

**MASTER DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR PRIVADA**

THIS MASTER DECLARATION of Covenants, Conditions, Restrictions and Easements for Privada (hereinafter termed the "Declaration") is made this 21<sup>st</sup> day of August, 2019, by **WISH IN ONE HAND ENTERPRISES, LLC** a Nebraska limited liability company (hereinafter sometimes termed "Declarant").

**WITNESSETH:**

WHEREAS, Declarant and Skrupa Investment Company, a Nebraska Corporation ("Skrupa"), are the owners and developer of approximately 184 acres of land in Omaha, Douglas County, Nebraska, known as Privada and legally described on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, in connection with the development of the Covered Property, Declarant may, without obligation, record various subdivision plats; dedicate portions of Privada to the public for streets, roadways, drainage, flood control, and general public use; and set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to portions of Privada; and

WHEREAS, Declarant desires to form a Master Owners Association for Privada Owners (as said terms are defined herein below), which Master Owners Association will: (1) own, construct, operate, manage and/or maintain a variety of Common Areas within Privada; (2) establish, levy, collect and disburse assessments and other charges imposed hereunder; and (3) as the agent and representative of the members of the Association, administer and enforce all provisions hereof; and

WHEREAS, the Declarant desires to subject all of the Covered Property to the Declaration as hereinafter set forth.

When Recorded Return To:  
James D. Buser  
Pansing Hogan Ernst & Bachman, LLP  
10250 Regency Circle, Suite 300  
Omaha, Nebraska 68114

0283135

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I  
DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

1.1 “Annual Assessment” shall mean the charge levied and assessed each year against each Lot and/or Tract pursuant to Article VII, Section 7.2 hereof.

1.2 “Arterial Street Frontage” shall mean those areas adjacent to the Covered Property designated as Arterial Street Frontage on the Common Area Plat.

1.3 “Articles” shall mean the Articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

1.4 “Assessable Property” shall mean any Lot and/or Tract, except such part of parts thereof as may from time to time constitute Exempt Property.

1.5 “Assessment” shall mean an Annual Assessment, Special Assessment, and/or Penalty Assessment.

1.6 “Assessment Lien” shall mean the lien created and imposed by Article VII, Section 7.1 hereof.

1.7 “Assessment Period” shall mean the time period set forth in Article VII, Section 7.6 hereof.

1.8 “Association” shall mean Privada Master Owners Association, a Nebraska not-for-profit corporation, which has been organized by Declarant to administer and enforce the Declaration and to exercise the rights, powers and duties set forth in this Declaration, its predecessors or successors, whether incorporated or unincorporated and assigns.

1.9 “Association Land” shall mean such part or parts of the Covered Property, together with any buildings, structures and Improvements thereon, and other real property the Association may at any time own in fee or in which the Association may at any time have a leasehold interest, for as long as the Association is the owner of the fee or leasehold interest.

1.10 “Board” shall mean the Board of Directors of the Association.

1.11 “Building” shall mean any building, garage, utility shed or building, or similar above ground structure.

1.12 “Bylaws” shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

1.13 “City” shall mean the City of Omaha, Nebraska.

1.14 “Common Area” shall mean (a) all Association Land and the Improvements thereon; (b) all land within the Covered Property which the Declarant by the Subdivision Agreement, this Declaration or other Recorded instrument, makes or is required to make available for common use by Members of the Association; (c) all land and Improvements within the Covered Property which by Plat or Recorded easement is to be used for signage, vehicular or pedestrian ingress and egress, sewers, landscaping, water retainage, drainage, entryways, monument signed, storm water detention facilities, and/or flood control for the common benefit of the entirety of Privada and/or the general public; and/or (d) all land within Privada which is owned privately or by a governmental agency, including the City, County or S.I.D., for which the Association has accepted responsibility for operation or maintenance, and for which the Association benefits by limited use, full use, or aesthetic consistency, for the general benefit of the Members.

1.15 “Common Area Plat” shall mean the Common Area Plat affixed hereto as Exhibit “B”, as amended from time to time.

1.16 “County” shall mean and refer to the County of Douglas, State of Nebraska.

1.17 “Covered Property” shall mean the real property situated in the City of Omaha, Douglas County, Nebraska legally described on Exhibit “A” attached hereto, and any and all Improvements completed thereon.

1.18 “Declarant” shall mean Wish In One Hand Enterprises, LLC, a Nebraska limited liability company, and the successors and assigns of Declarant’s rights and powers hereunder.

1.19 “Declaration” shall mean this Master Declaration of Covenants, Conditions, Restrictions and Easements, as amended or supplemented from time to time.

1.20 “Deed” shall mean a deed or other instrument conveying the fee title in a “Lot” or “Tract”.

1.21 “Developer” means a person or entity who is engaged in residential or commercial real estate development and who purchases one or more Lots or Tracts from the Declarant for the purpose of constructing Improvements thereon for sale or lease.

1.22 “Development Agreement” shall mean the Development Agreement between the City and Declarant dated June 19, 2019, as the same may be amended from time to time so long as an amendment does not materially impact lots not owned by the Declarant.

1.23 “Drainage Way” shall mean those portions of the Covered Property designated as Drainage Way on the Common Area Plat.

1.24 “Dwelling Unit” shall mean any building or portion of a building situated upon a Lot or Tract designed and intended for use and occupancy as a residence.

1.25 “Exempt Property” shall mean the following parts of Privada:

- (1) All land and Improvements owned by or dedicated to the United States, the State of Nebraska, Douglas County, the City of Omaha, the S.I.D. or any political subdivision;
- (2) All Association Land, for as long as the Association is the owner thereof; and
- (3) Outlots.

1.26 “Green Space” shall mean those portions of the Covered Property designated as Green Space on the Common Area Plat.

1.27 “Feature and Signage Area” shall mean those portions of the Covered Property designated as Feature and Signage Area on the Common Area Plat.

1.28 “Highway Commercial” shall those portions of the Covered Property designated as Highway Commercial on the Tract Map.

1.29 “Improvement” shall mean, but not be limited to, buildings, sheds, utility structures and improvements, roads, drives, dams, channels, basins, parking areas, lighting, walkways, fences, hedges, landscaping, mass plantings, walls, poles, signs, antennas, dish antennas, planted trees, and all other structures or landscaping improvements of every type and kind.

1.30 “Land Use Restriction” shall mean any land use restrictions imposed on the Outlots, Tracts and/or Lots pursuant to Article IV.

1.31 “Lessee” shall mean the Lessee under a lease of a Lot or Improvements constructed on a Lot.

1.32 “Lot” shall mean any area of real property within the Covered Property designated as a lot on any Plat.

1.33 “Maintenance Charges” shall mean any and all costs assessed against a Lot or Tract pursuant to Article X, Section 10.10 hereof.

1.34 “Master Plat” shall mean the Recorded final plat of Privada, a subdivision in Douglas County, Nebraska, a copy of which is attached hereto as Exhibit “C”.

1.35 “Member” shall mean any person or entity holding a Membership in the Association pursuant to this Declaration.

1.36 “Membership” shall mean a Membership in the Association and the corresponding rights, privileges and responsibilities of the Owners and Declarant pursuant to Article VI hereof.

1.37 “Multi-Family Tract” shall mean the Lots and Outlots encompassed within the Multi-Family Tract Area depicted on the Tract Plan.

1.38 “Non-Arterial Street Frontage Area” shall mean those portions of the Covered Property designated as Non-Arterial Street Frontage Area on the Common Area Plat.

1.39 “Notice” shall mean actual or constructive notice of any fact. Notice with respect to receipt of any document shall mean delivery of the document in person, by posting in accordance with Nebraska law delivery by or regular or certified mail. If delivery is by regular or certified mail, the effective date of notices shall be the date of delivery if personally delivered or the date of mailing if mailed.

1.40 “Outlot” shall mean an outlot as platted pursuant to the Master Plat or any subsequent Plat.

1.40 “Owner” shall mean the person or persons holding the beneficial ownership of the fee title to a Lot or Outlot as shown on the records of the Douglas County, Nebraska, Register of Deeds (including the purchaser under a contract of sale of real property within Privada), but shall not include persons holding only a security interest or a Lessee.

1.41 “Penalty Assessments” shall mean assessments imposed for violation of the Declaration, Articles, Bylaws or Privada Rules, pursuant to the procedures established from time to time by the Board. Such assessments shall be punitive in nature and may be imposed without regard to whether or not monies have been expended by the Association as a result of such violation.

1.42 “Period of Declarant Control” shall mean and refer to the period commencing on the date of this Declaration first set forth above and terminating on the earlier of: (a) the date the last of the Lots in each and every Tract within the Covered Property is conveyed to an Owner other than Declarant; or (b) any earlier date specified by the Declarant in a written notice to the Association that the Period of Declarant Control is to terminate on that Date.

1.43 “Permittee” shall mean all Owners, their Lessees or licensees, and each of their respective immediate family members, officers, directors, employees, agents, contractors, customers, vendors, visitors and invitees.

1.44 “Plat” shall mean the Master Plat and any subsequent Recorded final plats or replats of all or part of Privada.

1.45 “Recording” shall mean placing an instrument of public record in the office of the Register of Deeds of Douglas County, Nebraska, and “Recorded” shall mean having been so placed on public record.

1.46 “Resident” shall mean each natural person residing in a Dwelling Unit.

1.47 “Residential Association” shall mean the Residential Association created pursuant to the Residential Declaration.

1.48 “Residential Declaration” shall mean the Residential Declaration of Covenants, Conditions, Restrictions and Easements Recorded against the Residential Tract.

1.49 “Residential Tract” shall mean the Lots and Outlots encompassed within the Residential Tract Area depicted in the Tract Plan.

1.50 “Shoreline Buffer” shall mean any portions of the Covered Property designated as Shoreline Buffer on the Common Area Plat.

1.51 “S.I.D.” shall mean Sanitary and Improvement District No. 595 of Douglas County, Nebraska.

1.52 “Special Assessments” shall mean any assessment levied and assessed pursuant to Article VII, Section 7.3 hereof.

1.53 “Privada” shall mean the development encompassed by the Covered Property.

1.54 “Privada Rules” shall mean the rules for Privada adopted by the Board pursuant to Article V, Section 5.4 hereof.

1.55 “Storm Water Detention Pond Area” shall mean those portions of the Covered Property designated as Storm Water Detention Pond Area on the Common Area Plat.

1.56 “Streetscape Maintenance Agreement” shall mean the Streetscape and Entrance Sign Maintenance Agreement to be entered into by Declarant, the Association and the City for the maintenance of certain Privada improvements constructed within public right-of-way.

1.57 “Sub-Association” shall mean an owners’ association created within Privada other than the Master Association, as contemplated by Article V, Section 5.6 hereof.

1.58 “Subdivision Agreement” shall mean the Subdivision Agreement by and between the City and Declarant dated June 19, 2019, as the same may be amended from time to time.

1.59 “Subsequent Phase Declaration” shall mean any Amendment to the Declaration or Amended and Restated Declaration for the purpose of incorporating additional phases into the Privada.

1.60 “Supplemental Declaration” shall mean any declaration of covenants, conditions, restrictions and easements or similar document Recorded against a Tract or other part of Privada.

1.61 “Tract” shall mean a tract of land within Privada depicted as a tract on the Tract Plan; initially the Highway Commercial Tract, Residential Tract, and Multifamily Tract as depicted on the Tract Plan.

1.62 “Tract Plan” shall mean the plan illustrating the Tracts attached hereto as Exhibit “D” hereto.

1.63 “Undeveloped Future Phase Tract” shall mean the land encompassed within the Undeveloped Future Phase Tract Area depicted in the Tract Plan.

ARTICLE II  
PROPERTY SUBJECT TO THE PRIVADA DECLARATION

Declarant intends to develop Privada and to develop, improve, lease, sell and/or convey Lots. Declarant hereby declares that all of the real property within Privada is, and shall be, held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration and any Plats applicable thereto, as amended or modified from time to time; provided, however, property which is not part of a Lot or an Outlot and which is dedicated to the public or a governmental entity for public purposes shall not be subject to this Declaration. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of Privada and is established for the purpose of enhancing and protecting the value, desirability and attractiveness of Privada and every part thereof. This Declaration shall run with the Covered Property and with all Lots, Tracts and Association Land for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, Lessees and Residents and their successors in interest. Nothing in this Declaration shall be construed to prevent the Declarant from modifying the Development Agreement or Subdivision Agreement as may apply to any portion of Privada owned by the Declarant, from replatting Lots or Tracts or from dedicating or conveying portions of Privada owned by the Declarant, including streets or roadways, for uses other than as a Lot, Tract or Association Land. As long as the Declarant owns any Lot or Tract, Declarant approval is also required for any amendment to a Tract Plat which approval shall not be unreasonably held or delayed.

ARTICLE III  
COMMON AREA EASEMENTS

Section 3.1. Easements of Enjoyment. Every Owner and Permittee shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to suspend the voting rights and right to use the Association property and other Common Areas by any Member (i) for any period during which any Assessment against such Member's Lot remains delinquent or (ii) for a period not to exceed sixty (60) days for any infraction of this Declaration, or the Privada Rules, and for successive suspension periods if any such infraction is not corrected during any prior suspension period. The Member's obligation to continue to pay Assessments shall continue even though voting rights and the right to use the Association Property and other Common Areas has been suspended.
- (b) The right of the Association to grant easements, dedicate or transfer all or any part of the Common Areas to any public agency, authority, or private or public utility company for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by the Subdivision Agreement, zoning stipulations, or other agreements with the City effective prior to the date hereof or specified on a Plat, no such dedication or transfer shall be effective unless approved by the Declarant during the Period of Declarant Control and thereafter approved by the Owners representing at least seventy-five (75%) of the votes entitled to be cast by the Members. Notwithstanding the foregoing, the Board shall have authority to authorize the transfer to such public agencies, authorities or utility companies' easements and rights-of-way which are intended to benefit Privada and which do not have any substantial adverse affect on the enjoyment of the Common Areas by the Members.
- (c) The right of the Association to regulate the use of the Common Areas through the Privada Rules and to prohibit access to those Common Areas, such as landscaped rights-of-way and signage areas, not intended for use by the Members. The Privada Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Common Areas for the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Owners and Residents.

Section 3.2. Delegation of Use. Any Member may, in accordance with the Privada Rules and the limitations therein contained and this Declaration, delegate the right of enjoyment in the Common Areas to Permittees subject to the doctrine of respondeat superior.

#### ARTICLE IV LAND USE RESTRICTIONS AND PERMITTED USES

Section 4.1. Zoning Land Use Restrictions. No Owner of a Lot or Tract shall use such Lot or Tract for uses other than permitted uses for such Lot or Tract under the City approved zoning for Privada, including the Development Agreement, without the prior written approval of Declarant, which approval may be withheld in Declarant's sole discretion.



Section 4.2. Restrictions Applicable to Covered Property. The following uses shall not be permitted on any of the Covered Property:

1. Any business exclusively providing services for Off-track betting, bingo parlor, keno or other gambling establishment;
2. Vaping shop or marijuana dispensaries;
3. Car, truck or recreational vehicle repairing, rental, servicing, sale, display or leasing;
4. Adult book or video store (meaning any book or video establishment deriving more than five percent (5%) of its revenue from the sale, lease, rental or display of sexually explicit material of any kind);
5. Auction house;
6. Mobile home park;
7. Junkyard or stockyard;
8. Dumping, sorting, disposal, incineration or reduction of trash or garbage except for dumpsters and trash removal incidental to a permitted use;
9. Laundromat;
10. Funeral home or mortuary;
11. Check cashing business, except as incidental to the operation of a bank;
12. Payday loans;
13. Pawnshop; and
14. Tattoo or piercing parlor.

Notwithstanding the foregoing, the foregoing restrictions shall not prohibit the Owners from engaging in the foregoing uses as may be incidental to their primary business as long as such uses are not being offered to the general public for commercial gain.

Section 4.3. Restrictions Applicable to Residential Tract. The following covenants and restrictions shall apply only to Lots and the Owners and Residents within the Residential Tract.

- (a) Residential Use. All Dwelling Units shall be used, improved and devoted exclusively to residential use by a single family. No trade or business may be conducted on any Lot or in or from any Dwelling Unit, except that an Owner or other Resident of a Dwelling Unit may conduct a business activity within a Dwelling Unit so long as the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit, and is in compliance with all laws including licensing and zoning laws.
- (b) Tenants. The entire Dwelling Unit on a Lot may be leased to a single-family Lessee from time to time by the Owner, subject to the provisions of this Declaration. Lessees shall be bound by the terms of this Declaration and the Privada Rules. Owners shall continue to have financial liability for the acts or omissions of their Lessees.

Section 4.4. Restrictions Applicable to Multi-Family Tract. The Multi-Family Tract shall be used for purposes consistent with and in compliance with and as permitted by the City zoning regulations and the Development Agreement entered into with the City for such Tract.

Section 4.5. Restrictions Applicable to Highway Commercial Tract. The Highway Commercial Tract shall be used for purposes consistent with and as permitted by the City zoning regulations and the Development Agreement entered into with the City for such Tract.

## ARTICLE V ORGANIZATION OF ASSOCIATION

Section 5.1. Formation of Association. The Association shall be a Nebraska not-for-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 5.2. Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws as the same may be amended from time to time. The Board may also appoint various committees and appoint a manager or management company who shall, subject to the direction and supervision of the Board, be responsible for the day to day operation of duties and responsibilities assigned to the Association by this Declaration. The Board shall determine the compensation to be paid to officers or any employee, manager or management company. Unless this Declaration specifically requires a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

Section 5.3. Initial Board of Directors. The initial Board of the Association shall consist of not less than three (3) nor more than nine (9) Directors and shall be appointed by the Declarant upon the incorporation of the Association. One seat on the initial Board shall consist of an appointed representative of the Multifamily Tract.

Section 5.4. The Privada Rules. The Board may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations pertaining to: (i) the management, operation and use of the Common Areas including, but not limited to, any recreational facilities situated upon the Common Areas; (ii) minimum standards for any maintenance of Lots and Tracts; or (iii) the health, safety or welfare of the Owners and Residents. In the event of any conflict or inconsistency between the provisions of this Declaration and the Privada Rules, the provisions of this Declaration shall prevail. The Privada Rules shall be enforceable by the Association in the same manner and to the same extent as the covenants, conditions and restrictions set forth in this Declaration. The Privada Rules initially adopted by the Board and all amendments during the Period of Declarant Control shall be

effective only after approval by Declarant. After the expiration of the Period of Declarant Control, the Privada Rules may be amended by the Board.

Section 5.5. Personal Liability. No member of the Board or of any committee of the Association, no officer of the Association, and no other employee or representative of the Association shall be personally liable to any Member, or to any other person, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section 5.5 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

Section 5.6. Sub-Association. The Declarant shall have the right to form an owners or similar association for land property it owns pursuant to a Supplemental Declaration. In the event any owners or similar association is to be formed by a Developer (other than the Declarant) of a Tract or subdivision of a part of Privada, the Supplemental Declaration(s) and the articles of incorporation and bylaws or other governing documents for such Sub-Association(s) shall not be effective unless the contents thereof have been approved by the Declarant and in all events such Supplemental Declaration and Sub-Association(s) and the rights of its members shall be subject and subordinate to the provisions of this Declaration, the provisions of the Articles and Bylaws of the Association, and the provisions of the Privada Rules. Each Supplemental Declaration and Sub-Association may establish additional use restrictions, design standards or performance standards as long as they do not diminish the standards set forth in this Declaration.

## ARTICLE VI MEMBERSHIP AND VOTING

### Section 6.1. Membership and Voting.

- a) Membership of the Association. Except for Owners of Lots in the Residential Tract, each Owner of a Lot within the Covered Property shall be a Member of the Association. The Residential Association shall be a Member of the Association on behalf of the Owners of the Lots in the Residential Tract. Except as otherwise set forth in this Declaration, the decisions of the Association shall be determined by a majority of the total number of votes of the Members.
- b) Votes. Each Tract shall be allocated the percentage of total Member votes as set forth in Exhibit "E". The total number of votes allocated to the Lots shall be based on a formula (more fully set forth below) taking into account the actual acreage of each Lot with respect to the total acreage of the Tract within which each Lot is located. For this purpose, each Tract is allocated the percentage of total Member votes, as follows: (i) the Highway Commercial Tract shall have five and twenty-four hundredths percent (5.24%) of the total Member votes; (ii) the Multifamily Tract shall have sixteen and eleven hundredths percent (16.11%) of the total Member votes; (iii) the Undeveloped Future Phase Tract shall have thirty-four and ninety-one hundredths percent (34.91%) of the

total Member votes; and (iv) the Residential Tract shall have forty-three and seventy four hundredths percent (43.74%) of the total Member votes.

Except for the Lots within the Residential Tract, the total number of votes allocated to the Lots shall be the product of a fraction, the numerator of which is the actual acreage of a Lot and the denominator of which is the total acreage of the Tract in which the Lot is located, multiplied times the percentage of total Member votes allocated to the Tract. Exhibit "E" attached hereto sets forth the total acreage of each Lot, the total acreage of each Tract, and the total number of votes allocated to each Lot using the formula set forth above.

In the event that a Lot or Lots are replatted or combined, then the Member votes allocated to the subdivided or combined Lots shall be reallocated to the replatted Lots proportionately according to the acreage of the Lots as replatted or combined using the formula set forth above.

Section 6.2. Sub-Association Exercise of Voting Rights. The Residential Association shall have the right to cast all of the votes allocated to the Residential Tract and otherwise represent the Residential Tract as a Member of the Association. In the event that additional Sub-Associations are created for one or more of the other Tracts, if and to the extent provided for in a Supplemental Declaration Recorded against such Tract, all, but not less than all, of the votes allocated to the Lots within such Tract may be cast by the Sub-Association as representative of the Owners of such Tract. In the event that the Association voting rights are delegated to a Sub-Association for a Tract, such votes shall be cast by the president of the Sub-Association or other officer of the Sub-Association as authorized by the Sub-Association.

Section 6.3. Right to Vote. In all events, the Board may require reasonable proof of authority of a person casting votes and may refuse to accept a vote if such proof is not provided to the Board. The votes for each Member must be cast as a unit and may not be split. In the event that a Membership is owned by more than one (1) person or entity and such owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that said Member was acting with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. In the event more than one (1) vote is cast for a particular Membership, none of said votes shall be counted and all said votes shall be deemed void.

Section 6.4. Enforcement. This Declaration, including all restrictions set forth herein, and the rules and regulations may be enforced by injunctive relief, specific performance or the imposition of reasonable monetary fines as allowed by Law and suspension of use and voting privileges. These powers, however, shall not be construed as limiting any other legal means of enforcing the use restrictions or rules and regulations of the Association.

ARTICLE VII  
COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

Section 7.1. Creation of Lien and Personal Obligations of Assessments and Maintenance Charges. The Declarant, for each Lot and Tract established within Privada, hereby covenants and agrees, and each Owner by acceptance of a Deed therefor (whether or not it shall be so expressed in such Deed and whether or not such Owner is a Member of the Association) is deemed to covenant and agree to pay to the Association, or with respect to the Owners within the Residential Tract to pay the Residential Association its portion of the Assessments (as set forth in the Residential Declaration), the following assessments and charges: (1) Annual Assessments established by this Article VII, (2) Special Assessments for capital improvements or other extraordinary expenses or costs established by this Article VII, (3) Penalty Assessments as set forth by this Article VII, and (4) any Maintenance Charges and all such Assessments to be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Penalty Assessments, together with interest, incidental and taxable costs, and reasonable attorney's fees, and all other sums which may become due and payable to the Association shall be a charge on the Lot or Tract, as the case may be, and shall be a continuing lien upon such Lot or Tract, as the case may be. The Annual and Special Assessments shall be levied and assessed in the same proportion as the votes assigned to the Lot or Tract. Each such Annual Assessment, Special Assessment and Penalty Assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot or Tract and, as the case may be, the Residential Association at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by the successors. Notwithstanding the foregoing, the successor in title shall be obligated to correct any violation of the Declaration or the Privada Rules that exist upon the transfer of title to the Lot; provided, however, the transfer of title shall not extinguish any Assessment Lien except a transfer pursuant to foreclosure of a superior lien in which the Assessment Lien has been extinguished by such foreclosure.

Section 7.2. Annual Assessments. Within thirty (30) days of the commencement of each fiscal year, commencing with the 2020 fiscal year, the Board shall estimate the costs and expenses to be incurred by the Association during the fiscal year in performing its functions (including a reasonable provision for contingencies, reserves and replacements) and shall subtract from such estimate an amount equal to other projected revenues and surplus balances not needed for reserves and contingencies. The estimated costs for the reserves shall not exceed more than ten percent (10%) of the Annual Assessment. All funds shall be held in trust by the Association for the use and benefit of its Members. Except for the Residential Tract, the sum or net estimate shall be assessed on a monthly, quarterly, semi-annual or annual basis as determined by the Board to all Owners in shares proportionate to their voting rights as set forth more fully herein. For the Residential Tract, the sum or net estimate of the Residential Tract assessment shall be assessed on a monthly, quarterly, semi-annual or annual basis as determined by the Board to all Residential Tract Owners in shares proportionate to the percentages listed herein: (i) the Villa Lots five and ninety-five hundredths percent (5.95%) of the Residential Tract assessment; (ii) the Estate Lots sixteen and eighty-two hundredths percent (16.82%) of the Residential Tract assessment; (iii) the Custom Lots shall have thirteen and eighty hundredths

percent (13.80%) of the Residential Tract assessment; and (iv) the Acreage Lots shall have seven and seventeen hundredths percent (7.17%) of the Residential Tract assessment. If at any time, and from time to time during any fiscal year, the Annual Assessment proves or appears likely to be inadequate, for any reason, including nonpayment of any Owner's share, the Board may levy a supplemental Annual Assessment in the amount of such actual or estimated inadequacy, which shall be assessed to Owner's in the same proportion as the initial Annual Assessment.

Section 7.3. Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction of improvements the Declarant is not otherwise responsible for constructing or improving pursuant to the Development Agreement or Mixed Use Agreement, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

Section 7.4. Penalty Assessments. Penalty Assessments may be imposed for violation of the Declaration, Articles of Incorporation, Bylaws, or Privada Rules, pursuant to the notice provisions and procedures established by the Board.

Section 7.5 Budgets and Financial Statements of the Association. The following financial information shall be regularly prepared and distributed by the Board to all Members of the Association:

7.5.1 Within sixty (60) days after the end of each fiscal year of the Association, the Board shall prepare, or cause to be prepared, and distribute to all Members of the Association an operating budget for the next fiscal year setting forth the estimated revenues and expenses for said fiscal year and the total cash reserves of the Association currently available for expenditures.

7.5.2 After the close of the Association's fiscal year, the Board shall prepare and distribute to each Member a balance sheet and a statement of actual expenses and income for the preceding fiscal year.

Section 7.6. Notice and Quorum for Any Action Authorized Under Section 7.3. Written notice of any meeting called for the purpose of taking any action authorized under Section 7.3 of this Article shall be sent to all Members no less than ten (10) days in advance of the meeting at the addresses of such Members on the records of the Association. The presence of Members or of proxies entitled to cast fifty percent (50%) of all the Member votes (exclusive of suspended voting rights) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement.

Section 7.7. Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year. The

Board in its sole discretion from time to time may change the Assessment Period by giving notice thereof to the Members of the Association.

Section 7.8. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Annual Assessments, Special Assessments and Penalty Assessments provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of its liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period, provided successor Members shall be given credit for prepayments, on a prorated basis, made by the prior Members. Members must notify Association of a change of mailing address when applicable. Notice of any past due Assessment or of any lien may, at the Association's discretion, be given to any mortgagee, and each Owner shall, upon demand, provide the Association with the name, address and telephone number of such mortgagee.

Section 7.9. Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear interest from thirty (30) days after the due date until paid at a rate of twelve percent (12%) per annum and the Member shall be liable for all taxable and incidental costs, including attorney's fees, which may be incurred by the Association in collecting the same. Late fees may also be established by the Board to be adjusted from time to time. The Board may also record a Notice of delinquent Assessment against any Lot or Tract as to which any such amount is delinquent and constitutes a lien and may establish a fixed fee to reimburse the Association for the Association's costs in Recording such Notice, processing the delinquency and Recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association secured by the Assessment Lien.

Section 7.10. Evidence of Payment of Assessments. Upon receipt of a written request by a Member or any other person, the Association, within a reasonable period of time thereafter, shall issue to such member or other person a written certificate stating (a) that all Annual, Special and Penalty Assessments (including interest, costs, and attorney's fees, if any, as provided in Section 7.8 above) have been paid with respect to any specified Lot or Tract as of the date of such certificates, or (b) if all Annual Assessment, Special Assessment and Penalty Assessments have not been paid, the amount of such Annual Assessment, Special Assessment and Penalty Assessment (including interest, costs, and attorney's fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates (not to exceed \$25.00), which charges must be paid at the time of the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot or Tract in question.

Section 7.11. Property Exempted from the Annual and Special Assessments and Assessment Lien. Exempt Property shall be exempted from the assessment of the Annual Assessment and Special Assessments, provided, however, that in the event any change of the ownership of Exempt Property results in all or any part thereof becoming Assessable Property in any year, the Assessments shall be prorated to the date of the change in ownership.

Section 7.12 Liens and Personal Obligations for Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and Assessments under the terms of this Declaration. Except as otherwise specifically provided, the dues and Assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board of Directors. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot for extreme and unexpected situations.

ARTICLE VIII  
ENFORCEMENT OF PAYMENT OF ANNUAL, SPECIAL AND PENALTY ASSESSMENTS  
AND OF ASSESSMENT LIEN.

Section 8.1. Association as Enforcing Body. The Association, as the agent and representative of the Members, shall have the right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Member may enforce the provisions of this Declaration by any appropriate action, whether by law or in equity.

Section 8.2. Associations Remedies to Enforce Payment of Assessments. If any Member fails to pay the Assessments when due, the Association may enforce the payment of the Assessments by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive its rights to exercise the other remedy):

- (a) Bring an action at law and recover judgment against the Member personally obligated to pay the Annual Assessment, Special Assessment or Penalty Assessments.
- (b) Foreclose the Assessment Lien against the Lot or Tract in accordance with the then prevailing Nebraska law relating to the foreclosure of real estate mortgages (including the right to recover any deficiency) and the Lot or Tract may be redeemed after foreclosure sale as provided by law. The Association shall have the right to bid at any foreclosure sale.

Section 8.3. Subordination of Assessment Lien to First Mortgage or Deed of Trust, Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has loaned funds with the Lot or Tract as security, or held by the lender's successors and assigns, and shall also be subject to subordinate to liens for taxes and other public charges which by applicable law



are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which in any manner may arise or be imposed upon each Lot or Tract after the date this Declaration is Recorded. Sale or transfer of any Lot or Tract shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or deed of trust to which the Assessment Lien is subordinate or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or deed of trust sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot or Tract free of the Assessment Lien for all Assessments that have been accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of trustee's deed or deed in lieu of foreclosure, the Assessment Lien immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens for taxes or other public charges which by applicable law are expressly made superior), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Assessments and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Section 8.4. Costs to be Borne by Member in Connection with Enforcement of Payment of Annual and Special Assessments. In any action taken pursuant to Section 8.2 of this Article, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Assessments together with interest and the Association's incidental and taxable costs including collection costs and attorney's fees. The Assessment Lien shall also secure payment of any other sums which may become payable to the Association by an Owner pursuant to this Declaration.

#### ARTICLE IX USE OF FUNDS; BORROWING POWER

Section 9.1. Purpose for Which Association's Funds May Be Used. The Association shall apply all funds and property collected and received by it (including the Annual Assessments, Special Assessments and Penalty Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of Privada and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of Common Area and any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without Privada which may be necessary, desirable or beneficial to the general common interests of Privada, the Members and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for the common benefit of the Owners: maintenance of landscaping on Common Areas, public right of way, and drainage areas within Privada, recreation, liability insurance, communications, education, transportation, health, utilities, public services, safety and indemnification of officers and directors of the Association. The Association also may expend its funds for any purposes for which any municipality may expend its funds under the laws of the State of Nebraska or such municipality's charter.

Section 9.2. Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate and upon commercially reasonable terms.

Section 9.3. Association's Rights in Spending Funds from Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual Assessments or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes. Notwithstanding, to the extent the collected Annual Assessment fees exceed the expenses paid by the Association for that year by more than fifty percent (50%) of the Annual Assessments, then the surplus Assessment funds shall be deposited into the reserve up to the amount of ten percent (10%) of the Annual Assessment fees collected that year and the remainder of the Annual Assessments fees shall be used to reduce the amount of the Annual Assessment in the succeeding year.

Section 9.4. Insurance. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas with minimum bodily injury limits of \$1,000,000 per occurrence and a minimum aggregate limit of \$2,000,000. The Association may, but shall not be required to, purchase director or officers' liability insurance, errors and omissions insurance or similar insurance policies in amounts and types determined by the Board.

## ARTICLE X MAINTENANCE

Section 10.1. Common Areas and Public Right of Way. The Association, or its duly delegated representatives, shall maintain and otherwise manage all Common Areas, including, but not limited to, the landscaping, walkways, paths, sprinklers, drives, recreational facilities and Improvements within the Common Area; provided, however, the Association shall not be responsible for providing or maintaining the landscaping, structures or other improvements on any Common Areas which are part of Lots unless (i) such landscaping, structures or Improvements are available for the benefit or use by all Owners and Permittees or are within easements intended for the general benefit of Privada and (ii) the Association assumes in writing the responsibility for such maintenance or such responsibility is set forth in this Declaration, the Subdivision Agreement or a Recorded instrument. Specific areas to be maintained by the Association may be identified in the Streetscape Maintenance Agreement and on Plats or Recorded Easements approved by the Declarant. Failure to so identify such specific areas to be maintained by the Association shall not affect the Association's rights and responsibilities. The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. It is expressly contemplated that the Declarant and Association may make arrangements with the Owners of the Tracts to provide enhanced improvements to and maintain areas within and on Association Land.

Section 10.2. Feature and Signage Areas. The Declarant shall construct, install and landscape the Feature and Signage Areas. After completion of the construction, installation and landscaping of the Feature and Signage Areas, except for conditions resulting from the failure of the Declarant to accomplish the construction, installation and landscaping in a good and workmanlike manner, the Association shall maintain the Feature and Signage Areas.

Section 10.3. Green Space. Declarant shall seed, landscape and install a watering system, if necessary, in the Green Space. Following completion of the seeding, landscaping and watering system of the Green Space, except for conditions resulting from the failure of the Declarant to accomplish the seeding, landscaping and installation of the watering system in a good and workmanlike manner, the Association shall be responsible for maintaining the Green Space.

Section 10.4. Drainage Way. Declarant shall grade, construct and landscape the Drainage Way. Following completion of the grading, construction and landscaping of the Drainage Way, except for conditions resulting from the failure of Declarant to accomplish the grading, construction and landscaping of the Drainage Way in a good and workmanlike manner, the Association shall maintain the Drainage Way.

Section 10.5. Non-Arterial Street Frontage Area. Declarant or Skrupa Investment shall seed, landscape and install a watering system, if necessary, in the Non-Arterial Street Frontage Area. Following completion of the seeding, landscaping and installation of the watering system in the Non-Arterial Street Frontage Area, except for conditions resulting from the failure of the Declarant or Skrupa to accomplish the seeding, landscaping and installation of the watering system in the Non-Arterial Street Frontage Area in a good and workmanlike manner, the Association shall be responsible for maintaining the Non-Arterial Street Frontage Area.

Section 10.6. Arterial Street Frontage. Declarant shall seed any areas within the Arterial Street Frontage in connection with construction of street improvements on 204<sup>th</sup> and Center Street right of way. Following completion of the seeding, in the Arterial Street Frontage Area, the Association shall be responsible for maintaining the Arterial Street Frontage Area.

Section 10.7. Access Drive Lighting. Declarant shall install the street lighting in the Non-Arterial Street Frontage Area and Feature and Signage Area (herein the "Access Drive Lighting"). Electricity charges, maintenance, repair and replacement charges for the Access Drive Lighting (herein the "Access Drive Lighting Charges") to the extent not paid for by the S.I.D. or City shall be an expense of the Association.

Section 10.8. Storm Water Detention Ponds and Shoreline Buffer. To the extent not maintained by the S.I.D., the City of Omaha, Nebraska, or other governmental entity, as the case may be, the Association may maintain the Storm Water Detention Ponds and Shoreline Buffers.

Section 10.9. Building Sites. Until construction of improvements on a Lot, the Owner of each Lot shall keep the Lot mowed, free of debris and trash, and in a condition which will not detract from the presentation and appearance of the remainder of the Property. After

improvement of a Lot, the Owner shall at all time maintain the Lot, and all Improvements thereto in good condition and appearance, except to the extent the Association is responsible for maintenance under the terms of this Declaration.

Section 10.10. Improper Maintenance and Use of Lots and Tracts. In the event any portion of any Lot or Tract is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or Tracts or other areas of Privada which are substantially affected thereby or related thereto, or in the event any portion of a Lot or Tract is being used in a manner which violates this Declaration or the Privada Rules or in the event the Owner or Lessee of any Lot or Tract is failing to perform any of its obligations under this Declaration with respect to the maintenance, repair or replacement of the Improvements located on such Lot or Tract, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give written notice thereof to the Owner and make demand that corrective action be taken within fourteen (14) calendar days of the date of the notice. If at the expiration of the said fourteen (14) day period the requisite corrective action has not been completed, or if reasonable and diligent efforts are not being undertaken to effect completion, the Board shall be authorized and empowered to cause such action to be taken, including but not limited to the hiring of any attorney to take action on behalf of the Board, whether by information pre-suit action or by formal legal proceedings. The costs of any action taken by the Board as set forth herein, including but not limited to incidental and taxable costs, attorney's fees and any fines assessed against said Owner or his family, guests, invitees, licensees, employees or Permittees shall be added to and become part of the Assessment to which the offending Owner and the Owner's Lot or Tract is subject and shall be secured by the Assessment Lien.

## ARTICLE XI EASEMENTS AND RESTRICTIONS

Section 11.1. Temporary Construction Easement. Declarant hereby reserves unto Declarant and its agents a temporary construction easement over the areas designated on the Common Area Plat along as well as a five feet perimeter surrounding the boundary of such areas for the purpose of the original construction required to be undertaken by Declarant under Article X of this Declaration or pursuant to the Streetscape and Maintenance Agreement, including improvements to the Feature and Signage Areas, Non-Arterial Street Frontage Area, the Drainage Way, Green Space, Access Drive Lighting, Storm Water Detention Pond Area, Shoreline Buffer, and Arterial Street Frontage. Such temporary easement shall terminate at such time as the construction is complete and shall not unreasonably interfere with Owner's use of its property.

Section 11.2. Maintenance Easement. Declarant and Skrupa hereby grant to the Association and its contractors and agents a non-exclusive easement to travel across each Lot and Outlot as reasonably necessary or appropriate for the Association to perform Association maintenance obligations, if any, on the Storm Water Detention Pond Area, Shoreline Buffers, Feature and Signage Area, Arterial Street Frontage Area, Non-Arterial Street Frontage Area,

Drainage Way, Access Drive Lighting and Green Space and as may be necessary or appropriate to perform maintenance obligations under Section 10.10 of this Declaration. The Association and its contractors shall be responsible for repair of any damage to a Lot resulting from their actions.

Section 11.3. Pedestrian Easement. Declarant hereby grants to the Permittees and the general public a non-exclusive easement for pedestrian traffic and bicycle use of any and all of the sidewalks on the Outlots and Non-Arterial Street Frontage Areas for pedestrian and bicycle ingress and egress to and from public right-of-way.

## ARTICLE XII RIGHTS AND POWERS OF ASSOCIATION

Section 12.1. Association's Rights and Powers as Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association shall have such rights and powers as are set forth in its Articles and Bylaws or as provided by Nebraska common law or statute. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration. After incorporation of the Association, a copy of the Articles and Bylaws of the Association shall be available for inspection by Members at the office of the Association during reasonable business hours. In addition to all other rights and remedies granted to the Association by this Declaration, the Association shall have the power to impose reasonable fines against an Owner for any violation of this Declaration or the Privada Rules by the Owner, a Lessee of the Owner or by any Resident or occupant of the Owner's Lot or Tract.

Section 12.2. Association's Right of Enforcement of Provisions of this and other Instruments. The Association, as the agent and representative of the Owners, shall have the right to enforce the covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in this Declaration.

Section 12.3. Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote there at to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

Section 12.4. Change of Use of Association Land and Procedure Therefor. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion that the then present use of a designated part of the Common Area is no longer in the best interests of the Owners and (b) the approval of such resolution by a majority vote of Members who are voting in person or by proxy at a meeting duly called for such purposes, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and other Improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided such new use shall be for the benefit of the Owners.

Article XIII  
ADDITIONAL PHASES

Section 13.1. Additional phases of Privada may be developed by Declarant or other affiliated developers. From time to time, without the consent or approval of the Owners or Members, Declarant may amend this Declaration or amend and restate this Declaration to incorporate such future phases of Privada, and the Association may be expanded by Declarant to include additional lots, whether residential or commercial, in such subsequent phases of the Privada subdivision. Such amendment or amendment and restatement may be effected from time to time by Declarant's recording of a Subsequent Phase Declaration setting forth the identity of the additional lots or tracts. Upon the recordation of any Subsequent Phase Declaration which expands the lots or tracts included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the Covered Property for purposes of this Declaration, and the owners of the additional lots or tracts shall be members of the Association with all rights, privileges and obligations accorded or accruing to Members of the Association. Upon the inclusion of any additional Lots or Tracts, the Membership and the Voting shall be updated.

ARTICLE XIV  
ASSIGNMENT OF DECLARANT'S RIGHTS AND DUTIES

Section 14.1. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant from time to time, in its discretion, to any Person who will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignment, any such Person assuming such duties (and its heirs, successors and assigns) shall have, to the extent of such assignment, the same rights and powers and shall be subject to the same obligations and duties as are given to and assumed by Declarant in this Declaration. Any assignment made under this Article shall be in recordable form and shall be recorded in the Office of the Register of Deeds of Douglas County, Nebraska. Notwithstanding any provision of this Declaration to the contrary, Declarant may, at any time and from time to time without the consent of the Board or other Owners, temporarily or permanently relieve itself of all or a portion of its rights and obligations under this Declaration by filing in the Register of Deeds of Douglas County, Nebraska, a notice stating that Declarant has surrendered the rights and obligations specified therein, and upon the recording of such notice, said powers and obligations so specified shall immediately vest in the Board unless otherwise specified therein.

ARTICLE XV  
TERM; AMENDMENTS, TERMINATION

Section 15.1. Term; Method of Termination. This Declaration shall be effective upon the date of Recording hereof and, as amended from time to time, shall continue in full force and effect in perpetuity until the earlier of: i) the end of the Period of Declarant Control or (ii) ten (10) years from the date of Recording this Declaration, unless otherwise terminated by the Declarant. Thereafter, the Declaration may be terminated by an affirmative vote by Members holding at least seventy-five percent (75%) of the total Member votes. If the necessary votes and consents are obtained, the Board shall cause to be Recorded with the Register of Deeds of Douglas County, Omaha, Nebraska, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration and the covenants contained herein shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 15.2. Amendments. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period ending on the earlier of: (i) the end of the Period of Declarant Control; or (ii) ten (10) years from the date of recording of this Declaration. Thereafter, this Declaration may be amended or modified by Recording with the Register of Deeds of Douglas County, Omaha, Nebraska, a Certificate of Amendment, duly signed and acknowledged. The Certificate of Amendment shall set forth in full the amendment or modification adopted. An amendment or modification of this Declaration shall require an affirmative vote of two-thirds (2/3) of the total Member votes, and provided that any amendments to Article VIII, Section 8.3 affecting lien holder priority must be approved by the holders of any and all first mortgages and deeds of trust affected thereby.

ARTICLE XVI  
GENERAL PROVISIONS

Section 16.1. Interpretation of the Declaration. The Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. The Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Declaration and provisions hereof.

Section 16.2. Applicable Law and Severability. This Declaration shall be construed and interpreted in accordance with the laws of the State of Nebraska. Time is of the essence for purposes hereof. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 16.3. Change in Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 16.4. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration.

Section 16.5. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument Recorded in the Register of Deeds of Douglas County, Nebraska, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Privada can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

Section 16.6. Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder.

Section 16.7. Gender and Number. Whenever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural, and words in the plural shall include the singular.

Section 16.8. Captions and Titles. All captions, titles or headings of the Articles and Sections in the Declaration are for the purposes of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

Section 16.9. Notices. If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is personally delivered or mailed to the Owners by deposit in the United States Mail, prepaid and addressed to the Owner by name and address as shown on the real property tax rolls of Douglas County, Nebraska. This Section shall not be construed to require that any notice be given if not otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.

Section 16.10. Attorney's Fees. In addition to any other remedies set forth in the Declaration regarding costs and attorney's fees, in the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration or to collect any Assessments



or other amounts due from an Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Declaration, Articles or Bylaws the offending Owner or other person or entity shall pay to the Association, upon demand, all attorney fees and court costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the Assessment Lien.

Section 16.11. Remedies Cumulative. Each remedy afforded the Association herein is cumulative and not exclusive.

Section 16.12. Reasonableness Standard. When this Declaration either expressly or impliedly under law requires a person or entity to act “reasonably” or to exercise “reasonable discretion”, then in such circumstances the person or entity shall take such action or exercise such discretion in a manner that, given the facts and circumstances and taking into account business or industry standards that might be applicable to such facts and circumstances, a person of ordinary prudence would take or exercise given the same facts and circumstances. Unless otherwise specifically provided in this Declaration, no consent or approval herein required may be unreasonably withheld, conditioned or delayed.

**[Balance of Page Intentionally Left Blank-Signature Page to Follow]**

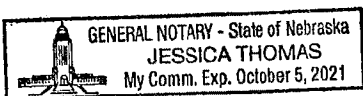
IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed as of the year and day first above written.

WISH IN ONE HAND ENTERPRISES, a  
Nebraska limited liability company

By: [Signature]  
Manager

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 14 day of August, 2019, by Carlo Skrupa, Manager of WISH IN ONE HAND ENTERPRISES, LLC, a Nebraska limited liability company, on behalf of the company.



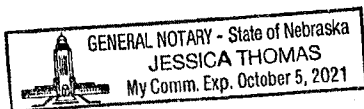
[Signature]  
Notary Public

SKRUPA INVESTMENT COMPANY, a  
Nebraska corporation

By: [Signature]  
PRESIDENT

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 14 day of August, 2019, by Carlo Skrupa, PRESIDENT of Skrupa Investment Company, a Nebraska corporation, on behalf of the corporation.



[Signature]  
Notary Public

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1:**

LOTS 1 THRU 177 & OUTLOTS "A" THRU "P" INCLUSIVE, PRIVADA, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.

**PARCEL 2:**

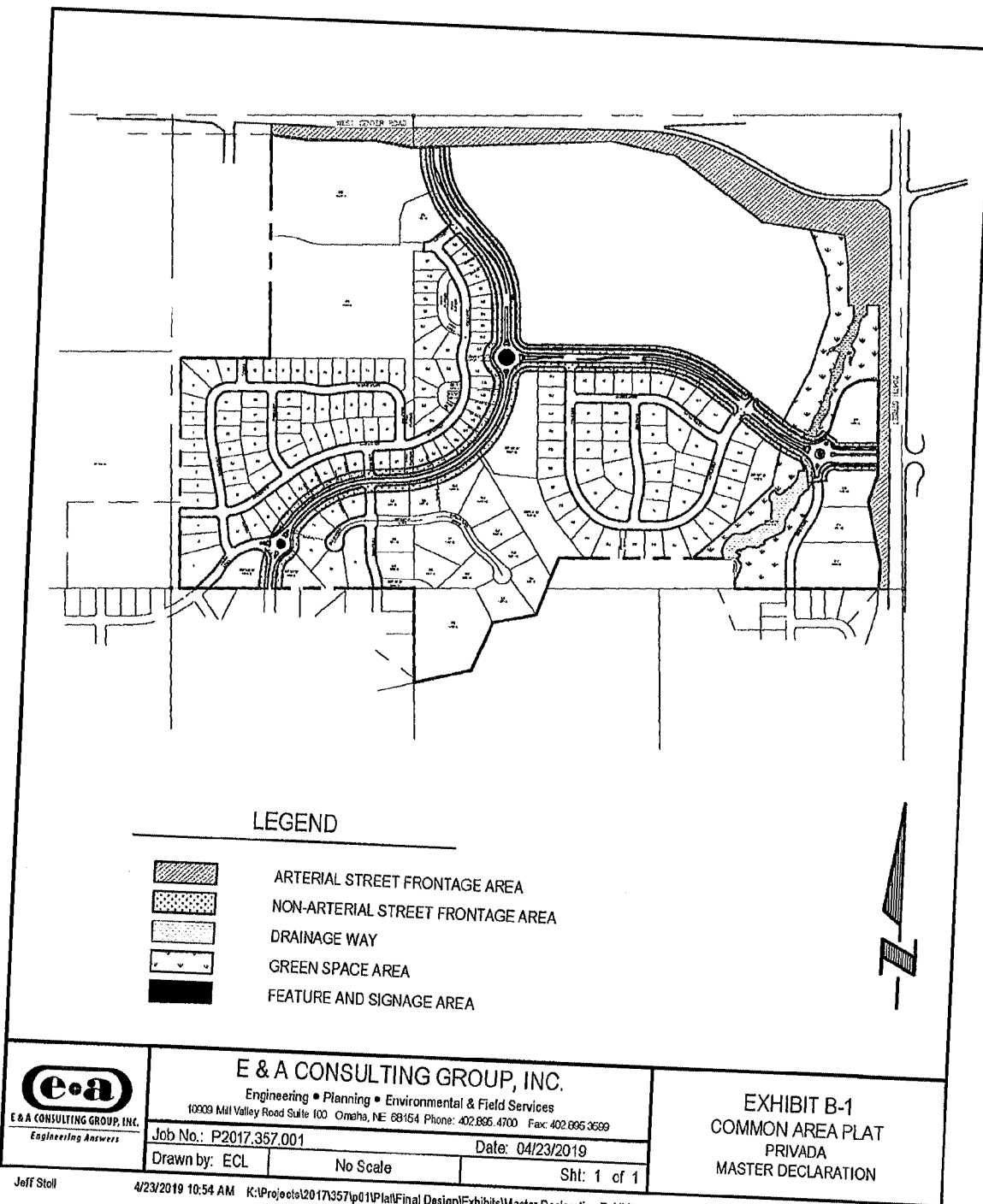
A TRACT OF LAND BEING PART OF THE NE1/4 OF SECTION 36, TOWNSHIP 15 NORTH, RANGE 10 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:


COMMENCING AT THE NORTHWEST CORNER OF SAID NE1/4 OF SECTION 36; THENCE S02°35'16"E (ASSUMED BEARING) ALONG THE WEST LINE OF SAID NE1/4 OF SECTION 36, A DISTANCE OF 177.20 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 92 (ALSO KNOWN AS WEST CENTER STREET); THENCE N85°08'56"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 92, A DISTANCE OF 165.23 FEET, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE EASTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 92 ON THE FOLLOWING SIX (6) DESCRIBED COURSES: (1) THENCE N85°08'56"E, A DISTANCE OF 69.68 FEET; (2) THENCE N86°32'23"E, A DISTANCE OF 142.48 FEET; (3) THENCE N85°27'07"E, A DISTANCE OF 692.55 FEET; (4) THENCE S79°40'23"E, A DISTANCE OF 358.16 FEET; (5) THENCE S54°04'04"E, A DISTANCE OF 594.53 FEET; (6) THENCE S83°17'52"E, A DISTANCE OF 450.15 FEET TO A POINT OF INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 92 AND THE WESTERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 6 (ALSO KNOWN AS 204TH STREET); THENCE SOUTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF HIGHWAY NO. 6 ON THE FOLLOWING EIGHT (8) DESCRIBED COURSES: (1) THENCE S10°24'28"E, A DISTANCE OF 171.47 FEET; (2) THENCE S02°37'46"E, A DISTANCE OF 224.07 FEET; (3) THENCE N87°19'12"E, DISTANCE OF 29.85 FEET; (4) THENCE S02°44'46"E, A DISTANCE OF 49.86 FEET; (5) THENCE N87°19'04"E, A DISTANCE OF 69.93 FEET; (6) THENCE N02°47'43"W, A DISTANCE OF 50.15 FEET; (7) THENCE N87°22'14"E, A DISTANCE OF 69.09 FEET; (8) THENCE S01°58'24"E, A DISTANCE OF 417.38 FEET TO THE NORTHEAST CORNER OF LOT 177, PRIVADA, A SUBDIVISION LOCATED IN SAID NE1/4 OF SECTION 36; THENCE S88°01'36"W ALONG THE NORTH LINE OF SAID LOT 177, PRIVADA, A DISTANCE OF 56.25 FEET; THENCE SOUTHWESTERLY ALONG THE NORTH LINE OF SAID LOT 177, PRIVADA ON A CURVE TO THE LEFT WITH A RADIUS OF 175.00 FEET, A DISTANCE OF 226.00 FEET, SAID CURVE HAVING A LONG CHORD WHICH

BEARS S51°01'47"W, A DISTANCE OF 210.62 FEET TO THE NORTHWEST CORNER OF SAID LOT 177, PRIVADA; THENCE S14°01'57"W ALONG THE WEST LINE OF SAID LOT 177, PRIVADA, A DISTANCE OF 160.97 FEET; THENCE S38°11'51"W ALONG THE WEST LINE OF SAID LOT 177, PRIVADA, A DISTANCE OF 42.66 FEET; THENCE SOUTHWESTERLY ALONG THE WEST LINE OF SAID LOT 177, PRIVADA, SAID LINE ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF VINTON STREET ON A CURVE TO THE RIGHT WITH A RADIUS OF 75.00 FEET, A DISTANCE OF 92.40 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S73°29'27"W, A DISTANCE OF 86.66 FEET; THENCE NORTHWESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF VINTON STREET ON THE FOLLOWING EIGHT (8) DESCRIBED COURSES; (1) THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 550.00 FEET, A DISTANCE OF 172.13 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N62°15'02"W, A DISTANCE OF 171.42 FEET; (2) THENCE N53°17'06"W, A DISTANCE OF 167.86 FEET; (3) THENCE N07°23'10"W, A DISTANCE OF 17.40 FEET; (4) THENCE N53°17'06"W, A DISTANCE OF 65.03 FEET; (5) THENCE N82°36'50"W, A DISTANCE OF 17.95 FEET; (6) THENCE N53°17'06"W, A DISTANCE OF 166.82 FEET; (7) THENCE NORTHWESTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 650.00 FEET, A DISTANCE OF 439.51 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N72°39'21"W, A DISTANCE OF 431.18 FEET; (8) THENCE S87°58'24"W, A DISTANCE OF 628.66 FEET TO THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF VINTON STREET AND THE EASTERLY RIGHT-OF WAY LINE OF BLUE SAGE DRIVE; THENCE ALONG SAID EASTERLY RIGHT-OF WAY LINE OF BLUE SAGE DRIVE ON THE FOLLOWING (6) SIX DESCRIBED COURSES; (1) THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 75.00 FEET, A DISTANCE OF 117.08 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N47°18'26"W, A DISTANCE OF 105.55 FEET; (2) THENCE N02°35'16"W, A DISTANCE OF 164.17 FEET; (3) THENCE NORTHWESTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 585.00 FEET, A DISTANCE OF 413.62 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N22°50'35"W, A DISTANCE OF 405.06 FEET; (4) THENCE N43°05'54"W, A DISTANCE OF 169.04 FEET; (5) THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 550.00 FEET, A DISTANCE OF 388.46 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N22°51'53"W, A DISTANCE OF 380.44 FEET; (6) THENCE N02°37'51"W, A DISTANCE OF 23.57 FEET TO THE POINT OF BEGINNING.

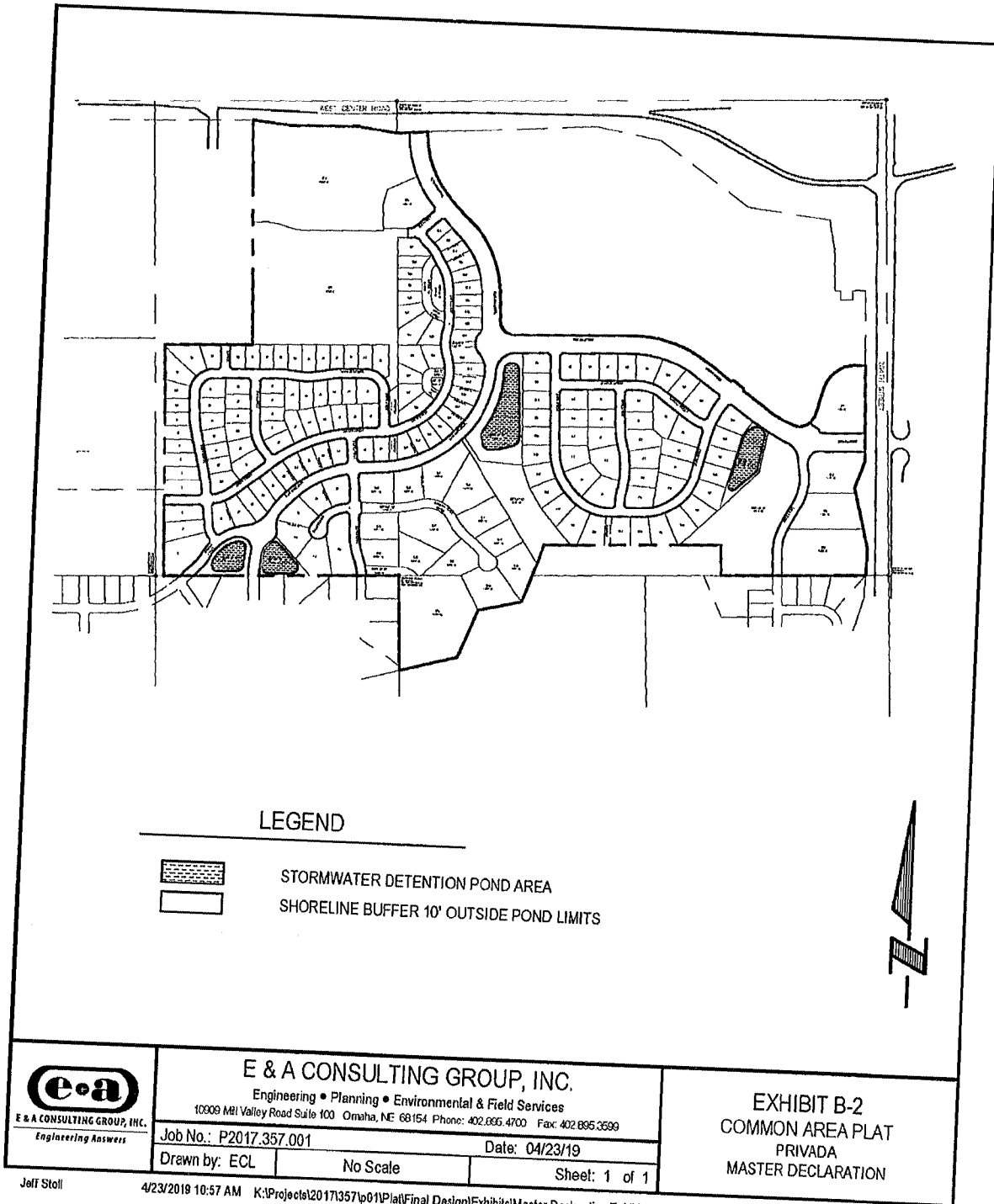
SAID TRACT OF LAND CONTAINS AN AREA OF 2,230,106 SQUARE FEET OR 51.196 ACRES, MORE OR LESS.

## EXHIBIT "B" COMMON AREA PLAT

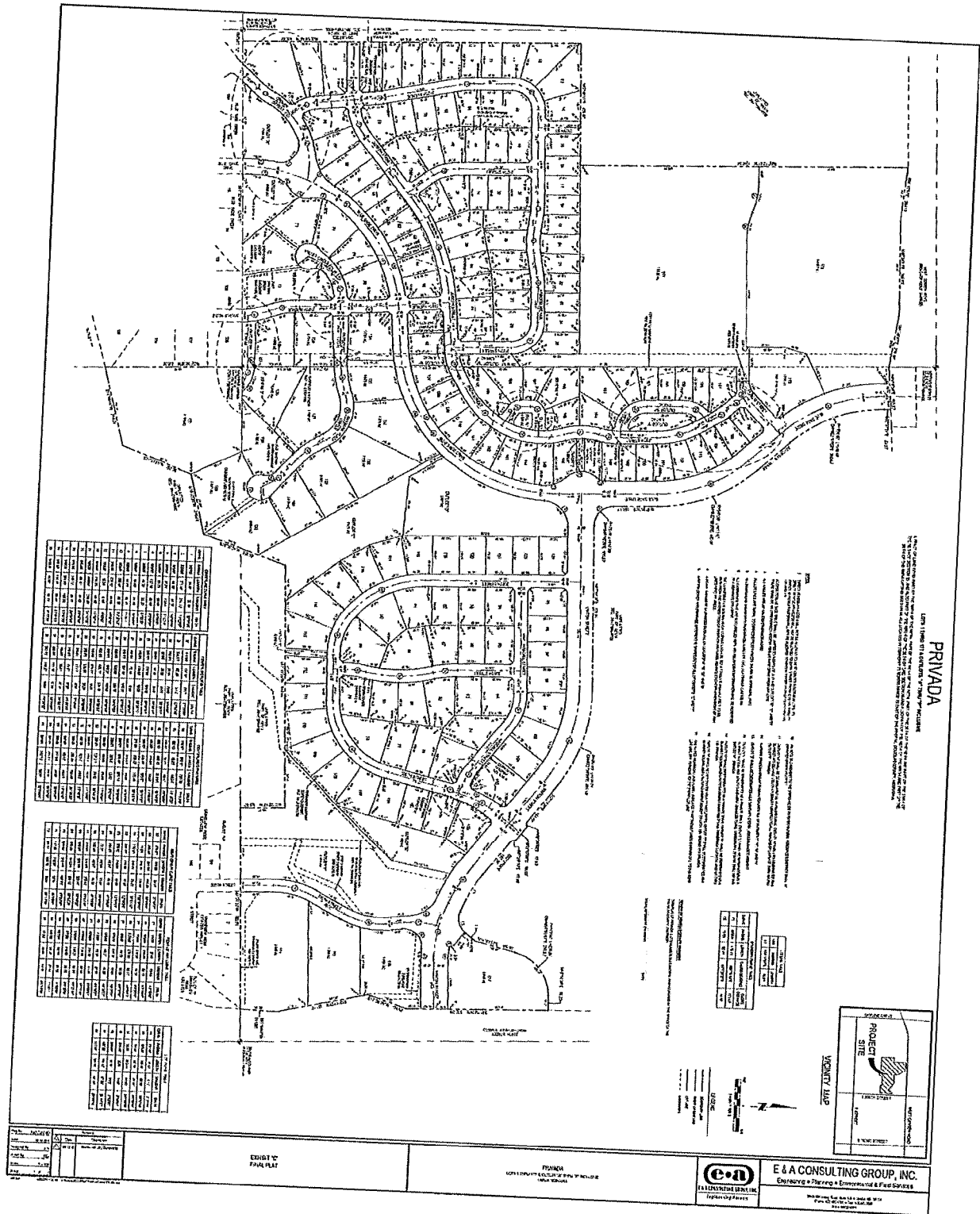


 <b>E &amp; A CONSULTING GROUP, INC.</b> <i>Engineering Answers</i>	<b>E &amp; A CONSULTING GROUP, INC.</b> Engineering • Planning • Environmental & Field Services 10909 Mill Valley Road Suite 100 Omaha, NE 68154 Phone: 402.895.4700 Fax: 402.895.3699	<b>EXHIBIT B-1 COMMON AREA PLAT PRIVADA MASTER DECLARATION</b>
	Job No.: P2017.357.001 Drawn by: ECL      No Scale      Date: 04/23/2019      Sht: 1 of 1	

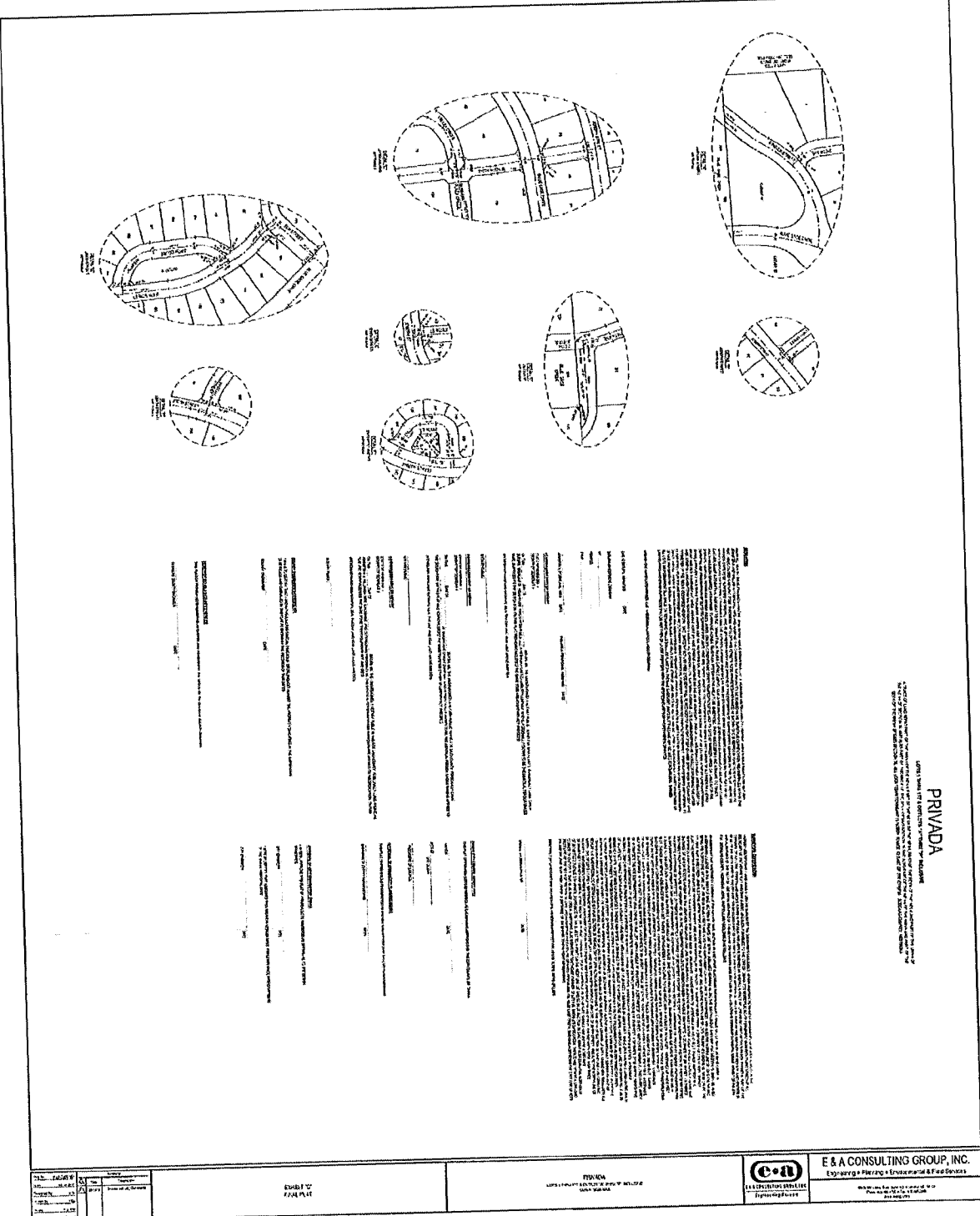
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# EXHIBIT "C" MASTER PLAT



Lot No.	Area (sq. ft.)	Area (sq. m.)	Area (ac.)
1	10,000	929	0.23
2	10,000	929	0.23
3	10,000	929	0.23
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98	10,000	929	0.23
99	10,000	929	0.23
100	10,000	929	0.23



Scale	1:1000
Date	2019-06-20
Drawn by	...
Checked by	...
Approved by	...

**EXHIBIT 'C'**  
**FINAL PLAN**

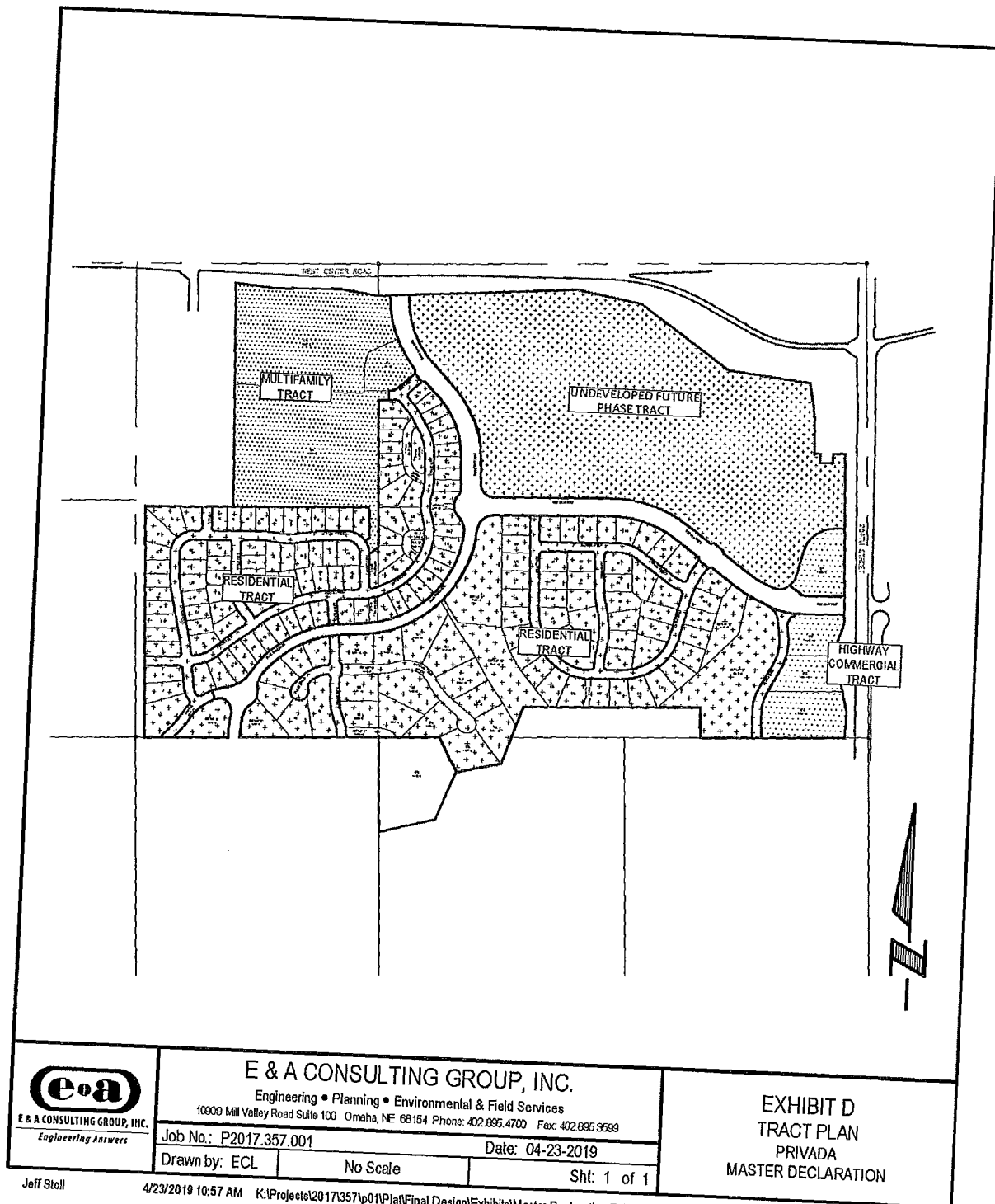
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**E & A CONSULTING GROUP, INC.**  
 Engineering • Planning • Environmental & EIS Services



# EXHIBIT "D" TRACT PLAN



Jeff Stoll

4/23/2019 10:57 AM K:\Projects\2017\357\p01\Plat\Final Design\Exhibits\Master Declaration Exhibits-000.dwg

**EXHIBIT "E"**  
**MEMBER VOTES**

Lot Number	Lot Acreage	Percentage of Acreage within Tract	Percentage of Total Votes Allocated to Tract	Number of Votes
174	2.688	1.84%		1.83
175	1.534	1.04%		1.04
176	1.481	1.01%		1.01
177	1.990	1.35%		1.36
<b>Highway Commercial Tract</b>	<b>7.693</b>	<b>100%</b>	<b>5.24%</b>	
171/172/173	23.661	100%		16.11
<b>Multifamily Tract</b>	<b>23.661</b>	<b>100%</b>	<b>16.11%</b>	
Unplatted	51.280	100%		34.91
<b>Undeveloped Future Phase Tract</b>	<b>51.280</b>	<b>100%</b>	<b>34.91%</b>	
Villa Lots	8.733*	13.59%*		5.95*
Custom Lots	20.269*	31.55%*		13.80*
Estate Lots	24.711*	38.47%*		16.82*
Acreage Lots	10.529*	16.39%*		7.17*
<b>Residential Tract</b>	<b>64.242</b>	<b>N/A</b>	<b>43.74%</b>	<b>43.74</b>
		<b>Total</b>		100

\* These numbers are solely being used for the proportionality of assessments and not for actual voting rights.

CONSENT OF LENDER

The undersigned, Security National Bank of Omaha, a National Banking Association, being a lien holder in the real estate encumbered by the instrument to which this Consent is attached by virtue of one or more Deeds of Trust or other documents (the "Lien Instruments"), hereby consents to the execution and recording of such instrument, provided, that by consenting to such instrument (i) such consent does not modify or amend the terms and conditions of the Lien Instruments and related loan documents, and (ii) such Lien Instruments shall remain a lien on the property described therein, provided, that such Lien Instruments shall be bound by and subject to such instrument.

Security National Bank of Omaha, a National Banking Assoc

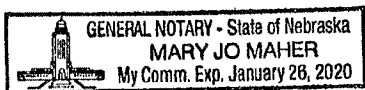
By *James K Sterling*

Name: James K Sterling

Title: Sr Vice President

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

<sup>2019</sup> The foregoing instrument was acknowledged before me this 20 day of <sup>AUGUST</sup> ~~November~~, ~~2018~~, by JAMES K STERLING, SR VICE PRES of SECURITY NATIONAL BANK OF OMAHA, a NATIONAL BANKING ASSOCIATION, on behalf of the corporation.



*Mary Jo Maher*

Notary Public