

INDENTURE OF TRUST AND RESTRICTIONS FOR

SHADOWOOD

ST. LOUIS COUNTY, MISSOURI

THIS INDENTURE, made and entered into this 28th day of March, 1969 by and between ROLWES DEVELOPMENT COMPANY, INC., a Missouri Corporation, "First Party", and EDWARD H. GIVENS, EDWARD A. ROLWES and DOUGLAS C. BURNS, all of St. Louis County, Missouri, "Trustees",

WITNESSETH, THAT:

WHEREAS, the St. Louis County Council, by Ordinance No. 4873 approved the development plan for THE VILLAGE OF THREE PARKS, as described herein, in accordance with the Planned Environmental Developmental Ordinances, so that plat of said tract may now be recorded; and

WHEREAS, First Party has recorded the plat of THE VILLAGE OF THREE PARKS, on this, the 28th day of March, 1969, as Daily No. 351 in the St. Louis County Recorder's Office pursuant to and in conformity with the aforesaid ordinance; and

WHEREAS, common land for park and recreational areas has been reserved in THE VILLAGE OF THREE PARKS, and

WHEREAS, there may be designated, established and recited on the recorded plat of THE VILLAGE OF THREE PARKS, certain streets, common land and easements which are the exclusive use and benefit of the residents of THE VILLAGE OF THREE PARKS, except those streets or easements which are or may hereafter be dedicated to public bodies and agencies, and which have been provided for the purpose of constructing, maintaining, and operating sewers, pipes, poles, wires, storm water drainage, parks and other facilities and public utilities for the use and benefit of the residents of THE VILLAGE OF THREE PARKS, and

WHEREAS, it is the purpose and intention of this indenture to preserve said tract of land as a restricted neighborhood and to protect the same against certain uses by the adoption of a sound urban environment plan and scheme of restrictions to all of said land described herein, including all common land, and mutually to benefit, guard and restrict the future residents of THE VILLAGE OF THREE PARKS and to foster their health, welfare and safety; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, and all of which are sometimes hereafter termed "restrictions", are jointly or severally for the benefit of all persons who may purchase, hold or reside upon, any of the lots covered by this instrument; and

WHEREAS, First Party, by deed simultaneously herewith, has conveyed to the Trustees herein designated and has established, as common land, the property described herein; and

WHEREAS, said deed conveys the property described therein to the said Trustees for a period of fifty (50) years after which fee simple title to said property will vest in all the then record owners of the lots and dwelling units in the recorded plat of THE VILLAGE OF THREE PARKS, as tenants in common, but the rights of such tenants in common will be appurtenant to and in conjunction with their ownership of lots and dwelling units in THE VILLAGE OF THREE PARKS, will carry with it ownership in common property, so that none of the owners of lots or dwelling units in THE VILLAGE OF THREE PARKS, and none of the owners of the common property will have such rights of ownership as will permit them to convey their interest in the common property except as an incident to the ownership of such lot

or dwelling unit, and any sale of any lot or dwelling unit in THE VILLAGE OF THREE PARKS, will carry with it, without specifically mentioning it, all the incidents of ownership of the common property; PROVIDED, HOWEVER, that all the rights, powers and authority conferred upon the Trustees of THE VILLAGE OF THREE PARKS, shall continue to be exercised by the Trustees.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements made by the parties hereto each to the other, the parties hereto COVENANT and AGREE to and with each other, collectively and individually, for themselves, their heirs, successors and assigns, and for and upon behalf of all persons who may thereafter derive title to or otherwise hold through them, together with their heirs, successors, or assigns, any of the lots and parcels of land in THE VILLAGE OF THREE PARKS, all as described herein as follows, to-wit:

I.

RESERVATION OF EXPENDITURES

First party reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by it for sewers, gas pipes, water pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the creation of THE VILLAGE OF THREE PARKS.

II.

DESIGNATION AND SELECTION OF TRUSTEES

The trustees shall be David N. Levinson, Edward Balk and Donald D. Reynolds, designated herein as Trustees, who, by their signatures to this instrument, consent to serve in such capacity. Whenever any of said Trustees resigns, refuses to act, becomes disabled or dies, the remaining Trustees or Trustee shall appoint a successor or successors until such time as set forth in Article II, Section 2, in the Indenture for Planned Unit Development, Multiple Lot "D", Village of Three Parks, St. Louis County, Missouri. In the event WIETHAUP DEVELOPMENT CORPORATION or THE VILLAGE OF THREE PARKS, INC., shall transfer all of the remaining unimproved lots in the subdivision to another developer for purposes of construction, all of the Trustees may resign in favor of Trustees nominated by such transferee. Upon the completion of the construction program, or under the provisions of Article III, Section 2, whichever occurs first, a meeting of the then record owners in fee simple title to all lots in THE VILLAGE OF THREE PARKS shall be called by notice of meeting signed by at least three (3) lot owners sent by first class mail to, or personally served upon, all of such record lot owners at least ten (10) days before the date fixed for the meeting, for the purpose of electing new Trustees. The notice shall specify the time and place of the meeting, which place shall be in St. Louis County, Missouri. At such meeting the owner (or owners) of each single-family dwelling unit shall have one vote (i.e., the owner(s) of a single-family residence shall have one vote; the owner(s) of a multiple-family structure shall have a vote for each dwelling unit in the multiple-family structure). The owner(s) of an unimproved lot shall have one vote for each such unimproved lot. A majority of all votes cast shall have the power to elect new Trustees, each Trustee being elected

separately. After three (3) have been elected by lot, one shall serve for a term of one (1) year, one for a term of two (2) years and one for a term of three (3) years, their successors being elected to terms of three (3) years each. Meetings thereafter shall be called by the Trustees, with notices given in the same manner as hereinbefore provided, and any business relevant or pertinent to the affairs of THE VILLAGE OF THREE PARKS maybe transacted at any meeting of lot owners called in conformity with this procedure.

III.

TRUSTEES DUTIES AND POWERS

First Party hereby invests Trustees and their successors with the rights, powers and authorities described in this instrument, and with the following rights, powers and authorities, with the exception that Multiple Lot "D" shall be solely controlled by the directors of Multiple Lot "D" of THE VILLAGE OF THREE PARKS, whose duty it shall be to carry out the provisions of this instrument wherein it applies to Multiple Lot "D".

1.) To acquire and hold the common land conveyed to the Trustees by separate instrument on given date herewith, which said common land is set forth and shown on the plat of THE VILLAGE OF THREE PARKS, all in accordance with and pursuant to the aforesaid ordinance of the St. Louis County Council and in accordance with and subject to the provisions of this instrument, and to deal with any common grounds so acquired under the provisions hereinafter set forth.

2.) To exercise such control over the easements, streets and roads (except for those easements, streets and roads which are now or may hereafter be dedicated to public bodies or agencies), entrances, lights, gates, common land, park areas, lakes (including restrictions of use of same), shrubbery, storm water sewers, sanitary sewer trunks and lateral lines, pipes, and disposal and treatment facilities as may be shown on the plat of THE VILLAGE OF THREE PARKS, as is necessary to maintain, repair, rebuild, supervise and insure the proper use of said easements, streets, and roads, etc., by the necessary public utilities and other, including the right (to themselves and others to whom they may grant permission) to construct, operate and maintain on, under and over said easements and streets, sewers, pipes, poles, wires and other facilities and public utilities for services to the lots shown on said plat.

3.) To exercise control over the common land shown on said plat and pay real estate taxes and assesments on said common land out of the general assesment herein provided; to maintain and improve same with shrubbery, vegetation, decorations, buildings, recreational facilities of any kind or description, other structures, and any and all other types of facilities in the interest of health, welfare, safety, morals, recreations, and entertainment, education and general use of the owners of lots in THE VILLAGE OF THREE PARKS, all in conformity with applicable laws; and to prescribe by reasonable rules and regulation the terms conditions of the use of common land, all for the benefit and use of the owners of the lots in THE VILLAGE OF THREE PARKS and according to the discretion of the Trustees.

4.) To dedicate to public use any private streets constructed or to be constructed on the aforescribed tract of land, whenever such dedication

would be accepted by a public agency, in the event the recorded plat does not provide for public use and maintenance.

5.) To grant easements for public streets, sewers, and utilities on and over the common land herein described.

6.) to prevent, as Trustees of an express trust, any infringement and to compel the performance of any restriction set out in this Indenture or established by law, and also any rules and regulations issued by said Trustees covering the use of said common land or any matters relating thereto. This provision is intended to be cumulative and not to restrict the right of any lot owner to proceed in his own behalf, but the power and authority herein granted to the Trustees is intended to be discretionary and not mandatory.

7.) To clean up rubbish and debris and remove grass and weeds from, and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any vacant or neglected lots or property, and the owners thereof may be charged with the reasonable expenses so incurred. The Trustees, their agents or employees shall not be deemed guilty or liable for any matter of trespass or any other act for any such injury, abatement, removal or planting.

8.) To consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings, outbuildings, accessory buildings, swimming pools or tennis courts proposed for construction and erection on said lots, proposed additions to such buildings or alterations in the external appearance of buildings already constructed, it being provided that no buildings or structures, fences, detached buildings, outbuildings, accessory buildings, swimming pools, tennis court or other structures may be erected or structurally altered on any said lots unless there shall be first had the written approval of a majority of the Trustees to the plans and specifications therefore and to the grade proposed therefore. In the event the Trustees fail to approve or disapprove within thirty (30) days after building plans or other specifications for fences, swimming pools, or tennis courts, accessory buildings and other outbuildings have been submitted to them hereunder, approval will not be required and the related restrictions shall be deemed to have been fully complied with.

9.) To require a reasonable deposit in connection with the proposed erection of any building or structure, fence, detached building, outbuilding, swimming pool, tennis courts or other structure on any of said lots in order to provide that upon completion of the project, all debris shall be removed from the site and from adjacent lots, and that any and all damages to subdivision improvements shall be repaired.

10.) To establish rules and regulations for the operation of recreational facilities and swimming pool, if the same are provided in the common areas, and employ personnel to supervise and operate the same. The regulations shall include the conditions under which residence may entertain guest in such facilities, including the charges to residents for such guests.

11.) To purchase and maintain in force liability insurance protecting the Trustees and lot owners from any and all claims for personal injuries and property damage arising from use of common areas and facilities.

12.) In exercising the rights, powers and privileges granted to them and in discharging the duties imposed upon them by the provisions of this indenture, from time to time to enter into contracts, employ agents, servants and labor as they may deem necessary, to employ counsel to institute and prosecute such suits as they may deem necessary or advisable, and to defend suits brought against them individually or collectively in their capacity as Trustees.

At such time (fifty years after the date of any warrenty deed by with the Trustees aquired the common land) as the then lot owners of THE VILLAGE OF THREE PARKS become the owners of part or all of the common land therefore conveyed to and held by the Trustees, the Trustees shall continue to excercise all the same rights and authorities and have the same duties and responsibilities with respect to said common land as hereinbefore set forth, and particularly, the Trustees shall continue to collect for and make payment of the real estate taxes with may be levied on the common land by St. Louis County and/or by other governmental body or agency.

IV.

ASSESSMENTS

The Trustees and their successors in office are hereby authorized, empowered, and granted the right to make assessments upon and against lots in Village of Three Parks, for the purpose herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument, with the exception that this article shall not conflict with Article IV of the Indenture for Planned Unit Development, Multiple Lot "D", Village of Three Parks, St. Louis County, Missouri. In the event that any assessment under this Article conflicts with Article IV of Multiple Lot "D" Indenture, then the Multiple Lot "D" Indenture shall take precedent, to the exclusion of this Indenture, any provisions of this Indenture to the contrary, notwithstanding.

1.)(a) The Trustees and their successors in office are authorized to make uniform annual assessments in an amount not to exceed Fifty Dollars (\$50.00) per lot in each calendar year upon and against each lot in THE VILLAGE OF THREE PARKS, upon which residence has been constructed and sold either by First Party or by any other builder, and in an amount not less than one half the annual rate paid by each single family unit, against each completed multiple family dwelling unit, for the purpose of carrying out any and all of the general duties and powers of the Trustees hereunder and for the further purpose of enabling the Trustees to defend and enforce restrictions, adequately to maintain streets, if required, common land, utilities, parking spaces, entrance gates and trees, and to dispose of garbage or rubbish, to perform or execute any powers or duties provided for in this instrument, or otherwise properly to protect the health, safety and general welfare of the residents in THE VILLAGE OF THREE PARKS. Each annual assessment shall be levied prior to December 31st in the year prior to the year for which it is levied, notice thereof being given by first class mail addressed to the last known or usual postoffice address of the owner and deposited in the United States mail with postage prepaid, or by the posting of a notice of the assessment upon the residence or dwelling unit against which it applies, by said December 31st. Each such annual assessment shall be due on March 1st following and shall become delinquent if not paid by April 1st.

(b) In addition to the foregoing authority to make a uniform annual assessment for the purpose of carrying out their general duties and powers,

should a recreation facility and/or a swimming pool, PROVIDED, HOWEVER, that no such assessment shall be levied until the facility and/or pool have been completed and no part of such assessment shall be expended in payment for the original construction. The Trustees are further authorized to obtain additional funds through dues to be paid by those residents of THE VILLAGE OF THREE PARKS, who elect to use the facility and/or pool. The words "multiple family unit," as used herein, shall mean an apartment or living unit for one family in a multiple family building.

(c) If at any time the Trustees consider it necessary to make any expenditure requiring an assessment additional to the annual assessment, they shall submit a written outline of the contemplated project and the amount of the assessment required, to the then owners of residences and dwelling units. If such assessment is approved, either at a meeting of the owners of residences and dwelling units called by the Trustees, by fifty-five (55%) percent of the votes cast in person or by proxy, or on written consent of fifty five (55%) percent of the total votes, the Trustees shall notify all owners of the additional assessment; PROVIDED, HOWEVER, that in determining such required fifty five (55%) percent majority, each owner of a single family residence shall be entitled to one (1) vote and each owner of a multiple-family dwelling unit shall be entitled to one-half (1/2) of a full vote, except that only those who have paid all assessments theretofore made, shall be entitled to vote on any question. The limit of the annual assessment for general purposes as set forth in (1)(a) above, shall not apply to any assessment made under the provisions of this paragraph. Notice of such special assessment shall be given in the same manner as notices of annual assessments are given, with such assessments becoming delinquent thirty (30) days after the date of such notice.

(d) Should a residence or multi-family building become a subject to assessments after January 1 in any year, and should an annual or special assessment have been levied for that year, then such assessment shall be adjusted so that such residence or dwelling unit shall be charged with a portion of the assessment pro rated for the balance of that year.

2) All assessments shall bear interest at the rate of eight (8%) percent per annum from the date of delinquency. After the date of delinquency, at the election of the trustees, either legal action to collect the same may be instituted against such owner, in which case the cost of attorney's fees to effect collection as well as court costs incurred will be charged to the owner or the Trustees may execute and acknowledge an instrument reciting the levy of the assessment and cause the same to be recorded in the Recorder's Office of St. Louis County, Missouri and the amount of that assessment together with interest shall become a lien against the property upon which the levy was made, subordinate only to general taxes and deeds of trust of record. In this event, the Trustee shall have the right to sell said property in the same manner as is authorized by Missouri law for sale of the property under deeds of trust, with notice of sale being published in the manner required by such law. In addition to the amount of said lien and interest, there shall be added the costs of foreclosure, including the costs of attorney's fees. Should an owner pay an assessment after the recording of a notice thereof, as herein provided, the Trustees shall release said lien, after an additional fee of Ten (\$10.00) Dollars has been added for the Trustee's expense in the recording of said instrument in the Recorder's Office of St. Louis County, Missouri.

3) The Trustees shall deposit the funds coming into their hands as

Trustees in a bank protected by the Federal Deposit Insurance Corporation or in a savings and loan association protected by the Federal Savings and Loan Insurance Corporation, the treasurer being bonded for the proper performance of his duties in an amount fixed by the trustees.

4) The Trustees are authorized and empowered to procure such insurance, including but not limited to public liability and property damage, as they may deem necessary and proper.

V.

INDENTURE OF RESTRICTIONS

First Party being the owner of the following described real estate lying and being situated in St. Louis County, Missouri, and being more particularly described as:

Lots 1 thru 134, both inclusive and common area as described on attached sheet of The Village Of Three Parks, a subdivision of St. Louis County, Missouri, according to the plat thereof recorded in the Office of Recorder of Deeds, St. Louis County, Missouri, on the 28th day of March 1969, as Daily No.351, being all the property included in the plat of said Village Of Three Parks, by this indenture does impose upon all lots and common land in The Village Of Three Parks, the following restrictions and conditions, to wit:

(1) Term: These restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time these covenants shall be automatically extended for continuing successive terms of ten (10) years each unless an instrument, signed by the then owners of a majority of the lots and dwelling units (each dwelling unit being considered one-half of one lot in determining whether there is a majority) in The Village Of Three Parks, has been recorded, agreeing to change these covenants in whole or in part.

(2) Land Use and Building Type: All lots in The Village Of Three Parks, other than common area (see legal desc.), shall be used only for single family residential purposes, and no building shall be erected, placed, altered or permitted to remain on any of said lots other than single family residences not to exceed two stories in height. Lots created in "Multiple Lot D" shall be used only for single-family dwellings and all buildings on said lots shall be erected and placed in the manner shown on the development plan filed with the Planning Commission of St. Louis County, Missouri.

(3) Dwelling Cost, Quality and Size: The construction costs of each single family dwelling hereafter to be constructed on Sherwood Drive, Sherwood Court and Elksforth Court, being lots 1 through 45, inclusive, of The Village Of Three Parks according to the plat thereof recorded in plat book 128, Pages 52 and 53, of the St. Louis County Records, shall be the sum of not less than \$12,000.00, and the dwellings shall be constructed of such materials and be of such quality and workmanship as will maintain the said lots as a desirable single family residential area. The size of the said single family residences, exclusive of garages and open porches, shall not be less than 1,000 square feet on the ground floor of any single story dwelling, 1,200 total square feet in any two story dwelling or 1,100 total square feet in any stroy and a half dwelling. The construction costs of each single family dwelling hereafter to be constructed on Chesswood Drive,

Grants Parkway and Dawnview Drive, being Lots 46 through 134, inclusive, of The Village Of Three Parks according to the plat thereof recorded in Plat Book 128, Pages 52 and 53, of the St. Louis County Records, shall be the sum of not less than \$9,000.00, and the dwellings shall be constructed of such materials and be of such quality and workmanship as will maintain the said lots as a desirable single family residential area. The size of the said single family residences, exclusive of garages and open porches, shall not be less than 725 square feet in the ground floor of a one story dwelling, 775 total square feet in a one and one-half story dwelling and not less than 850 total square feet in a two-story dwelling.

(4) Placement of Improvements: Residence buildings shall be placed on lots only in the manner approved by the Trustees, with the front and side buildings set-back lines being at least those required by St. Louis County zoning ordinances for the subdivision, with the exception that this clause shall not apply to Multiple

(5) Easements: The easements shown on the record plat for installation and maintenance of utilities and drainage facilities are hereby reserved and the same shall run with the land.

(6) Entrance Way: The board shall maintain the entrance way or ways into the subdivision and pay the cost of electricity consumed for lighting such entrance way or ways and the streets in the subdivision.

(7) Signs: No signs shall be erected or displayed in public view on any lot except one (1) sign, not larger than five (5) square feet, advertising the property for sale or rent, EXCEPT, THAT, any signs may be erected by First Party, its agents or builders, in the development of the subdivision. Should First Party not develop all the lots and should it convey lots to other builders, the Trustees may grant such other builders or developers the right to place suitable signs on lots during construction and prior to initial sale of the residence constructed thereon.

(8) Livestock and Poultry: No animals, livestock or poultry shall be raised, bred or kept on any lot, EXCEPT, THAT, household pets, in limited numbers, may be kept provided they are not maintained for commercial purpose.

(9) Fences: No fence or screening shall be erected or maintained on any lot between the building set-back lines and the street upon which that lot fronts. Fences may be maintained on other portions of lots only with written consent of the Trustee as to locations, materials used and heights of fence. The decision of the Trustee shall be conclusive.

(10) Nuisances: No noxious or offensive activity shall be carried on on any lot, nor shall anything be done thereon which may be or become a nuisance or annoyance.

(11) Invalidation: Invalidation of any one of the covenants of this Indenture shall in no way affect any other provision hereof.