
Space Above for Recorder's Use Only

DOCUMENT COVER SHEET

Title of Document: Use and Maintenance Agreement

Date of document: _____, 2021

Grantor: Parkview Agents
Address: c/o Randy Getz, President
6330 Waterman Ave.
St. Louis, MO 63130

Grantee: **Owner-1 and Owner-2, Relationship**
Address: 000 Westgate Avenue
St. Louis, MO 63130

Full legal description: See Exhibits "A" and "B" attached

Reference book and page: N/A

Upon recordation this instrument
should be returned to:
Abby E. Schaberg, Esq.
Jenkins & Kling, P.C.
150 N. Meramec Avenue, Suite 400
St. Louis, Missouri 63105

USE AND MAINTENANCE AGREEMENT

THIS USE AND MAINTENANCE AGREEMENT (this “*Agreement*”) is entered into as of the _____ day of _____, 2021 by and between the Parkview Agents, an unincorporated association, pursuant to the authority granted in the Indenture (hereinafter defined), duly elected, and acting by and through its president, Randy Getz (the “*Agents*”), and **Owner-1 and Owner-2, relationship** (collectively, “*Owner*”).

WITNESSETH:

WHEREAS, the Parkview neighborhood is a neighborhood of approximately 254 homes bounded by Skinker Boulevard, Delmar Boulevard, Melville Avenue, and Forest Park Parkway (“*Parkview*”), as set forth on a certain subdivision plat recorded with the Recorder of Deeds for St. Louis City, Missouri in Plat Book 17 at Pages 42 and 43, and with the Recorder of Deeds for St. Louis County, Missouri in Plat Book 6 at Page 22 (the “*Plat*”); and

WHEREAS, Parkview is subject to a certain trust indenture recorded with the Recorder of Deeds for St. Louis City, Missouri in Book 1910 at Page 1, Book 1923 at Page 47, and with the Recorder of Deeds for St. Louis County, Missouri in Book 174 at Page 112 and Book 176 at Page 282, as amended (the “*Indenture*”); and

WHEREAS, Owner is the owner of **Lot # in Block 8** located in Parkview (“*Lot #*”), a legal description of which is attached hereto as Exhibit “A” and incorporated herein by reference (the “*Owner’s Property*”).

WHEREAS, a survey of the subject property of Parkview is attached hereto as Exhibit “B” and incorporated herein by reference (the “*Survey*”); and

WHEREAS, the Survey depicts a certain private 15’ wide alley located in the back of all of the lots along Westgate Avenue (the “*Parkview Private Alley*”); and

WHEREAS, the area within the Parkview Private Alley marked on the Survey is currently unimproved greenspace; and

WHEREAS, the Indenture creates and grants easements in, over and upon certain portions of the land designated and delineated upon said Plat as avenues, streets, walks, parks and alleys, the object, duration, nature and extent of which are stated therein; and

WHEREAS, Agents, on behalf of and in trust for the lot owners of Parkview, are charged with protecting certain easements and rights guaranteed to all lot owners in the Indentures; and

WHEREAS, Owner desires to fence in and maintain as greenspace a portion of the Parkview Private Alley as it exists behind and directly adjoining the Owner’s Property (the “*Lot # Adjacent Alley Area*”) and the Agents are willing to delegate their duties under the Indenture to Owner to permit Owner to preserve as a through-fare the Lot # Adjacent Alley Area, pursuant to Owner’s request.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing recitals are true and correct in all material respects.

2. Maintenance of Alley Area. The Agents hereby delegate and authorize Owner to maintain the Lot # Adjacent Alley Area consistent with the terms of this Agreement. Except for the fence permitted expressly pursuant to the terms of Section 3, Owner hereby agrees not to construct, erect, install, or maintain any building, other structure or improvement, or permanent, semi-permanent, or otherwise non-easily removable plants or other landscaping on, under, or within the Lot # Adjacent Alley Area, including, without limitation, any dedicated animal run or enclosure/area, fixed planters (including, by way of example and not limitation, masonry or concrete planters), or children's play equipment. Owner shall maintain the Lot # Adjacent Alley Area in good condition in accordance with this Agreement at Owner's sole cost and expense.

3. Temporary Privacy Fence. Owner shall be permitted to construct and maintain a temporary wooden privacy fence enclosing all or a portion of the Lot # Adjacent Alley Area (the "**Temporary Privacy Fence**") with the prior, written consent of the Agents and the lot owners of the other lots adjacent to the Owner's Property ("**Adjacent Owners**"). The Temporary Privacy Fence shall not extend beyond the side property lines of the Owner's Property as drawn on the Survey or beyond the western boundary of the Parkview Private Alley, and shall not be erected of any type of permanent stone, masonry, concrete, or similar materials. Plans and designs for the Temporary Privacy Fence, including, without limitation, a survey depicting the location of the Temporary Privacy Fence, a description of the materials to be used, and a rendering of the Temporary Privacy Fence noting its dimensions, shall be submitted to the Agents and the Adjacent Owners together with the Owner's request for consent and approval of the Temporary Privacy Fence, which shall not be unreasonably withheld, but the Agents and/or Adjacent Owners may place reasonable conditions on such consent and approval. The Temporary Privacy Fence shall comply with all other applicable restrictions, rules, law, and regulations. The Temporary Privacy Fence shall be the only structure permitted on the Lot # Adjacent Alley Area.

4. **Owner hereby acknowledges and agrees that any and all rights or permissions granted by the Agents to Owner to construct and maintain the Temporary Privacy Fence or otherwise under this Agreement shall be subject to any and all restrictions of record, including, without limitation, the easements, licenses, and/or other rights to use the Parkview Private Alley granted to third parties and public utilities, which shall be superior to the rights of Owner under this Agreement. Owner shall construct and maintain the Temporary Privacy Fence on the Lot # Adjacent Alley Area at its own risk.**

5. No Admission. It is expressly understood that neither the offer nor any provision of this Agreement, including, without limitation, the licenses granted hereunder, will constitute or be construed as an admission or acknowledgement of the status of ownership over the Lot # Adjacent Alley Area by either Owner or Agents.

6. Indemnification. Owner hereby agrees to hold the Agents and the Agents' successors and assigns harmless and to defend and fully indemnify the Agents against any and all claims, demands, losses, liabilities, damages, judgments, and expenses incident to the defense of any claim or liability, in connection with or arising from Owner's maintenance of the Lot # Adjacent Alley Area, Owner's use of the Lot # Adjacent Alley Area, the existence, construction, or maintenance of the Temporary Privacy Fence by Owner as contemplated by this Agreement, injury to persons or property of others on or about the Lot # Adjacent Alley Area that arises out of any act of Owner or its failure to act in connection with the maintenance of the Lot # Adjacent Alley Area, and/or the negligence of Owner, its agents, invitees, contractors, or employees.

7. Termination of Agreement. Pursuant to the Indenture, the Agents must maintain the right to reclaim the use and maintenance of the Lot # Adjacent Area. The Agents hereby have the right to reclaim use and maintenance of the Lot # Adjacent Alley Area by terminating this Agreement should a majority of the then-acting Agents find, based on the good faith determination of the Agents, that termination is: (i) reasonably in the best interests of all or a portion of the neighborhood; (ii) reasonably necessary or desirable for the health, safety, or welfare of all or a material portion of the neighborhood (including, without limitation, that the Lot # Adjacent Alley Area or any portion thereof is necessary or desirable for the construction of a security fence, privacy fence, sound wall, or other barrier around all or a portion of the neighborhood); (iii) when circumstances reasonably necessitate or make it desirable that the Lot # Adjacent Alley Area be returned to a use consistent with vehicular access upon or across the Lot # Adjacent Alley Area or a portion thereof; or (iv) reasonably necessary or desirable to protect the neighborhood or Agents from liability or otherwise preserve the value or assets of the neighborhood, or any portion thereof. Upon such determination of a majority of the then-acting Agents, the then-acting Agents may unilaterally execute and record a termination of this Agreement in the real estate records for St. Louis County, Missouri and provide notice of the same to Owner. The then-current Owner may terminate this Agreement by providing notice of termination to the then-acting Agents, at which time the then-current Owner or then-acting Agents may unilaterally execute and record a termination of this Agreement in the real estate records for St. Louis County, Missouri. Upon any such termination, Owner shall promptly remove the Temporary Privacy Fence together with any and all other landscaping and improvements on the Lot # Adjacent Alley Area, if any, at Owner's sole cost and expense.

8. Appurtenances. All provisions of this Agreement, including the benefits and burdens, shall constitute covenants which run with the land and shall be binding upon and inure to the benefit of all future owners of the Owner's Property and their heirs, successors, assigns, tenants and personal representatives.

9. Attorneys' Fees. In the event of any action or proceeding brought by either party against the other, under or pursuant to or in the enforcement of the terms and provisions of this Agreement, the prevailing party shall be entitled to recover (and the non-prevailing party shall be obligated to pay) all costs and expenses incurred by the prevailing party in connection therewith including reasonable attorneys' fees (as determined by court action) and court costs.

10. Insurance. Owner shall at all times during the term of this Agreement maintain a homeowner's insurance policy on the Owner's Property and the Lot # Adjacent Alley Area.

11. Amendment. This Agreement cannot be changed, modified or amended in any respect except by a written instrument signed by all the parties.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF, the Agents and the Owner have executed this Agreement as of the day and year first above written.

“Agents”
Parkview Agents

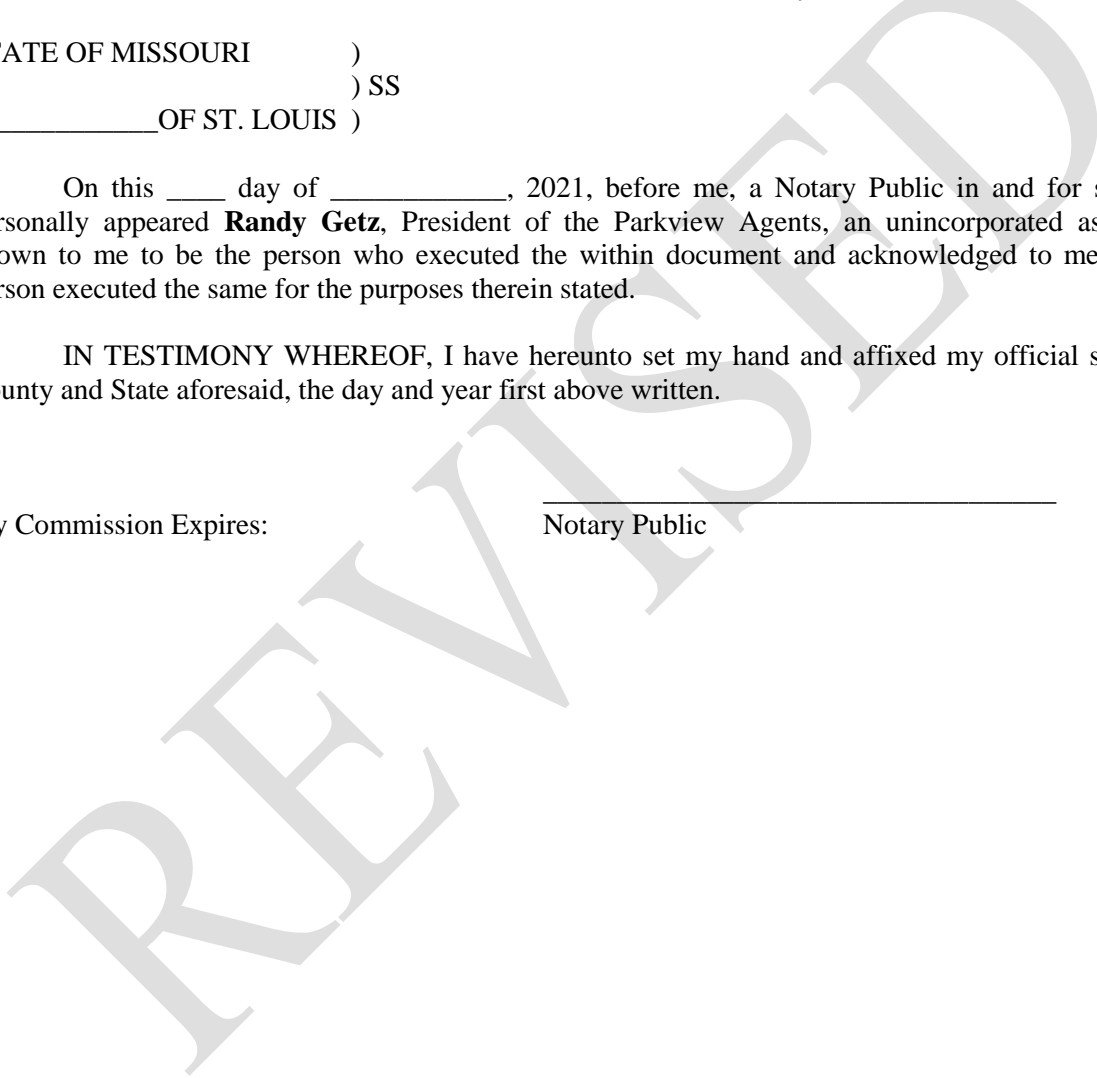
By: _____
Randy Getz, President

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

On this ____ day of _____, 2021, before me, a Notary Public in and for said state, personally appeared **Randy Getz**, President of the Parkview Agents, an unincorporated association, known to me to be the person who executed the within document and acknowledged to me that said person executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My Commission Expires: _____
Notary Public



“Owner”

Owner-1

Owner-2

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

On this ____ day of _____, 2021, before me, a Notary Public in and for said state, personally appeared **Owner-1**, known to me to be the person who executed the within document and acknowledged to me that said person executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My Commission Expires:

Notary Public

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

On this ____ day of _____, 2021, before me, a Notary Public in and for said state, personally appeared **Owner-2**, known to me to be the person who executed the within document and acknowledged to me that said person executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My Commission Expires:

Notary Public

EXHIBIT "A"

LOT # IN BLOCK 8 OF PARKVIEW, A SUBDIVISION IN ST. LOUIS COUNTY, MISSOURI, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 6 PAGE 22 OF THE ST. LOUIS COUNTY RECORDS.

REVISED

