance with applicable provisions of the *Shawnee Design and Construction Manual* and *Shawnee Municipal Code*; provided, however, that if a stream corridor is dedicated to and accepted by Shawnee for use as public park land, the stream corridor shall be maintained in accordance with established park land maintenance policies, notwithstanding any other provision in this Declaration to the contrary.

11. Shawnee, at the Landowner's cost, shall cause this Declaration, as set forth herein and fully executed, to be recorded and filed in the office of the Register of Deeds of Johnson County, Kansas, and the filing of the same shall constitute constructive notice to all successors, heirs, executors, administrators, and assigns of the Landowner and notice of all stipulations made thereto. These covenants, conditions, and restrictions shall run with the land. This Declaration shall not be amended or modified

in any way without the prior written approval of the City Manager, or designee, of the City of Shawnee, Kansas, and that approval must be indicated on the face of any subsequently recorded document amending or modifying this Declaration.

IN WITNESS WHEREOF, the Landowner has authorized and caused this Declaration to be signed on its behalf by the undersigned on the day and year first above written.

Owner: _____

Signature: _____

Printed Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
)ss.
COUNTY OF _____)

THIS INSTRUMENT was acknowledged before me on this _____ day of _____ 2021, by
(Agent) _____ as (Title) _____ of (Owner) _____,
a Kansas (Corporation/Limited Liability Company) _____.

Notary Public

My Appointment Expires