

20050125-0007897 01/25/2005
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 Register of Deeds T20050004496
 Johnson Co. ROD B:280501 P:007897

Rel. to
 Midwest Title Company, Inc.
 124 E. Park
 Olathe, KS 66061
 # 30253

**FALLBROOK
 HOMES ASSOCIATION DECLARATION**

THIS DECLARATION, made this 4 day of oct., 2004,
 by **FALLBROOK DEVELOPMENT, LLC**, a Kansas limited liability company
 (hereinafter referred to as the "Developer"), as shown on the plat of **FALLBROOK**, a
 residential subdivision in the City of Olathe, Johnson County, Kansas, which plat was
 recorded in the office of the Register of Deeds of Johnson County, Kansas, in Plat Book
 * at page **

* 200412 ** 012440

WHEREAS, the undersigned is the owner of all of:

**Lots 1 through 48, FALLBROOK, 2nd Plat, a replat of
 all of Fallbrook, 1st Plat, inclusive, a subdivision in the
 City of Olathe, Johnson County, Kansas,**

AND WHEREAS, the Developer is now developing the above described land
 and desires to create and maintain a residential neighborhood possessing features of more
 than ordinary value to the said community.

NOW, THEREFORE, in order to assist itself and its grantees in providing the
 necessary means to bring about the development of the above-described land, the
 undersigned now and hereby subject all of the above-described lots and tracts located in
 the development known as "FALLBROOK" to the covenants, charges and assessments
 set forth and contained in this Declaration, subject, however, to the limitations hereinafter
 specified.

SECTION 1. DEFINITION OF TERMS USED

The term "district" as used in this Declaration shall mean, unless and until
 extended as hereinafter provided, all of the lots enumerated above as shown on said plat
 of **FALLBROOK**.

The term "lot" as used herein shall mean either any numbered lot as platted or any
 parcel or parcels of land as conveyed, which may consist of one or more numbered lots or
 part or parts of one or more numbered lots, as platted, upon which a residence may be

erected in accordance with the "Restrictions" hereinafter defined, and shall include any other lots or parts thereof which may hereafter be made part of the district.

The term "Association" shall mean and refer to the FALLBROOK HOMES ASSOCIATION or any corporate variation of said name which shall be organized to administer the common areas and for other functions herein provided.

The term "public place" as used herein shall be deemed to mean all streets, all parks and all similar places the use of which is dedicated to or set aside for the use of the general public.

The term "Common Areas" as used herein shall be deemed to mean any tract designated by a letter of the English alphabet, located within the District as it exists from time to time, which tracts shall be owned, managed and maintained by the FALLBROOK HOMES ASSOCIATION for the use, benefit and enjoyment of the present and future owners of land within the district.

The term "owners" as used herein shall mean those persons or corporations who may from time to time own lots within the district or which are made subject to the provisions hereof.

The term "Developer" shall mean FALLBROOK DEVELOPMENT, LLC, or such other person as may be designated by FALLBROOK DEVELOPMENT, LLC in a recordable document to assume the duties and rights reserved to Developer herein.

The term "Restrictions" as used herein shall specifically include those contained in the "DECLARATION OF RESTRICTIONS" of FALLBROOK filed in the office of the Register of Deeds, Johnson County, Kansas, with this instrument, and all amendments thereto.

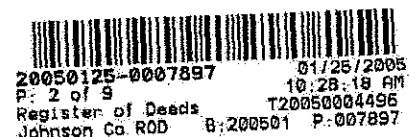
SECTION 2. MEMBERSHIP IN ASSOCIATION

The Owners of all of the land hereinabove described together with the owners of any other land that may from time to time be made subject to all of the terms and provisions of this Declaration in the manner hereinafter provided shall be the members of an association, which by this Declaration is hereby created and established, to be known as "FALLBROOK HOMES ASSOCIATION" or any legally permissible corporate variation thereof. The Association shall be incorporated under the laws of the State of Kansas as a corporation not for profit. Membership in the Association shall be limited to the Owners of land within the boundaries of FALLBROOK, as it exists from time to time, a subdivision in Olathe, Johnson County, Kansas.

SECTION 3. VOTING RIGHTS

FALLBROOK HOMES ASSOCIATION shall have two (2) classes of voting membership, as follows:

(1) Class A. Each Owner, with the exception of the Developer, of a lot in FALLBROOK, a development in the City of Olathe, Johnson County, Kansas, shall be a Class A member. Each Class A member shall be entitled to one (1) vote for each lot owned by him, her or it in fee simple title. When more than one person holds interest or interests in any lot, all such persons shall be members and the vote for such lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one (1) vote be cast with respect to any such lot.



(2) Class B. The Class B member shall be the Developer. The Class B member shall be entitled to one hundred (100) votes for each Lot within the District owned by it in fee simple title.

The voting rights of Class A members shall be suspended for any period during which any assessment, including interest and fees, against his, her or its Lot remains unpaid.

Except as hereinbefore provided, the Association shall be the sole judge of the qualifications of its members and of their rights to participate in its meetings and proceedings.

SECTION 4. LAND ENTITLED TO BENEFITS

No land shall be entitled to any of the benefits, improvements or services provided by this Association unless the owner thereof, with the written consent of the Developer, shall have subjected his, her or its land to the terms of this Declaration and to the assessments provided for herein.

SECTION 5. OTHER LANDS - HOW THEY MAY BE ADDED

Developer may from time to time add to the District such other land as is now or hereafter owned by it or is approved for addition by it, provided that the land so added to the District shall at that time be bound by all of the terms of this Declaration and all amendments thereto.

SECTION 6. USE OF COMMON AREAS

The Owners of land within the District shall have the exclusive right to the use of all Common Areas within the District as it from time to time exists.

Developer reserves the right to place restrictions on use of common areas when added to the district.

The FALLBROOK HOMES ASSOCIATION shall have the right and the power to make reasonable rules and regulations which shall govern the use of the said common Areas.

SECTION 7. POWERS AND DUTIES OF THE ASSOCIATION

(1) The Association shall have the following powers and mandatory duties:

(a) To care for, spray, trim, protect, replace and replant trees, shrubbery, bushes, flowers, grass and sod along all streets, in other public places where trees, shrubbery, bushes, flowers, grass and sod have once been planted or located; and to care for, spray, trim, protect, place, replace, plant and replant trees, shrubbery, bushes, flowers, grass and sod in the common areas set aside for the exclusive use of the Owners in the District.

(b) To provide, maintain, protect and, where necessary, design, construct, reconstruct and replace protective lighting within the District when adequate service of that type is not available from any public source.

(c) To provide for the maintenance of any gateways, entrances, lawn sprinklers and ornamental features now existing or which may hereafter be erected or created in said District in an public street or park, or on any land set aside for the exclusive use of the Owners in the District; to pay all utility bills and

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other bills for services provided to the Common Areas; and also to provide for the maintenance of any streams or natural water-courses within the District.

(d) To provide for the operation and maintenance of and also to establish and enforce rules for the exclusive use by the members of any playgrounds and green areas which now exist or which may hereafter be included, created or erected in the Common Areas within said District.

(e) To acquire and own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the Association, and to pay taxes on such real estate as may be owned by it; to pay such taxes as may be assessed against land in the semi-public places within the District.

(f) To enforce, either in its own name or in the name of any Owner within the District, any or all building restrictions which may have been heretofore or may hereafter be imposed upon any of the land in such District, either in the form as originally placed thereon or as modified subsequently thereto; provided, however, that this right of enforcement shall not serve to prevent such changes, releases or modifications as are permissible in the deeds, declaration, contract, plats or certificate of survey in which such restrictions or reservations are set forth, nor shall it serve to prevent the assignment of those rights by the proper parties, wherever and whenever such rights of assignment exist. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as provided for herein. Nothing herein contained shall be deemed or construed to prevent any Owner having the contractual right to do so from enforcing in his own name any such restrictions.

(g) To manage and control as trustee for its members all improvements located upon lettered tracts in the District, provided that such management and control of said improvement shall at all times be subject to that had and exercised by City, County and State, or any one of them in which the land within the District is located.

(h) To mow, care for, maintain and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and the parking in front of any property in the District neat in appearance and in good order.

(i) To exercise control over such easements as it may acquire from time to time.

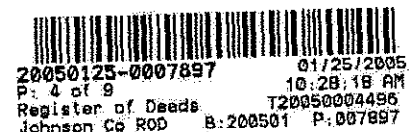
(j) To provide for the collection and disposal of rubbish and garbage, when adequate services of that type are not available from any public source.

(k) To levy and collect the assessments which are provided for in this Declaration.

(l) To preserve and maintain the existing pond as shown on the plat of FALLBROOK adjacent to river acres as a permanent water body entrance feature.

2) The Association shall have the following additional powers and duties which it may exercise and perform whenever in its discretion it may deem it necessary or desirable, to-wit:

(a) To provide for the plowing and removal of snow from sidewalks and streets, when such services are not available from any public source.



(b) To provide such lights as the Association may deem advisable on gateways, entrances or other features, and in other public or semi-public places, when such facilities are not available from any public source.

(c) To provide for the cleaning of streets, gutters, catch basins and sidewalks and for the repair and maintenance of storm sewers and appurtenant drainage facilities, when such services are not available from any public source.

(d) To erect and maintain signs for the marking of streets, and safety signs for the protection of children and other persons, when such signs are not available from any public source.

(e) To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that rendered by public authorities.

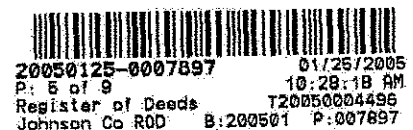
SECTION 8. METHOD OF PROVIDING GENERAL FUNDS

(1) Each lot within the District upon which a dwelling has been erected shall be assessed an initiation fee in the amount of \$500.00. The entire amount of the initiation fee shall be used for expenses relating to the initial construction and subsequent maintenance, repair and operation of the swimming pool owned and maintained by the Association.

(2) For the purpose of providing a general fund to enable said Association to exercise the powers and maintain the improvements and render the services herein provided for, each lot within the District upon which a dwelling has been erected and is then or has been at any time theretofore occupied as a residence, or other lot which may be made subject to this declaration by agreement of the owners after occupancy, shall be subject to an annual general fund assessment which may be levied by the Association from year to year, which assessment shall be paid in advance to the Association annually on the second day of each calendar year or at such other times as the Association may determine. The Association may initially and without further meeting or vote, levy and collect an annual assessment in the amount of Two Hundred Fifty Dollars (\$250.00) for each lot owned by a Class A member upon which a dwelling has been erected and is then or has been at any time theretofore occupied as a residence. In the year in which a dwelling is constructed on any certain lot covered by this Declaration, the assessment for the said year shall be prorated to the first day in which such dwelling is first occupied as a residence. The current annual assessment shall also be prorated as of the date of payment for any lot which may be made subject to this declaration by agreement of the owners after occupancy with the payment of the one-time membership fee. No separate membership fee is required of owners in FALLBROOK.

(3) The annual assessment upon each lot as aforesaid may be increased or decreased on all the Lots on which assessments have commenced by paragraph 2 above, provided that at a meeting of the members specially called for that purpose prior to the date on which the assessment is levied for the year for which such increase is proposed, sixty percent (60%) of the members present in person or by proxy at such meeting authorize such an increase by an affirmative vote therefor.

(4) Unless the increases provided for in paragraph (3) of this Section are specifically limited, by the resolutions in which they are contained, to be for a specified period, they shall continue to be effective until rescinded by the Association, at a meeting



specially called for such purpose, by an affirmative vote of sixty percent (60%) of the members present and the rescission shall be effective commencing on the first day of the next succeeding year.

(5) Whenever the Association may deem it advisable to submit to the members a proposal under Paragraph (3) of this Section for increasing or decreasing the amount of the annual assessments, it shall notify the members of the Association by mailing to such members at the last known address, with United States postage prepaid thereon, a notice of such meeting, giving the time and place at which it is to be held and the fact that an increase or decrease in the amount of the annual assessment is to be voted upon at such meeting; such notice must be deposited in the United States mail at a post office within forty (40) miles of Gardner, Kansas, not less than fifteen (15) days prior to the date of such special meeting.


(6) When any increased assessment is levied subsequent to the 1st day of December which precedes the year in which such assessment is to be effective, then such assessment shall become due and payable not later than thirty (30) days from the date of levying the assessment. The Association may elect to permit collections in quarterly or semi-annual payments in lieu of the annual payments provided for herein.

(7) The Owner of each Lot subject to an annual assessment as herein provided in subparagraph (2) of this Section shall by acceptance of a deed to such Lot be taken to have agreed and does by these presents agree to pay to the Association all assessments placed against such lot in accordance herewith, and said Association is hereby granted the power to proceed against such owner personally for the collection of said assessments, said right to be in addition to and not to be construed as a limitation upon remedies and rights of said Association otherwise herein granted.

SECTION 9. LIEN ON REAL ESTATE

(1) The assessment provided for herein shall become a lien on said real estate against which it is levied as soon as it is due and payable as above set forth, provided, however, that such lien shall be inferior or subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. In the event of failure of any of the owners to pay said assessment within thirty (30) days from the date same is levied, then such assessment, from the thirtieth (30th) day after it has been levied shall bear interest at the maximum rate of interest then allowed in Kansas on judgments.

(2) Within thirty (30) days from the date of levying the assessment for the calendar year during which and for which the assessment is levied, the assessment shall become delinquent and payment of both principal and interest may be enforced as a lien on said real estate, in proceedings in any court in Johnson County, Kansas having jurisdiction of suits for the enforcement of such liens. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may at its discretion file certificates of non-payment of assessments in the office of the Register of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the Owner or Owners of the property described therein an administrative fee, which fee shall be in the amount of the then applicable annual assessment and is hereby declared to be a lien upon the real estate so described in said certificate, provided that such lien shall be inferior and


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subordinate to the lien of any valid first mortgage now existing or which may hereafter be placed on said real estate. Such fee shall be collectible in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

(3) Such liens shall continue for a period of five (5) years from the date of delinquency and no longer unless within such period suit shall have been instituted for collection, in which case the lien shall continue until termination of the suit and until the sale of the property under the execution of judgment establishing the same.

SECTION 10. EXPENDITURES LIMITED TO ASSESSMENT FOR CURRENT YEAR

The Association shall at no time expend more money in any calendar year than the total amount of the assessments for that particular year plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatsoever binding the assessment of any future year to pay for any such obligation, and no such contract shall be valid or enforceable against the Association except for contracts for utilities, it being the intention that the assessments for each year shall be applied as far as practicable toward payment of the obligations of that year, and that the Association shall have no power to make a contract affecting the assessment of any future or subsequent year except for utilities. This Section shall not be applicable until the Developer shall have relinquished its rights as Temporary Trustee of the Association.


SECTION 11. ADDRESS OF ASSOCIATION AND MEMBERS

The Association shall notify all Owners of land in the District as it may exist from time to time, insofar as the addresses of such Owners are listed with said Association, of the official address of said Association, the place and time of the regular meetings of the Association, and the place where payments shall be made and any other business in connection with said Association may be transacted, and in the case of any change of such address the Association shall notify all the Owners of the land within the District, insofar as their addresses are listed with the Association, of the new address.

Any notice to an owner shall be sufficient if mailed, first class U.S. Postage prepaid, addressed to the owner at said owner's address as listed on the rolls of the Association, or the address of the lot owned by the owner.

SECTION 12. TEMPORARY TRUSTEE

Prior to the actual organization or incorporation of the Association contemplated by the terms of this Declaration, the Developer shall have the right at its option to perform the duties, assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the Association, in the same way and manner as though all of such powers and duties were hereby given directly to the Developer. The Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the consent of Developer and its relinquishment in writing of its rights as temporary Trustee. The Developer may, at any time hereafter, by appropriate agreement made expressly for that purpose, assign or convey to any person or corporation all of the rights, reservations and privileges reserved by it in this Section, and upon such assignment or conveyance being made, its assigns or


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grantees may, at its option, exercise, transfer or assign such rights at any time or times, in the same way and manner as though directly reserved by them or it, in this instrument.

SECTION 13. TO OBSERVE ALL LAWS

Said Association shall at all times observe all applicable State, County or other laws or regulations and if at any time any of the provisions of this Declaration shall be found to conflict with law, then such parts of this Declaration as are in conflict with such laws shall become null and void, but no other parts of this Declaration not in conflict therewith shall be affected thereby. The Association shall have the right to make such reasonable rules and regulations and provide the means and employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration, subject, however, to the limitation of its rights to contract as are herein provided for.

SECTION 14. AMENDMENT

By written consent of the Owners of two-thirds (2/3) of the Lots then subject to this Declaration, evidenced by a Declaration duly executed and acknowledged by such Owners and recorded in the office of the Register of Deeds of Johnson County, Kansas, this instrument may be modified and amended.

SECTION 15. HOW TERMINATED

This Declaration may be terminated, and all of the land now or hereafter affected may be released from all of the terms and provisions thereof, by the Owners of two-thirds (2/3) of the lots then subject thereto executing and acknowledging an appropriate agreement or agreements for that purpose and filing the same for record in the office of the Register of Deeds of Johnson County, Kansas.

SECTION 16. COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration shall be deemed to be covenants running with the land and shall be binding upon the Developer and upon its successors and assigns.

IN WITNESS WHEREOF, the Developer has caused these presents to be executed the day and year first above written.


FALLBROOK DEVELOPMENT, LLC

By: 

Mark A. Hoelting, Manager


STATE OF KANSAS, JOHNSON COUNTY: ss

THIS INSTRUMENT was acknowledged before me on the 4 day of October, 2004, by MARK A. HOELTING, manager of FALLBROOK DEVELOPMENT, LLC, a Kansas limited liability company.


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Christy Fuller Notary Public
My appointment expires: 5/13/04

CHRISTY FULLER
Notary Public - State of Kansas
My Appt. Expires 5/13/04


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UNFILED

COVENANT AND RESERVATION

STATE OF KANSAS
COUNTY OF JOHNSON SS
FILED FOR RECORD

\$22.00
\$18.00 2002 DEC -6 A 9:07

This Covenant and Reservation Agreement is entered into this 4th day of Dec., 2002, by and between the Johnson County Unified Wastewater Districts (the "Districts") and Fall Brook Development, L.L.C. (the "Owner").

WHEREAS, Fall Brook Development, L.L.C., is the Owner and Developer of the real property (the "Property") described in the attached Exhibit "A"; and

WHEREAS, the Owner desires to proceed with development of the Property and in furtherance thereof has applied to the City of Olathe, Kansas, requesting permission to proceed with such development; and

WHEREAS, the OWNER has previously executed a petition (the "Petition"), a copy of which is attached hereto as Exhibit "B" and incorporated by reference, requesting that the Board of County Commissioners (the "Board"), in its capacity as the Governing Body of the Districts and the Consolidated Main Sewer District (the "CMSD"), create temporary Contract Sewer District No. 1 of Mill Creek No. 17 (the "Contract District") such that sewage from this development may flow into and receive treatment from the system of gravity sewers and wastewater treatment plants of the Districts.

WHEREAS, new development utilizing on-site sewage disposal systems are generally undesirable and detrimental to the orderly and efficient expansion of the public sewer system.

NOW, THEREFORE, in consideration of the covenants, terms and reservations set forth in this Agreement, the Owner and the Districts agree as follows.

1. The Districts agree to recommend, to the Board, the creation of the Contract District.
2. It is hereby agreed and there is imposed by the Owner, against the Property, a covenant and reservation running with the land that, should the Board find it necessary, at any time, to enlarge the CMSD to include the Property or otherwise include the Property in the CMSD for purposes of providing public sewer services to the Property and/or other tracts within the area, that the Property shall be subject to any special taxes, fees, capital charges, connection fees, permit fees and assessments the same as would be

22.00
18.00
40.00

Deed of Covenant & Reservation

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levied against other property similarly situated, such charges to be imposed and levied as provided by Charter Resolution No. 29-92, as amended, of Johnson County, Kansas.

3. It is hereby agreed by the Owner that its signature on this Agreement shall constitute a covenant and reservation running with the land and shall be as the signature and affirmative act of the Owner and of its successors, heirs and assigns, subsequent owners, executors and administrators on any future petition which would include the Property in the CMSD, and that any right to withdraw its signature from such a petition for inclusion of the Property in the CMSD is hereby waived.

4. Owner shall and hereby agrees to refrain from any representation that the Property has been included in, or enlarged into, the CMSD or from any misrepresentation of the terms of this Covenant and Reservation.

5. It is further agreed by the Owner that it shall provide notice, in writing, of the conditions of this covenant and reservation to any and all persons who claim or may have an interest in the Property, to any and all persons who may be tenants, occupants or users of the Property, and to all other persons or entities connected to use of the Property, including but not limited to realtors, developers, builders and contractors.

6. These covenants and reservations shall run with the land and bind Owner, its successors and assigns, and all persons claiming by or through the Owner shall be taken to hold, agree and covenant to conform to and observe said reservations and agreements, and the sale or use of all or any part of the Property shall be subject thereto, but no covenant, reservation or restriction herein set forth shall be personally binding on the Owner or its successors or assigns except in respect to breaches committed during their ownership of said land, and said Districts shall have the right to enforce the observance of these covenants and agreements in any court of competent jurisdiction.

Order No.: 163581-G

EXHIBIT "A"

THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 13, RANGE 23, IN JOHNSON COUNTY, KANSAS, EXCEPT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 13 SOUTH, RANGE 23 EAST; THENCE NORTH 20.0 FEET; THENCE EAST 20.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID SECTION 12, A DISTANCE OF 483.00 FEET; THENCE EAST AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 12 A DISTANCE OF 934.07 FEET; THENCE SOUTHERLY TO A POINT THAT IS 1,009.84 FEET EAST AND 20.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SECTION 12, A DISTANCE OF 487.01 FEET; THENCE WEST AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 12 A DISTANCE OF 989.84 FEET TO THE TRUE POINT OF BEGINNING, AND EXCEPT THAT PART IN ROADS.

Exhibit " B "

PETITION FOR CREATION OF CONTRACT DISTRICT NO. 1
OF MILL CREEK NO. 17

TO THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY,
KANSAS.

The undersigned Petitioner, for its petition to create temporary Contract District No. 1 of Mill Creek No. 17 of Johnson County (the "Contract District"), state that:

1. There is attached hereto as Exhibit "A" a legal description and a drawing showing the outer boundary of the area to be included within the proposed contract area (the "Contract Area").

2. The undersigned Petitioner is the owner of 100% of the area of land within the Contract Area.

3. The creation of the temporary Contract District is necessary; that inclusion in the temporary Contract District would be beneficial to all of the land within the boundary of the Contract Area; that the area is now without permanent sewer facilities, and the construction of sewer facilities is necessary for the future development and building construction which is imminent within the Contract Area.

4. The Petitioner requests the creation of the temporary Contract District, pursuant to Article I, Section 4 of Charter Resolution No. 29-92 and any amendments thereto, and further requests permission to extend the necessary sewer lines to serve the temporary Contract District.

5. The sewer lines and improvements, as contemplated herein, will conform to the general and overall plans of the Johnson County Unified Wastewater Districts (the "Districts") for the design and construction of sewer lines in the area.

6. The Contract Area is within the City of Olathe, Kansas, and the City has consented to the inclusion of the contract area in a sewer district to be governed by the Districts.

7. The estimated cost of the project is Three Hundred and Ninety Thousand Eight Hundred Dollars (\$390,000), in Year 2002 dollars, and the Petitioner agrees to pay ten percent of this cost, or Thirty Nine Thousand Eighty Dollars (\$39,000), prior to creation of the Contract District.

8. The Petitioner is aware that the creation of the temporary Contract District will obligate the property included within the Contract Area to all lawful fees and charges authorized by Charter Resolution No. 29-92 and any amendments thereto, including, but not limited to, the Annual Capital Finance Charge, Connection Fees and System Development Charges.

9. The Petitioner is aware that all land within the boundary of the Contract Area will be assigned an Equivalent Dwelling Unit (EDU) rate based on the Standard Classification Table as adopted by the Board of County Commissioners (the "Board") in Resolution No. 25-92, and any amendments thereto, and that the fees and charges listed above will be based upon the EDU classification of the property.

10. The current annual Capital Finance Charge applicable to all properties is \$74 per EDU, and that the annual Capital Finance Charge may, from time to time, be increased or decreased as part of the annual budget process of the Board.

11. The current applicable Connection Fee is \$1,796 per EDU and the current System Development Charge is \$898 per EDU, both of which are one time charges due and payable upon application to connect to the system, and that either or both charges may, from time to time, be increased or decreased by Resolution of the Board.

12. The Petitioner is aware that, upon creation of the temporary Contract District, the property within the Contract Area will be liable for the Districts' annual operation, maintenance and planning levy which is currently based upon assessed valuation of land and improvements.

13. The current applicable operation, maintenance and planning levy is 4.181 mills and that the levy may, from time to time, be increased or decreased as part of the annual budget process of the Board.

14. The Petitioner is aware that all land within the temporary Contract District will be subject to the sewer use rules and regulations of the Districts and that the sewer line size, location, type and all other design and construction features must be approved by the Districts.

15. If the temporary Contract District is created, the undersigned Petitioner acknowledges that, by signature on this petition, the property included within the Contract

Area will not be eligible, now or in the future, for deferment of the Annual Capital Finance Charges, which this property might otherwise have been eligible to receive.

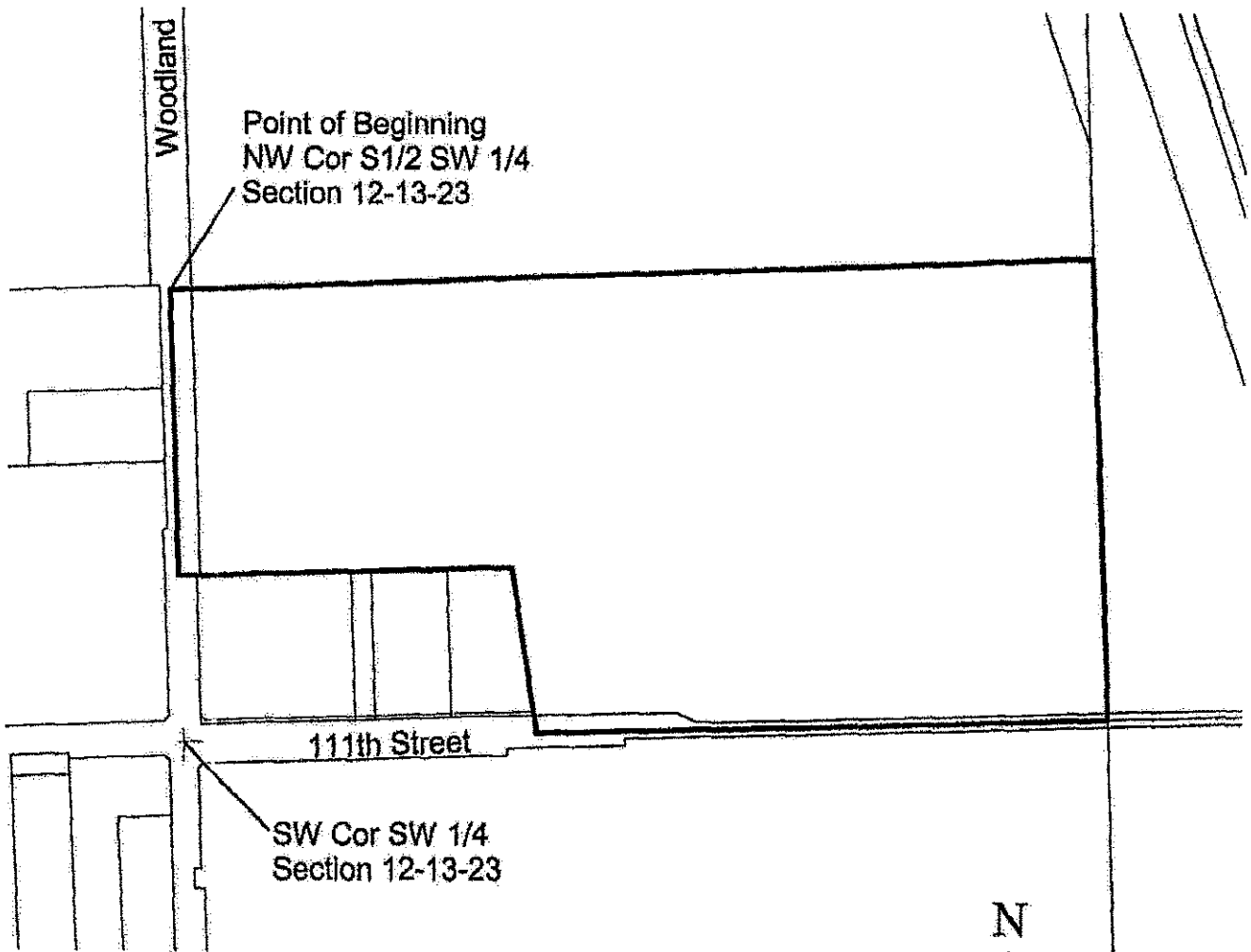
16. The Petitioner acknowledges that they will sign a Deed of Covenant and Reservation, which will run with the land, and said signature shall be, for all time, as the signature of any and all subsequent owners, heirs and assigns, executors and administrators on any existing or future petition for enlargement of the Consolidated Main Sewer District (the "CMSD") to include the Contract Area or which would otherwise include the Contract Area in the CMSD.

Therefore, the undersigned Petitioner hereby requests the Board of County Commissioners, pursuant to Charter Resolution No. 29-92 and any amendments thereto, to create temporary Contract District No. 1 of Mill Creek No. 17 comprising all of the land within the boundary described in attached Exhibit "A".

By: 
Mark Hoelling, Manager
Fall Brook Development, L.L.C.

Date: June 28, 2002

Proposed Contract District No. 1 of Mill Creek No. 17



 Contract District No. 1, Mill Creek No. 17

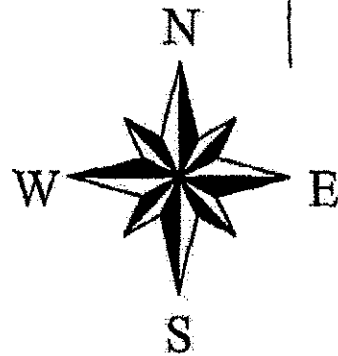


Exhibit "A"
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Proposed Contract District No. 1 of
Mill Creek No. 17

Legal Description:

A tract of land in the Southwest $\frac{1}{4}$ of Section 12, Township 13, Range 23, within the City of Olathe, Johnson County, Kansas, described as follows:

Beginning at the Northwest Corner of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of said Section 12; thence East along the North line of the said South $\frac{1}{2}$ to the Northeast Corner of said South $\frac{1}{2}$; thence South along the East line of the said South $\frac{1}{2}$ to the Southeast Corner of the South $\frac{1}{2}$; thence West along the South line of the said South $\frac{1}{2}$ to the Southeast Corner of Reuber Acres, a subdivision of land in the City of Olathe, Kansas; thence North and Northwesterly along the East line of said Reuber Acres to the Northeast Corner of said subdivision; thence West along the North line of said Reuber Acres to a point on the West line of the South $\frac{1}{2}$ of said Southwest $\frac{1}{4}$; thence North along said West line to the Point of Beginning.