

2005  
Amendments to the Declaration of Trust and  
Agreement of University Heights

THIS AGREEMENT ("Agreement"), made and entered into as of this 7th day of June , 2005,

WITNESSETH THAT:

WHEREAS, University Heights, also known as University Heights Subdivision No. 1 ("University Heights"), is a subdivision of land in St. Louis County, Missouri, according to the plat thereof (the "Plat") dated February 20, 1904, and recorded in the Office of the Recorder of Deeds for St. Louis County, Missouri (the "Recorder's Office"), in Plat Book 6 at page 14 on February 23, 1904, and

WHEREAS, University Heights is subject to a Declaration of Trust and Agreement dated January 19, 1905, and recorded in the Recorder's Office in Book 161 at Page 37 (said Declaration of Trust and Agreement as heretofore, hereafter and hereby amended being hereinafter referred to as the "Trust"), and

WHEREAS, according to the Final Order, Judgment and Decree by the Circuit Court of the County of St. Louis, Missouri, in the matter of Theresa Biggs vs. Ronald Scott, et. al. (Cause No. 01CC - 0003742) on November 5, 2001, a copy of which was recorded in the Recorder's Office on February 10, 2004, in Book 15631 at Page 1997, "...future amendments to the Trust will become effective upon approval by a majority of the residents of the University Heights Subdivision (.)", and

WHEREAS, a majority of the residents of University Heights (evidenced by their signatures to this Agreement) wish to effect certain amendments (the "Amendments" or an "Amendment") to the Trust as set forth herein:

NOW, THEREFORE, it is agreed as follows:

I

EFFECTIVENESS OF THIS AGREEMENT

- 1.1 This Agreement shall be effective, as of the date hereof, when owners of at least 142 residential lots (being 51% of the residential lots in University Heights) have executed this Agreement.
- 1.2 This Agreement may be executed in counterpart and each counterpart shall constitute an original, all of which together shall constitute one and the same instrument.
- 1.3 This Agreement will be recorded in the Recorder's Office.

II  
COMMON AREAS - POWERS AND DUTIES OF THE TRUSTEES

- 2.1 According to the Trust, the Trustees of University Heights (the "Trustees") hold legal title to certain elements of University Heights including the private streets. The Trustees are required to maintain, repair and improve same together with all curbing, guttering, roadways, sewers, water mains, sidewalks and tree lawns. The Trustees, in connection with their said duties of maintenance, repair and improvement are given certain powers and authority. Hereinafter, the elements to which those duties of ownership, maintenance, repair and improvement pertain are referred to as the "Common Areas" or a "Common Area".
- 2.2 By deed dated December 8, 2004, from University Heights Association, Inc., a Missouri not-for-profit corporation (the "Neighborhood Association") which was recorded December 17, 2004, in Book 16266 at Page 199 of the Recorder's Office, the Trustees acquired title to Lot 14 in Block 7 of University Heights. (Said Lot is hereinafter referred to as the "Vacant Lot".) The action of the Trustees subject to the terms of the aforesaid deed is ratified confirmed and approved and the Vacant Lot shall be considered part of the Common Area as of the date of the Trustees acquisition thereof.
- 2.3 Lot 1 and the northern parts of Lots 2 and 3 all in Block 10 of University Heights (together, the "Utility Lots") which have been owned by the Trustees for some time, should be and hereby are declared to be part of the Common Area as of the date of the Trustees acquisition thereof.
- 2.4 Additional Common Areas may be acquired by the Trustees but only pursuant to an amendment to the Trust duly recorded in the Recorder's Office.
- 2.5 All or any part of the Common Areas may be sold, leased, mortgaged or vacated (as the case may be) but only pursuant to an amendment to the Trust duly recorded in the Recorder's Office.
- 2.6 All powers, authority and limitations on the powers and authority of the Trustees specified in the Trust shall pertain to all of the Common Areas.

III  
ANNUAL MEETING - SPECIAL MEETINGS - VOTING -  
ELECTIONS AND TERMS OF TRUSTEES

- 3.1 The last sentence of Article I of the Trust contains provisions relative to succession in the event of death, resignation or refusal to act on the part of any of the Trustees. That sentence is deleted in its entirety and the following substituted in lieu thereof:

- A. Annually, and prior to May 1, of each year, the Trustees shall call a meeting (the "Annual Meeting") of the residents of University Heights for the purposes of (i) electing Trustees (if such an election is necessary), and (ii) presenting a financial report of the Trustees affairs for the preceding calendar year, and (iii) transacting such other business as may be stated in the notice of the Annual Meeting.
- B. The Trustees may also call special meetings ("Special Meetings" or a "Special Meeting") at any time or from time to time. The calling of any Special Meeting shall be at the discretion of the Trustees. Business at any Special Meeting shall be limited to that stated in the notice of the relevant Special Meeting.
- C. A vote of the residents of University Heights which is required by the terms of the Trust may be made:
  - i. In person at any Annual Meeting or Special Meeting, or
  - ii. By a proxy duly named in writing, or
  - iii. By ballot returned prior to the deadline established therefor, if any, or
  - iv. By execution of an amendment to the Trust, or
  - v. Any combination of the foregoing.
- D. Except as hereinafter provided, each Trustee shall serve for a term of 6 years or until their respective successors are elected. There is no limit on the number of terms a Trustee may serve.
- E. Should any Trustee die, resign, refuse to act, become incapacitated or no longer maintain that Trustee's permanent residence in University Heights, a successor Trustee shall be appointed for that Trustee by the other Trustees to serve until the next Annual Meeting. At such Annual Meeting, a successor Trustee shall be elected as herein provided for the remainder of the term of the Trustee who died, resigned, refused to act, became incapacitated or no longer maintained permanent residence in University Heights.
- F. If, at any time, there are fewer than two incumbent Trustees, successor Trustees in a number necessary to cause three Trustees to be incumbent shall be appointed by the Board of Directors of the Neighborhood Association. Trustees so appointed shall serve until the next Annual Meeting. At such Annual Meeting, Trustees succeeding them shall be elected as herein provided for the remainder of the terms of the Trustees for whom interim appointments were made by the Board of Directors of the Neighborhood Association.
- G. One Trustee shall be elected in each even numbered year by a majority of the residents from a slate of not more than four (4) residents of University Heights. Not more than two candidates shall be proposed by the Trustees and not more than two shall be proposed by the Neighborhood Association. Except that if the Neighborhood Association has dissolved or forfeited its charter, the candidates which might have been proposed by it may be

proposed by petition of not fewer than 25 residential lot owners counted in accordance with Article VI, Section 6.1 (B) of this Amendment.

H. The three presently incumbent Trustees have served for terms of varying years. For the purposes of this Amendment, those Trustees are herein referred to as "First Senior Trustee" (the Trustee serving the most number of years), "Second Senior Trustee" (the Trustee serving the second most number of years), and "Third Senior Trustee" (the Trustee serving the least number of years).

i. The terms of the presently incumbent Trustees shall end as of the Annual Meeting held in the years specified as follows:

First Senior Trustee	2006
Second Senior Trustee	2008
Third Senior Trustee	2010

#### IV

#### AMENDMENT TO RECOGNIZE UNITED STATES SUPREME COURT DECISION IN SHELLEY VS. KRAEMER, 334U.S.1 (1948)

4.1 The first sentence of Article III, Section 1 of the Trust contains the following phrase relating to use and occupancy of lots in University Heights, to wit:

"...nor by any person or persons other than those of the Caucasian race (except that persons of other race may reside upon any of said lots while employed as servants in the family of the owner or owners of said lot and not otherwise)."

The quoted phrase is deleted in its entirety.

#### V

#### ASSESSMENTS BY TRUSTEES - SPECIAL ASSESSMENTS

5.1 Article II of the Trust provides for annual assessments by the Trustees in order to defray the cost of their duty to maintain, repair and improve the Common Areas. As last amended (Theresa Biggs vs. Ronald Scott et. al., St. Louis County Circuit Court Cause No. 01CC-0003742, November 5, 2001, recorded in the Recorder's Office February 10, 2004, Book 15631 at Page 1997), the relevant provision of the Trust gave the Trustees "...full power and authority to assess lots in the University Heights Subdivision according to plot (sic) thereof, at a rate not to exceed \$3.00 per front foot (according to plot [sic] thereof) on any lot in the University Heights Subdivision in any one year (.)".

There is no provision in the Trust for special assessments.

5.2 The phrase quoted in 5.1 of this Article V is deleted in its entirety and the following substituted in lieu thereof:

"full power and authority to assess lots in the University Heights according to the Plat, at a rate not to exceed \$3.00 per front foot (according to the Plat) in any one year (the "Annual Assessment"), EXCEPT, commencing with the Annual Assessment for the calendar year 2006, the Trustees may increase the amount of the Annual Assessment by up to \$0.25 for any calendar year on a non-cumulative basis. The total amount of the Annual Assessment may be increased or decreased from time to time. Subject to the annual limit prescribed herein, there shall be no limit on the Annual Assessment."

- 5.3 Assessments in addition to the Annual Assessment ("Special Assessments" or a "Special Assessment") may be made at any time or from time to time by the Trustees but only upon an affirmative vote of 51% of the residential lots in University Heights. The manner of voting on any Special Assessment shall be as prescribed in Article III above.

## VI

### PROVISION TO CONFORM ARTICLE III TO PRIOR AMENDMENT

- 6.1 The second sentence of Section 6, Article III of the Trust contains provisions relative to amendment of the Trust. Due to the Final Order, Judgment and Decree by the Circuit Court of the County of St. Louis, Missouri, in the matter of Theresa Biggs vs. Ronald Scott, et. al. (Cause No. 01CC-0003742) on November 5, 2001, a copy of which was recorded in the Recorder's Office on February 10, 2004, in Book 15631, Page 1997, said sentence should be and hereby is deleted in its entirety and the following substituted in lieu thereof:
- A. Amendments to the Trust will become effective upon approval by owners of lots in University Heights representing a majority of the residential lots in University Heights and recordation of the relevant Amendment or Amendments in the Recorder's Office.
  - B. Owners of any residential lot in University Heights will, for the purposes of Amendments to the Trust, decide among themselves how their vote for or against any Amendment may be cast. For each residential lot owned, only one vote will be cast. If a residence occupies more than one lot, the owners of that residence shall have votes equal to the number of lots occupied by the residence.
  - C. Certification by owners of their ownership of a particular lot (designated by street address or otherwise) shall, absent fraud, be conclusive without further inquiry by the Trustees, any other owners of any other lots or any other interested persons or organizations.
  - D. As used in this Section 6.1, "residential lot" or "residential lots" means a lot or lots used solely for single family residential purposes.

E. Any Amendment to the Trust shall be evidenced by a document in counterpart (or otherwise) setting forth the relevant Amendment or Amendments, bearing the requisite number of signatures of owners and reciting compliance with these requirements being recorded in the Recorder's Office.



IN WITNESS WHEREOF, the undersigned, each hereby certifying as to his or her own signature (but not as to the signatures of others), that they maintain their primary residence in University Heights at the address set forth opposite their respective names, have executed this Agreement as of the day and year first above written.

NAME(S)

ADDRESS

SIGNATURE(S)

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