



Allegheny County  
Jerry Tyskiewicz  
Department of Real Estate  
Pittsburgh, PA 15219

Instrument Number: 2015-32694

BK-DE VL-16166 PG-152

Recorded On: October 20, 2015

As-Deed Agreement

Parties: BUNCHER CO

To BUNCHER CO

# of Pages: 38

Comment:

\*\*\*\*\* THIS IS NOT A BILL \*\*\*\*\*

Deed Agreement 162.00

0

0

Total: 162.00

**Realty Transfer Stamp**

Affidavit Attached-No  
NOT A DEED OF TRANSFER

EXEMPT

Value 0.00

**Department of Real Estate Stamp**

Certified On/By-> 10-19-2015 / B K

NOT A DEED OF TRANSFER

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

**File Information:**

**Record and Return To:**

Document Number: 2015-32694

Receipt Number: 2985765

Recorded Date/Time: October 20, 2015 10:47:49A

Book-Vol/Pg: BK-DE VL-16166 PG-152


User / Station: J Clark - Cash Station 25

THE BUNCHER CO

1300 PENN AVE STE 300

PITTSBURGH PA 15222



  
Jerry Tyskiewicz, Director  
Rich Fitzgerald, County Executive

37  
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Record and Mail to: The Buncher Company  
1300 Penn Avenue, Suite 300  
Pittsburgh, PA 15222

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration"), is made as of October 13, 2015, by **THE BUNCHER COMPANY**, a Pennsylvania corporation ("Declarant"), having an address for legal notice of 1300 Penn Avenue, Suite 300, Pittsburgh, PA 15222.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property (the "Land") situate in the Second Ward of the City of Pittsburgh, Allegheny County, Pennsylvania being generally bounded by 11<sup>th</sup> Street, Smallman Street, 21<sup>st</sup> Street and the Allegheny River, but excluding: (i) the URA Property (as defined herein) and; (ii) that certain parcel of land between 20<sup>th</sup> Street and 21<sup>st</sup> Street along the Allegheny River that is owned by the City of Pittsburgh and is more fully described in that certain deed from Declarant to the City of Pittsburgh dated June 16, 2008 and recorded in the Allegheny County Department of Real Estate in Deed Book Volume 13930, Page 276; and

WHEREAS, the Land consists of approximately 41.39 acres and is shown on three (3) plans, recorded in the Allegheny County Department of Real Estate, as follows: Buncher Plan of Lots No. 1, Plan Book Volume 273, Page 27 (the "First Subdivision Plan"), Buncher Plan No. 2, Plan Book Volume 273, Page 28 (the "Second Subdivision Plan"), and Buncher Plan No. 3, Plan Book Volume 281, Page 67 (the "Third Subdivision Plan"); the First Subdivision Plan, the Second Subdivision Plan and the Third Subdivision Plan, as amended, are hereinafter collectively called the "Buncher Plans", copies of which are attached hereto as Exhibits A-1, A-2 and A-3, respectively; and

WHEREAS, subject to obtaining all necessary zoning, land development and similar approvals, Declarant presently intends to develop a portion of the Land, such portion consisting of the SP Zone (as hereinafter defined), over time as a master-planned development, including office, commercial, multi-unit residential and similar buildings, as well as open spaces, small parks and trails, (the "Development"); and

WHEREAS, the Development is more fully shown on a Preliminary Land Development Plan (the "PLDP") dated May 2012, as amended June 2, 2015 and submitted to the City of Pittsburgh Planning Commission (the "Commission") along with Declarant's request for a Zoning Map Amendment (the "Zoning Amendment") to classify and regulate development of a portion of the Land under the City of Pittsburgh Zoning Code (the "Code") as "Specially Planned District, SP-8, Riverfront Landing" (the "SP Zone"). The SP Zone consists of approximately 28.87 acres, as more particularly depicted on Exhibit B-1 attached hereto and made a part hereof and described on Exhibit B-2 attached hereto and made a part hereof; and

WHEREAS, on December 17, 2012 the City Council of the City of Pittsburgh enacted Ordinance No. 2012-0606 adopting the Zoning Amendment and amending the Code as provided for therein; and

WHEREAS, Declarant desires and intends to operate the Development as an integrated development, and therefore wishes to place of record certain covenants relating to the operation and maintenance of the Common Areas, Limited Common Areas and Public Open Spaces (as said terms are hereinafter defined) within the Development;

NOW, THEREFORE, in consideration of the premises, and intending to be legally bound hereby, Declarant hereby declares that the land within the SP Zone and any and all Lots (as defined below) now or hereafter subdivided from the land within the SP Zone shall be held, ground leased, sold, and conveyed subject to the following covenants which are for the purpose of protecting the value and desirability of the land within the SP Zone and the Lots, shall run with the land within the SP Zone, and shall be binding upon all Persons (as hereinafter defined) having any right, title, or interest in the land within the SP Zone, the Lots or any part thereof, their respective heirs, personal representatives, successors, and assigns, and which shall inure to the benefit of each and any Owner (as hereinafter defined) thereof:

#### ARTICLE I RECITALS

- 1.1 The foregoing recitals are incorporated herein by reference.

#### ARTICLE II DEFINITIONS

- 2.1 The terms set forth below shall have the following meanings:

"Abutting Lot" shall mean any Lot that directly touches, abuts and adjoins any part of the Riverfront Property.

"Abutting Owner" shall mean an Owner of an Abutting Lot.

"Annual Budget" shall mean the annual budget of Common Area Maintenance Expenses, Limited Common Area Expenses and Public Open Space Maintenance Costs as such terms are defined herein, to be prepared in accordance with Section 4.3 of this Declaration.

"Applicable Laws" shall mean all laws, statutes, ordinances, rules, regulations or codes (including but not limited to building codes) of the United States of America, the Commonwealth of Pennsylvania, the City of Pittsburgh or any agency or authority of any of the foregoing.

"Association" shall mean the Pennsylvania non-profit corporation that may be established by Declarant as provided for below, and given the name "Riverfront Landing Owners' Association" or whatever other name the Declarant selects.

"Association Board of Directors or Board of Directors" shall mean the three (3) elected members that make up the governing body of the Association following its formation that are responsible for the governance, management and operation of the Association.

"Building" shall mean any and all buildings or permanently enclosed structures, and appurtenant and ancillary structures, which have been, will be, or may from time to time hereafter be constructed upon a Lot, which for the purpose of this Declaration shall include any appurtenant canopies, supports, loading docks, car or truck ramps, and other outward extensions.

"CAM Charges" shall have the meaning set forth in Section 4.4 of this Declaration.

"CAM Proportionate Share of the Common Areas Maintenance Expenses" shall mean a fraction, the numerator of which shall be the land area included within a Lot within the SP Zone, and the denominator of which shall be the total land area of all Lots within the SP Zone as the same may exist from time to time, calculated as of the date hereof to be 21.79 acres. Except as provided for below, under no circumstances shall the total acreage for the Lots within the SP Zone be reduced below 21.79 acres for purposes of calculating the CAM Proportionate Share of the Common Areas Maintenance Expenses, unless and except if any portion of any Lots are subject to a final order of taking by a governmental authority such that the property so taken is no longer used in conjunction with the Development and the Owner of such property subject to the taking no longer has any beneficial use thereof or rights thereto, in which event the property so taken shall be subtracted from the total acreage comprising the Lots. Notwithstanding the foregoing or anything else herein to the contrary, Declarant, without the prior written consent of any other party, including, without limitation, any Owner, but subject to providing prior written notice of the amendment to all Owners, shall have the right, following the Completion of Construction on 75% of the Lots, to amend this Declaration to provide that the CAM Proportionate Share of the Common Areas Maintenance Expenses shall be a fraction, the numerator of which shall be the gross square footage of all Buildings erected on a Lot or the gross square footage of a vacant Lot within the SP Zone and the denominator of which shall be the gross square footage of all Buildings erected on all Lots within the SP Zone plus the gross square footage of any remaining vacant Lots.

"CAM Statement" shall have the meaning set forth in Section 4.4 of this Declaration.

"Claim of Lien" shall mean a publicly recorded lien placed upon a Lot.

"Common Areas" shall mean, collectively, all real estate and personal property within the SP Zone which have been constructed, improved or set-aside by Declarant for the specific purpose of being available for the common use and enjoyment of two or more Owners and, from time to time, the public, which Common Areas shall consist of: (i) primary and secondary roadways designed and constructed by the Declarant within the SP Zone, but only to the extent the same are not dedicated to and accepted as public streets, and which as of the date hereof are more particularly depicted on Exhibit B-1; (ii) parking areas located within primary and secondary roadways, if any, excluding structural parking garages, designed and constructed by Declarant within the SP Zone, but only to the extent the same are not dedicated to and accepted as public improvements; (iii) sidewalks and paths adjoining streets or roadways designed and constructed by Declarant within the SP Zone, but

only to the extent the same are not dedicated to and accepted as public improvements; (iv) any and all lights and lighting systems serving primary and secondary roadways, parking areas and sidewalks, but only to the extent the same are not owned by any public or governmental authority or are not dedicated to and accepted as public improvements; (v) any landscaped areas within the rights of way of the primary and secondary roadways, but only to the extent the same are not dedicated to and accepted as public improvements; (vi) private direction and traffic control signs within the SP Zone that serve primary and secondary roadways, but only to the extent the same are not owned by any public or governmental authority or are not dedicated to and accepted as public improvements; and (vii) subject in all respects to the terms of Section 4.1(d), below, all other improvements which are or will be part of the Common Areas and all improvements constructed from time to time in replacement or redesign of the foregoing as determined in Declarant's or Operator's commercially reasonable discretion. The Common Areas shall not include any portion of the Riverfront Property but shall include any Limited Common Areas, subject to the other terms and provisions contained herein. The Common Areas shall initially consist of those roadways and appurtenant sidewalks, landscaping and street lighting depicted on Exhibit B-1. Notwithstanding anything herein to the contrary, Declarant reserves the right to license and allow individual Owners the right to temporarily use portions of the Common Areas (including streets and roadways) for construction, construction staging and similar purposes, with the result that some portions of the Common Area might be temporarily inaccessible for common use; provided, however, that: (i) Declarant shall limit any such license or permission to only the minimum reasonable time necessary to accommodate the construction in question and no Lot shall be left completely or unreasonably inaccessible or shall access to a Lot otherwise be materially and unreasonably restricted on account of any such license granted by Declarant; (ii) no such action by Declarant shall materially and adversely affect the use, operation and/or enjoyment by any Owner of such Owner's Lot or otherwise cause any Owner to incur additional liability or costs hereunder; and (iii) Declarant and any Owner granted any such license shall be solely responsible for any damages, repairs, replacements, maintenance, costs or expenses relating to such licensed use. Subject to the foregoing, Declarant shall not close, block, relocate and/or otherwise materially and unreasonably restrict access to the Commons Areas, except: (i) to the extent reasonably necessary to avoid any public dedication of such areas; and/or (ii) to the extent reasonably necessary in connection with any required inspection, maintenance, repair, restoration or replacement of such areas as provided for herein. In all circumstances, Declarant covenants and agrees to use commercially reasonable efforts to minimize any interference with the access and easement rights granted hereunder, and Declarant shall reasonably endeavor to cause any such closure, blockage or restriction permitted herein to be on a temporary basis and shall use commercially reasonable efforts to promptly re-open and/or remove such blockage or restriction with respect to the Commons Areas so that no Owner shall be materially and adversely affected with respect to the use, operation and/or enjoyment by any Owner of such Owner's Lot.

"Common Area Maintenance Expenses" shall have the meaning set forth in Section 4.2 of this Declaration.

"Completion of Construction" shall mean the full and final completion of all construction on a Lot as contemplated, provided for, and required under the PLDP.

"Declarant" shall mean The Buncher Company, a Pennsylvania corporation, its successors or assigns; without limiting the generality of the foregoing, and unless the context indicates otherwise, all references herein to Declarant shall be read to include the Association from and after the formation of the Association.

"Declaration" shall mean this Declaration, as the same may be modified and amended from time to time pursuant to Section 8.11 of this Declaration.

"Default Rate" shall mean the rate of interest that is the lesser of: (i) twelve percent (12%) per annum; and (ii) the maximum rate per annum permitted by law.

"Defaulting Party" shall have the meaning set forth in Section 5.1 of this Declaration.

"Designated Address" shall mean the notice address provided by any Owner to Operator, provided that, if an Owner fails to provide its notice address to Operator, then such Owner's Designated Address shall be the address of such Owner's Lot.

"Development" shall have the meaning set forth in the recitals.

"Environmental Covenants" shall mean following covenants, executed and recorded pursuant to the Pennsylvania Environmental Covenants Act No. 68 of 2007:

(i) Environmental Covenant dated February 4, 2014, and recorded on April 17, 2014, in the Allegheny County Department of Real Estate in Deed Book Volume 15572, page 164;

(ii) Environmental Covenant dated February 5, 2013, and recorded on March 7, 2013, in the Allegheny County Department of Real Estate in Deed Book Volume 15171, page 202; and

(iii) Environmental Covenant dated February 5, 2013, and recorded on March 7, 2013, in the Allegheny County Department of Real Estate in Deed Book Volume 15171, page 211.

"FLDP" shall mean and refer to a Final Land Development Plan, as described in Section 922.11.C of the Code, prepared by Declarant or an Owner and approved by the Commission for the purpose of erecting a building or other improvements on a Lot or Lots.

"Limited Common Area(s)" shall mean any portion of the Common Areas initially designated by Declarant or pursuant to a FLDP for the specific benefit of one or more but fewer than all of the Lots, which Limited Common Areas are approximately depicted on Exhibit B-1.

"Limited Common Area Assessment" is the amount allocated to each Owner benefited by a Limited Common Area for Limited Common Area Expenses.

"Limited Common Area Expenses" shall mean those Common Area Maintenance Expenses (as that term is defined in Section 4.5, below) attributable to a Limited Common Area.

"Lot" shall mean the lots within the SP Zone shown on the Buncher Plans or any lot subsequently created by further legally subdividing or consolidating any such Lot. The initial Lots are depicted on Exhibit B-1 attached hereto and made a part hereof and are calculated as of the date hereof to be 21.79 acres in the aggregate.

"Non-Defaulting Party" shall have the meaning set forth in Section 5.1 of this Declaration.

"Occupant" shall mean any Person from time to time entitled to the use and occupancy of all or any portion of a Lot and/or Building under an ownership right or under any lease, sublease, license, concession, occupancy agreement, or other similar agreement.

"Operator" shall mean the Person designated from time to time by the Declarant to maintain and operate the Common Areas, Limited Common Areas (to the extent not otherwise maintained by an Owner as provided for herein), and the Public Open Spaces (to the extent not otherwise maintained by an Owner as provided for herein). The initial Operator shall be the Declarant.

"Owner" shall mean and refer to (i) the record owner, whether one or more Persons and including the Declarant or the Association, of fee simple title to any Lot or any portion thereof or (ii) a ground lessee (or assignee or successor-in-interest of such ground lessee) of a Lot under a lease in effect at the time in question for realty transfer tax is or was payable under 72 P.S. § 8101-C et seq. The term "Owner" shall specifically exclude those having merely a security interest in the Lot and/or Building for the performance of any obligation. Each Owner shall be liable for the performance of all covenants, obligations, and undertakings herein set forth with respect to the Lots or portions thereof owned by it which accrue during the period of such ownership and if there is more than one Owner of a Lot, all such Owners shall be jointly and severally liable hereunder. Each Owner shall provide Operator with its Designated Address promptly upon acquiring its interest in its Lot or portion thereof.

A ground lessee (and assignee or successor-in-interest of such ground lessee) shall qualify as an Owner upon any execution of an amendment to this Declaration executed by Declarant and the ground lessor under such ground lease (to the extent the Declarant is not also the ground lessor), which amendment to this Declaration grants such ground lessee with the benefits and obligations of Owner, and which amendment shall be duly recorded. Upon the granting of such rights as Owner to a ground lessee, the record owner of such Lot (or portion thereof) shall have no rights as Owner under this Declaration with respect such Lot (or portion thereof) while such ground lease remains in effect, but such grant of rights shall not be deemed to limit or restrict any rights or privileges of the record owner of the Lot arising under the ground lease or any other document, excluding this Declaration.

"Permittee" shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, tenants, subtenants, and concessionaires of Occupants, insofar as their activities relate to the intended development, use, and occupancy of the Lots.

"Person" shall mean and refer to any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or government organization or entity, or one or more of them, as the context may require.

"Public Open Spaces" shall mean and refer to any areas labeled as such on an FLDP, the design, layout, construction, repair and maintenance of which shall be governed and controlled by the FLDP, subject to Declarant's prior review and approval of the FLDP in question as provided for in Section 7.2(b), below. Public Open Spaces shall not include any portion of the Riverfront Property. The initially designated Public Open Spaces are approximately depicted on Exhibit B-1.

"Riverfront Easement Agreement" shall mean collectively and together those three (3) Deeds of Easement and Agreement between Declarant and the City of Pittsburgh, dated December 21, 2001, June 16, 2008 and December 7, 2009 and recorded in the Allegheny County Department of Real Estate in Deed Book Volume 11410, Page 363, Deed Book Volume 13921, Page 428 and Deed Book Volume 14225, Page 548.

"Riverfront Property" shall mean and refer to the easement area, described in the Riverfront Easement Agreement, including all improvements such as landscaping, the so-called "Three Rivers Heritage Trail" for walking or bicycling along the Allegheny River through the Development (the "Trail"), light standards, drinking fountains or similar amenities now existing or to be installed within the same by the City of Pittsburgh pursuant to the Riverfront Easement Agreement, and further including any landscaping, paved portion of the Trail or similar amenities previously installed by the City of Pittsburgh pursuant to the Riverfront Easement Agreement that might meander outside the boundaries of the easement area on to a portion of a Lot or Lots (the "Encroachment"). Any such Encroachment on to a Lot shall be identified as Public Open Space in the FLDP. The responsibility for maintaining the portion of the Trail that encroaches on a Lot or Lots shall be the responsibility of the City of Pittsburgh and absent the City of Pittsburgh's failure to perform, the obligation for maintenance and repair shall be subject to the provisions of Section 4.7 of this Declaration.

"SP Zone" shall have the meaning set forth in the Recitals hereto. Declarant will take no actions the result of which would be a reduction in the size of the SP Zone other than as required by any condemnation or other similar governmental action.

"URA Property" shall mean property designated for real estate tax purposes in the Allegheny County, Pennsylvania Deed Registry as Block and Lot 9-D-200 that is owned by The Urban Redevelopment Authority of Pittsburgh. The URA Property is specifically excluded from and is not subject to any restriction, easement, covenant, reservation, exception or condition set forth in this Declaration.



ARTICLE III  
GRANT OF EASEMENTS

3.1 Access Easement.

(a) Grant of Access Easement. Subject to the terms and conditions of this Section 3.1, Declarant hereby declares, establishes, and creates a non-exclusive easement and right-of-way (collectively, the "Access Easement") in favor of itself, each Owner, and their respective Permittees: (i) for the passage of vehicles, including but not limited to cars, trucks, and delivery vehicles, and pedestrians over and across the roadways within the Common Areas; and (ii) for the passage and accommodation of pedestrians over and across all sidewalks within the Common Areas.

(b) Use of Roadways. The roadways and sidewalks within the Common Areas shall be used in common by the Owners and their respective Permittees, solely for access, ingress, egress and regress between the Lots and public rights of way within and adjacent to the Development. Except as provided in the definition of Common Areas, in no event shall the Owners or their respective Permittees be permitted to use the roadways or sidewalks for any purpose other than as described above.

(c) No Public Rights. Nothing contained in this Declaration shall be deemed to create any public rights in the roadways or sidewalks within the Common Areas, or to require that any roadway be built or maintained as a public road, unless such requirements are hereafter imposed by any governmental authority.

(d) Obstructions. Except as provided in the definition of Common Areas, Declarant, the Operator and each Owner, for themselves and their respective Permittees, agree not to obstruct or interfere with the free flow of pedestrian or vehicular traffic over the roadways and sidewalks in the Common Areas, except to the extent necessary for reasonable repair and maintenance, traffic regulation and control, and to prevent a dedication thereof or the accrual of any prescriptive rights therein. The foregoing shall be subject to the terms and provisions set forth in the definition of Common Areas relating to any such blockages, closures and/or restrictions and minimizing any interference with the Access Easement granted hereunder.

3.2 Utility Easements.

(a) Declaration of Utility Easements. Declarant hereby declares, establishes, and creates in favor of itself, each Owner and their respective Permittees, the Operator, appropriate utility service companies, and government agencies or authorities for such utility and service lines and equipment, easements over, under and across the Common Areas or Lots as to which Declarant is the Owner under this Declaration, in such other locations as determined by Declarant after the date hereof in its reasonable discretion from time to time for the installation, relocation, repair, maintenance, and replacement of utility lines (including without limitation gas, water, sewer, electric, data communications lines and telecommunications lines, equipment and apparatus) and stormwater systems (collectively, the "Utility Easements"), subject in all events to the following:

(i) The Utility Easements shall not adversely affect the use and enjoyment of any Lot, nor require the removal, alteration, or disturbance of any Building then existing or proposed at the time of installation of the applicable utility line, located on, or to be located on, a Lot; and

(ii) Any installed utility lines may be extended or relocated by the Owner of a Lot on such Owner's Lot, subject to compliance with Applicable Laws, at the expense of the Owner of that Lot, provided that such extension or relocation shall not interfere with, increase the cost of, or in any way diminish utility services to any other Lot; and

(iii) Any private utility line to be installed pursuant to this Section 3.2 shall be installed, and thereafter maintained and repaired, at the sole cost and expense of the Owner that benefits from the installed private utility lines. If two or more Owners benefit from the installed private utility line, said Owners shall split the cost and expense of the installation, maintenance and repair equitably between them; and

(iv) The Utility Easements shall run to the benefit of the successor(s)-in-interest to a Lot, or any portion thereof, or to any utility company providing service to a Lot, or any portion thereof; and

(v) Nothing contained herein shall expand, limit, change or effect any easement for utilities of record prior to the date of recording this Declaration ("Pre-existing Utility Easements"). The conveyance, lease or development of any Lot shall be under and subject to all Pre-existing Utility Easements and each Owner shall be responsible for accommodating any Pre-Existing Utility Easements as its Lot is developed.

(b) Cooperation. Each Owner (i) shall not unreasonably withhold such Owner's consent as to any matters reasonably required by Declarant, and (ii) shall reasonably cooperate with Declarant and its agents, employees and contractors, the Operator and its agents, employees and contractors, utility service companies, and government agencies or authorities for such utility and service lines and equipment; all in connection with the installation, use, operation, maintenance, repair, replacement, relocation, and removal of utilities within the Common Areas and any Lot, including but not limited to granting any easements within the Common Areas that Declarant deems necessary, in Declarant's reasonable discretion, for the benefit of one or more of the Lots; provided, however, that such installation, use, operation, maintenance, repair, replacement, relocation, and removal shall not materially interfere with such Owner's use, operation and/or enjoyment by any Owner of such Owner's Lot or otherwise cause any Owner to incur unreasonable or material additional liability or costs hereunder.

### 3.3 Stormwater Facilities.

(a) Declarant hereby declares, establishes, and creates an easement over, under and across all Lots in favor of Declarant, and the City of Pittsburgh or any other governmental agency, authority or unit, to enter onto and access any Lot for the

purpose of inspecting, repairing, maintaining, enlarging or replacing any stormwater facility located on a Lot, subject in all events to the following:

(i) Any extension, change, modification or addition to the stormwater facilities shall not adversely affect the use and enjoyment of the Lot, nor require the removal, alteration, or disturbance of any Building then existing or for which the FLDP has been formally presented to the City of Pittsburgh Planning Commission; and

(ii) Each Lot Owner and its Permittees shall reasonably cooperate with Declarant and its agents, employees and contractors, and government agencies or authorities in the installation, use, operation, maintenance, repair, replacement, relocation or enlargement of all stormwater facilities on its Lot, including but not limited to granting any additional easements that Declarant deems necessary, in Declarant's reasonable discretion, for the benefit of one or more of the other Lots in the Development and subject to the provisions of Section 3.3(i).

(iii) The easements established hereby shall include and permit Declarant access and entry onto any Lot for the purpose of improving or expanding existing stormwater facilities or creating new stormwater detention/retention facilities, provided, however, that (a) all construction work to maintain, repair, replace, relocate or enlarge a stormwater facility shall be done without direct cost to the Lot Owner; (b) such work shall only be undertaken to the extent that further or new development on another Lot in the Development requires it, and (c) no such work shall reduce the capacity of the stormwater facilities then existing on the Lot upon which such work might take place and subject to the provisions of Section 3.3(a) herein.

(b) No Owner shall submit to the City of Pittsburgh for approval a FLDP unless and until Declarant has reviewed and approved the same (which approval shall be given or withheld in Declarant's sole and unreviewable discretion) for compliance with Declarant's stormwater management plans for the entire Development.

(c) In the event a stormwater management facility or detention/retention facility is installed by Owner at Owner's cost and expense that serves and accommodates stormwater generated by more than one (1) Lot, then all costs and expenses related to the operation, maintenance, repair, replacement or improvement of any such facility shall be shared by and among, and paid for by the benefiting Lot Owners and/or treated in whole or in part as a Limited Common Area Expense, as Declarant may reasonably determine and allocate. All costs and expenses of any stormwater management facility or detention/retention facility that serves only one Lot, shall be paid for by the Owner of that Lot.

3.4 Parking. The Owner of each Lot or any portion thereof agrees that, at all times, there shall be independently maintained on such Lot a parking area located entirely and completely on the Lot which shall be sufficient to accommodate the approved use then located on such Lot or portion thereof and so as to ensure compliance by such Lot with all Applicable Laws. No cross easement parking rights are granted herein. Each Lot shall be self-parked and, unless otherwise specifically

agreed to in writing by the Owners of adjoining Lots, the Owner of each Lot shall take commercially reasonable action to prevent their respective Permittees from unauthorized parking on the Lots of other Owners.

3.5 Maintenance Easement. The Common Areas, the Limited Common Areas and the Public Open Spaces (to the extent necessary and as expressly provided for herein), shall be subject to a non-exclusive right and easement for the benefit of the Declarant, its agents, employees, contractors, and subcontractors and the Operator, its agents, employees, contractors, and subcontractors, as may be necessary or appropriate to perform the duties and functions that the Declarant and the Operator are obligated to perform under this Declaration, and for providing maintenance and repairs as expressly provided for herein. Such right and easement as provided for herein shall not materially interfere with any Owner's use, operation and/or enjoyment of such Owner's Lot or otherwise cause any Owner to incur unreasonable or material additional liability or costs hereunder.

3.6 Environmental Covenants. Some or all of the Lots in the Development are subject to the terms and conditions of the Environmental Covenants. Each Owner of a Lot subject to the Environmental Covenants shall be deemed by the acceptance and recording of deed for the Lot to agree

(i) To the terms and conditions of the Environmental Covenants;

(ii) To not conduct any activities, construct any improvements or otherwise do anything on the Lot that would violate or not be in compliance with the terms and conditions of the Environmental Covenants; and

(iii) To indemnify and hold Declarant and all other Owners, and their shareholders, directors, officers, employees, agents, contractors, and each and all of their successors and assigns harmless from and against any loss, cost, claim, damage, judgment, lien or expense relating to or arising from the Owner's violation of or failure to comply with the terms and conditions of the Environmental Covenants.

#### ARTICLE IV COMMON AREA MAINTENANCE; EXPENSES

##### 4.1 Maintenance of Common Areas.

(a) Until the Association is established (at which time such obligations shall be assumed by the Association), the Declarant shall maintain and repair the Common Areas, which, unless otherwise specified herein includes all Limited Common Areas, in a good and safe state of repair and in a clean and orderly condition, and in compliance with all Applicable Laws, and in a manner which is free from liens for matters not reasonably under dispute (and Declarant or the Association, as applicable, shall use commercially reasonable efforts to promptly resolve and remove of record any such disputed liens); provided, however, that the Declarant shall not be required to maintain the Common Areas to the extent that the maintenance obligation has been assumed by a utility provider, governmental or quasi-governmental authority or any other entity, including an Owner, acceptable to

Declarant or to the extent that the obligations for a Limited Common Area have been allocated by this Declaration to the Owner or Owners benefited by such Limited Common Area. The Declarant's obligations hereunder include maintaining, cleaning, managing, insuring, repairing, lighting, snow removal, paving and resurfacing, maintaining, planting or re-planting landscaping, operating, and removing trash, obstructions, debris, and refuse from the Common Areas.

(b) Declarant hereby declares, establishes, and creates for itself, the Association, its successors, assigns, agents, employees, contractors, and Permittees, an easement to enter upon the Common Areas for the purpose of maintaining, repairing, restoring, and operating the same in accordance with Section 4.1(a) of this Declaration, provided the foregoing easement shall not materially interfere with any Owner's use, operation and/or enjoyment of such Owner's Lot.

(c) The Declarant or the Association, as applicable, may contract with third parties to perform all or any part of the duties and obligations of Declarant under Section 4.1(a) of this Declaration. Any such contracts shall be on commercially reasonable and arms length terms.

(d) Until such time as at least seventy-five percent (75%) of the Lots have been sold, ground leased or conveyed to Persons other than Declarant, Declarant may, without the consent or approval of any other party, including without limitation any Owner, but subject to amending this Declaration and providing a written copy thereof to all Owners, make such modifications, additions, deletions or changes to the Common Areas and any improvement, landscaping or amenity therein as Declarant believes, in its sole reasonable discretion, to be in the best interest of the Development; provided, however, and notwithstanding the foregoing, no modification, addition, deletion or change to the Common Areas shall be made that would have a materially adverse effect on any Lot, or materially increase the Common Area Maintenance Expense payable by an Owner, without the prior written consent of the Lot Owner effected thereby. After at least seventy-five percent (75%) of the Lots have been sold, ground leased or conveyed to Persons other than Declarant, no changes shall be made to the improvements, landscaping or amenities in the Common Areas without the approval of not less than sixty-seven percent (67%) of the Owners, except that Declarant hereby reserves the right, from time to time and at any time without obtaining the consent or approval of any other party, including without limitation any Owner and prior to the formation of the Association, to make at its own expense any insignificant or minor change, modification, or other alteration in the Common Areas or any improvement, landscaping or amenity therein, such change, modification, or alteration shall become part of the Common Areas and subject to the Common Area Maintenance Expenses; provided, however, no modification, addition, deletion or change to the Common Areas shall be made that would have a materially adverse effect on any Lot, or materially increase the Common Area Maintenance Expense payable by an Owner, without the prior written consent of the Lot Owner effected thereby. In no event shall the Common Areas be changed so as to unreasonably restrict or hinder the accessibility of such Common Areas for pedestrian or vehicular traffic.

4.2 Common Area Maintenance Expenses. Operator shall be responsible for paying, from the payments collected pursuant to Section 4.4 below, directly to the

Persons entitled to such payment, all reasonable, ordinary and necessary costs and expenses actually incurred in connection with the operation, maintenance, managing, insuring, repair, and replacement of the Common Areas as required under Section 4.1 of this Declaration (collectively, the "Common Area Maintenance Expenses"), including but not limited to: (i) premiums for liability and property insurance coverage with respect to the Common Areas; (ii) all maintenance and repair costs and expenses with respect to the Common Areas; (iii) all other costs and expenses of any kind and nature relative to operating, insuring, equipping, policing, managing, and protecting, the Common Areas, including but not limited to the cost of any improvements, repairs, and replacements; (iv) all costs with respect to equipment used in connection with the performance of the foregoing; (v) costs and expenses associated with keeping the Common Areas free of snow, ice (which shall include sanding, salting, or other treatments when necessary, with the stockpiling of snow permitted in reasonable areas), refuse, and obstruction, suitably paved and marked for traffic flow and properly drained (provided, however, that with the written consent and agreement of the Operator not to be unreasonably withheld, conditioned or delayed, the Owner of a Lot may specifically assume with respect to such Lot some or all of such costs and expenses, in which case the CAM Charges for such Lot shall be equitably adjusted); (vi) costs and expenses associated with keeping the Common Areas lighted from dusk until dawn; (vii) costs and expenses associated with keeping and maintaining in good condition and repair all landscaped areas that are part of the Common Areas, including but not limited to replacement, replanting, and regular periodic mowing; (viii) real estate taxes and assessments imposed on or assessed against the Common Areas; (ix) the maintenance and repair of sidewalks and paths located in the Common Areas; (x) an administrative fee payable to Operator in the amount of Five percent (5%) of the Common Area Maintenance Expenses; (xi) costs associated with reasonable and normal wear and tear (including replacement of asphalt wearing surface and line stripping); and (xii) all other reasonable expenses necessary, proper or required in the reasonable discretion of the Operator to meet the requirements of Section 4.1 of this Declaration, including, without limitation, the creation of reasonable reserves for the same purposes. Notwithstanding anything herein to the contrary, Common Area Maintenance Expenses shall not include: (i) costs associated with correcting on Waterfront Place and 15<sup>th</sup> Street, any deficiencies or defects (including the completion of sidewalks and curbs, removal of non-compliant curb cuts, elevation corrections, installation of street trees, installation of parking lot screening and removal and repair of parking lot control systems necessary to cause the acceptance of the Common Areas by the City of Pittsburgh or other governmental entity; (ii) the initial costs of development or costs to construct any Common Area, Limited Common Area, plaza, trail or other Public Open Space; (iii) payments of principal or interest on any mortgage encumbering any part of the Land; (iv) legal and accounting fees related to disputes with any Owner or mortgagee and any prospective Owner or mortgagee or any prospective purchaser; (v) costs, fines or penalties incurred due to violation by Declarant, Operator, the Association or any Owner of any governmental rule, code, ordinance or law; (vi) depreciation; (vii) environmental remediation or the costs of otherwise achieving compliance with any environmental law or regulation, including, without limitation, the removal and cleanup of hazardous waste or toxic substances; (viii) costs paid or to be paid by others or covered by insurance proceeds or condemnation awards; (ix) late fees; (x) payments to affiliates, except that Common Area Maintenance Expenses may include payments to affiliates for work or services performed exclusively for the Development but only so long as any such payment is

customary, reasonable and not in excess of what would otherwise be paid to a third-party vendor providing the same work or service; (xi) costs associated with any new or existing tenant, occupant or Owner, including but not limited to brokerage or leasing commissions, and further including any expenses associated with any special requirements of a particular tenant, occupant or Owner in excess of the requirements provided for herein; (xii) advertising or promotional expenditures; (xiii) initial costs of capital improvements; (xiv) costs, fines or penalties incurred as a result of the violation by Declarant and/or Operator (or any other Owner) of any applicable law, or as a result of the negligence of Declarant and/or Operator (or any other Owner) or any of its contractors, subcontractors, agents or employees in performing any obligations under this Declaration, including the maintenance obligations pursuant to Section 4.1; (xv) any costs of either repaving the Common Areas or restriping any pavement in the Common Area if such costs are incurred more frequently than would be customary for similarly situated projects in the greater Pittsburgh area ; and (xvi) any other expenses not considered a normal and reasonable maintenance or operating expense in accordance with generally accepted accounting principles.

4.3 Annual Budget. The Operator shall be responsible for preparing the Annual Budget based on the estimated Common Area Maintenance Expenses, Limited Common Area Expenses and Public Open Spaces Maintenance Costs expected for each calendar year, as reasonably and in good faith estimated by Operator, as well as based on each Owner's CAM Proportionate Share of the Common Area Maintenance Expenses as provided for herein and such other cost allocations among the Lots as to Limited Common Areas and Public Open Space as provided for herein and reasonably and in good faith determined by Operator. The Annual Budget shall be prepared yearly and distributed to all Owners not later than December 15th of the calendar year immediately preceding the year for which the Annual Budget will be in effect. Notwithstanding the foregoing, the preliminary Annual Budget shall be prepared by Declarant on or before December 1, 2015.

4.4 Payment of Common Area Maintenance Expenses. Commencing on the first day of January after the Operator distributes the initial Annual Budget, and on the first day of each calendar month thereafter for so long as this Declaration is in effect, each Owner shall pay to Operator in advance, without demand, deduction, or set-off (except as otherwise provided for herein), such Owner's CAM Proportionate Share of the Common Area Maintenance Expenses (the "CAM Charges") as established by the Annual Budget. The CAM Charges shall be due and payable within ten (10) days of Owner's receipt of an invoice or statement for the same, which invoice or statement shall be rendered monthly; provided, however, an Owner shall be entitled to reasonably and in good faith dispute any such statements or invoices (but only so long as the Owner promptly pays any amount not in dispute) in which event the parties shall work to reasonably and promptly resolve any such dispute. Interest at the Default Rate shall accrue on any CAM Charges not paid within ten (10) days of the Owner's receipt of an invoice or statement for the same, subject to an Owner's right to dispute as provided for herein. Within forty-five (45) days after the end of each calendar year, Operator shall submit to each Owner a detailed and itemized statement, together with such supporting documentation as may be reasonably requested or needed by an Owner (each, a "CAM Statement") of the actual Common Area Maintenance Expenses incurred during the prior calendar year and the actual CAM Charges allocable to the Owner, following which, to the extent that the actual

costs incurred for the preceding calendar year vary from the estimated payments made during the preceding year, an equitable adjustment shall be made. To the extent that the actual CAM Charges allocable to an Owner for the preceding calendar year exceed the estimated payments made by an Owner, such Owner shall pay the deficiency to Operator within thirty (30) days following the delivery of the CAM Statement, subject to an Owner's right to dispute as provided for herein. Should the estimated payments made for the preceding year by an Owner exceed the actual CAM Charges, then any excess amount paid by such Owner shall be credited against the Owner's CAM Charges for the then current calendar year (or otherwise promptly refunded to such Owner by the Operator if such Owner so elects). Declarant agrees to keep books and records documenting Common Area Maintenance Expenses and CAM Charges payable and paid by the Owners. Each Owner shall have the right for a period of two (2) years after receipt of any CAM Statement, at Owner's cost (except as provided for herein), to inspect or audit or have inspected or audited by its representative Declarant's, Operators' and/or the Association's books and records relating to such CAM Statement, the CAM Charges and all Common Area Maintenance Expenses relating thereto after reasonable notice and during normal operating hours. Declarant, Operator and the Association, as applicable, shall retain its records relating to the CAM Statement, the CAM Charges and all Common Area Maintenance Expenses for each year at its principal office for at least two (2) years after the expiration of the year in question. Appropriate adjustments shall be promptly made for errors in the computation of such costs, charges and payments revealed by such audit. If any audit indicates an overcharge to an Owner of more than five percent (5%) of such Owner's actual CAM Charges for a prior year, then the reasonable costs of such audit shall be paid on demand by Declarant to the Owner.

4.5 Limited Common Area Expenses. There is specifically excluded from the calculation of the CAM Proportionate Share of the Common Areas Maintenance Expenses all Limited Common Area Expenses. Limited Common Area Expenses, as reasonably and in good faith allocated, determined and calculated by the Operator, shall be billed by the Operator directly to the Owner or Owners directly benefited by the Limited Common Areas. Such Owner or Owners benefited by the Limited Common Areas shall also have the right, but not the obligation, subject to Operator's prior written consent not to be unreasonably withheld, conditioned or delayed, to directly assume responsibility for the Limited Common Area Expenses associated with such Limited Common Areas (in which event no such payments shall be due to Operator). Charges for Limited Common Area Expenses shall be due and payable within ten (10) days of the Owner's receipt of an invoice or statement for the same, which invoice or statement shall be rendered monthly; provided, however, an Owner shall be entitled to reasonably and in good faith dispute any such statements or invoices (provided the Owner promptly pays any amount not in dispute) in which event the parties shall work to reasonably and promptly resolve any such dispute. Interest at the Default Rate shall accrue on any charges for Limited Common Area Expenses not paid within ten (10) days of the Owner's receipt of an invoice or statement for the same, subject to an Owner's right to dispute as provided for herein. All the terms of Section 4.2 as to exclusions from Common Area Maintenance Expenses, Section 4.3 as to providing an Annual Budget, and Section 4.4 as to delivery of a CAM Statement, annual reconciliations of charges, and audit rights, shall similarly apply with respect to Limited Common Area Expenses.



4.6 Public Open Spaces Maintenance Costs. There is specifically excluded from Common Area Maintenance Expenses all costs and expenses for the on-going inspection, maintenance, repair or replacement of any Public Open Space ("Public Open Space Maintenance Costs"). All Public Open Space Maintenance Costs shall either be the responsibility of the Owner upon whose Lot a Public Open Space may be located, or shall be reasonably and in good faith allocated by the Operator between and among those Owners (which may include all Owners in the Development) benefiting from all or any particular portion of the Public Open Space. Notwithstanding the foregoing, in the event an Owner fails to maintain or repair any Public Open Space located on the Owner's Lot in a reasonable condition then the Declarant or the Association shall maintain and repair the Public Open Space and all Public Open Space Maintenance Costs associated therewith shall be charged to and paid by the Owner. All the terms of Section 4.2 as to exclusions from Common Area Maintenance Expenses, Section 4.3 as to providing an Annual Budget, and Section 4.4 as to delivery of a CAM Statement, annual reconciliations of charges, and audit rights, shall similarly apply with respect to Public Open Space Maintenance Costs charged to any Owner.

4.7 Riverfront Property Maintenance Costs. Pursuant to the terms of the Riverfront Easement Agreement, the Riverfront Property, including the Trail, light standards, drinking fountains, or other amenities, constructed or was and is to be constructed, installed, operated and maintained at the sole cost and expense of the City of Pittsburgh. Nothing contained herein shall be deemed, construed or interpreted to alter, amend or change the terms of the Riverfront Easement Agreement regarding the construction, installation, operation and maintenance of the Riverfront Property. In no event and under no circumstances shall Declarant be required or obligated to include within the Common Area Maintenance Expense any amounts to maintain the Riverfront Property or repair or replace any amenity installed within the Riverfront Property. However, and notwithstanding the foregoing, in the event all or any part of the Riverfront Property falls into a state of significant disrepair and (i) after written notice from Declarant the City of Pittsburgh fails to repair or maintain the Riverfront Property as required by the Riverfront Easement Agreement, and, (ii) in Declarant's sole reasonable opinion the condition of the Riverfront Property is having a material adverse effect upon the Development; then, to the extent any Abutting Owner does not maintain the Riverfront Property adjoining such Owner's Lot and repair or replace any amenity installed within the Riverfront Property adjoining such Owner's Lot, in such event Declarant shall then maintain the Riverfront Property and repair or replace any amenity installed within the Riverfront Property and may include within the Limited Common Area Maintenance Expense charged to an Abutting Owner upon whose Abutting Lot such maintenance, repair or replacement takes place, such amounts as Declarant, in Declarant's sole reasonable discretion, actually incurs to maintain the Riverfront Property or repair or replace any amenity installed within the Riverfront Property.

## ARTICLE V DEFAULT; REMEDIES

5.1 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Declaration by the non-performing Declarant, Association, Owner or Operator (the "Defaulting Party"):

(a) The failure to make any payment required to be made hereunder within ten (10) days following written notice as to such amounts due, or such other period of time specifically set forth herein; or

(b) The failure to observe or perform any of the other covenants, conditions or obligations of this Declaration or to abide by the restrictions and requirements herein provided, other than as described in Section 5.1(a) above, within thirty (30) days after the issuance of a notice by another Owner, the Declarant, the Operator or the Association, if applicable (the "Non-Defaulting Party") specifying the nature of the default claimed; provided, however, that if such failure shall be of such a nature that it cannot be reasonably cured within such thirty (30) day period, then such default shall not be deemed to have occurred if the Defaulting Party commences to cure such default within such thirty (30) day period, and thereafter diligently pursues such cure to completion; or

(b) Anything specifically identified by the terms of this Declaration as a default.

5.2 Right to Cure. With respect to any default under Section 5.1 of this Declaration, any Non-Defaulting Party shall have the right, but shall not be obligated, to cure such default by the payment of money or the performance of such other action for the account of and at the expense of the Defaulting Party; provided, however, that in the event that the default shall constitute an emergency condition, then, notwithstanding the cure periods set forth in Section 5.1 above, the Non-Defaulting Party, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to an emergency without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Non-Defaulting Party shall have the right to enter upon the Common Areas, the Limited Common Areas or the Lot of the Defaulting Party (as to Public Open Space on such Lot but not into any Building(s) located on such Lot) to perform any necessary work or furnish any necessary materials or services to cure the default of the Defaulting Party, its Occupants, and Permittees. In the event that any Non-Defaulting Party shall cure a default, then the Defaulting Party shall reimburse the Non-Defaulting Party for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten (10) days of receipt of demand, together with reasonable documentation supporting the expenditures made. Without limiting any rights or remedies hereunder, in the event of any breach or default hereunder, the Non-Defaulting Party shall also have the right to seek and obtain any and all rights and remedies available at law or in equity, including, without limitation, the right to injunctive relief.

5.3 Lien Rights. All CAM Charges or Limited Common Area Expenses and Public Open Space Expenses for Public Open Spaces located on any Lot under this Declaration that are required to be paid or payable by any Owner hereunder to Declarant (or the Association upon its formation) shall, if not timely paid or disputed by such Owner as provided for herein, then constitute a lien on the Owner's Lot upon the filing of a Claim of Lien relating thereto by Declarant (or the Association upon its formation). A Claim of Lien stating the description of the Lot, the name of the Lot Owner, the amount due, and the due date may be recorded by the Declarant (prior to

the formation of the Association), or thereafter by the Association, in the Allegheny County Department of Real Estate whenever any such charges are not paid within thirty (30) days of their due date. Such Claim of Lien shall secure all unpaid CAM Charges, Limited Common Area Expenses and Public Open Space Expenses for Public Open Spaces located on any Lot that are payable by any Owner hereunder to Declarant (or the Association upon its formation), interest thereon at the Default Rate as specified in Section 2.1, above, the cost of collection thereof (including reasonable attorneys' fees) and administrative charges incurred by the Declarant or Association, as applicable, which are due, and which may accrue subsequent to the recording of the Claim of Lien and prior to entry of a final judgment of foreclosure; provided, however, that in no event shall any such Claim of Lien affect the priority of, or be superior to, any mortgage encumbering the applicable Lot which is recorded in the Allegheny County Department of Real Estate prior to the recording of any such Claim of Lien.

5.4 Enforcement of Lien. The Declarant (prior to the formation of the Association), or thereafter the Association, may bring an action to enforce a Claim of Lien against a Lot Owner in a manner like a foreclosure of a mortgage on real property, and/or bring a suit on the personal obligation against the Lot Owner; provided, however, that in no event shall any such Claim of Lien affect the priority of, or be superior to, any mortgage encumbering the applicable Lot which is recorded in the Allegheny County Department of Real Estate prior to the recording of any such Claim of Lien.

5.5 Owner Obligation. Each Lot Owner, by becoming such, agrees that it shall be responsible for the payment of all obligations relating to such Owner's Lot, including those that may become liens against its Lot pursuant to this Declaration. Further, the amount of any lien or obligation due to the Declarant or Association hereunder (or an Owner as provided herein) shall include, but not be limited to, the costs of enforcing the lien or obligation (including, but not limited to reasonable attorney's fees); and each such lien or obligation may be enforced in the same manner as a mortgage against real property; provided, however, that in no event shall any such lien affect the priority of, or be superior to, any mortgage encumbering the applicable Lot which is recorded in the Allegheny County Department of Real Estate prior to the recording of any such Claim of Lien.

## ARTICLE VI ASSOCIATION AND MEMBERSHIP

6.1 Formation of the Association. The Association shall be formed by the Declarant by no later than such time as at least seventy-five percent (75%) of the Lots have been sold, ground leased or conveyed to Persons other than Declarant, or at such earlier time as determined by Declarant at its discretion.

### 6.2 Board of Directors.

A. Formation and Election of Initial Board of Directors. Within sixty (60) days of the formation of the Association, pursuant to the affirmative vote of a majority of the Owners, the Owners shall elect a three (3) member Board of Directors to carry out the responsibilities and obligations of the Association. For purposes of

electing the Board of Directors, each Lot, as the Lots are configured on the date of recording this Declaration shall be allocated one (1) vote, regardless of whether at the time of election any Lot has been subdivided into smaller parcels. If a Lot has been subdivided, the Owners of the subdivided, smaller parcels shall cast their one (1) vote as they may agree, but in the event such agreement is not reached, the Owner of the largest parcel (by square feet of land area) shall cast the vote allocated to the Lot. Such vote shall take place at a meeting called by the Declarant upon no less than ten (10) business days' written notice to all Owners, which notice shall state the purpose of such meeting. Alternatively, the initial Board of Directors may be elected by a unanimous written consent of a majority of Owners. Notwithstanding anything herein or in the Association by-laws to the contrary, for so long as the Declarant owns at least one (1) Lot, it shall have the right, in its sole and absolute discretion, to appoint at least one member of the Board of Directors (the "Declarant Director"), including, without limitation, the initial Board of Directors; and, in the event the Declarant Director is removed from the Board of Directors at any time for any reasons, so long as the Declarant owns at least one (1) Lot, the Declarant, in its sole and absolute discretion, shall have the right to appoint any replacement of the Declarant Director.

B. Responsibilities of the Board of Directors. The Board of Directors shall have the responsibility of (i) creating by-laws for the Association, (ii) hiring an Operator, (iii) managing, maintaining and planning the Common Area, Limited Common Area, and Public Open Spaces, and (iv) guiding the Development in a manner consistent with the intent of this Declaration. The Association by-laws shall contain provisions governing the meetings and actions of the Board of Directors. The Association by-laws shall specify the term of each member of the Board of Directors, which terms shall be staggered so that no one Board member serves for a term greater than three (3) years in length.

6.3 Membership. After its formation, each and every Owner (whether then or by subsequently becoming an Owner), except as otherwise provided herein, shall automatically be a member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, the fee or leasehold title of a Lot.

## ARTICLE VII BUILDING AND DESIGN CRITERIA

### 7.1 Building Requirements.

(a) All construction activities performed by Declarant or any Owner or Operator, or anyone acting by, through, or under Declarant or such Owner or Operator, on any of the Lots shall be performed in compliance with all Applicable Laws and the PLDP. All construction shall utilize new materials (or recycled materials that are "like new"), and shall be performed in a good, safe, workmanlike and in a first-class manner.

(b) All construction activities undertaken with respect to any Lot (or portion thereof) shall not:

(i) cause any unreasonable increase in the cost of constructing improvements upon any other Lot; or

(ii) unreasonably interfere with construction work being performed on any other part of the Development; or

(iii) unreasonably interfere with the use, occupancy or enjoyment of any part of the remainder of the Development by any other Owner or its Permittees; or

(iv) cause any Building located on another Lot to be in violation of any Applicable Laws, rule, regulation, order, or ordinance authorized by the City, county, state, or federal government, or any department or agency thereof; or

(v) unreasonably interfere with the use of the Common Areas, Limited Common Areas, Public Open Spaces or any public rights-of-way.

(c) Declarant and each Owner agrees to defend, protect, indemnify, and hold harmless, respectively, Declarant and each other Owner from and against all claims and demands, including any action or proceeding brought thereon, and all costs, losses, expenses, and liabilities of any kind relating thereto, including reasonable attorney's fees and cost of suit, arising out of or resulting from any construction activities performed or authorized by such indemnifying Owner; provided however, that the foregoing shall not be applicable to either events or circumstances caused by the negligence or willful act or omission of such indemnified Declarant or Owner, its licensees, concessionaires, agents, servants, employees, or Permittees or anyone claiming by, through, or under any of them.

## 7.2 Building Improvements.

(a) In the event any Building or Common Area is condemned or damaged by fire or other casualty (whether insured or not), the Owner upon whose Lot such Building is located, or the Declarant as to the Common Areas, shall, subject to governmental regulations and/or insurance adjustment delays, promptly remove the debris resulting from such event, provide an attractive barrier around the area, and within a reasonable time thereafter shall either (i) repair or restore the Building or Common Area so damaged to a complete unit, such repair or restoration to be performed in accordance with all provisions of this Declaration, or (ii) erect another Building on the Lot and/or provide for reasonably sufficient substitute Common Areas, such construction to be performed in accordance with all provisions of this Declaration, or (iii) demolish the damaged portion and/or the balance of such Building or Common Areas and restore the cleared area to either a hard surface condition or a landscaped condition. The Owner and Declarant, as applicable, shall have the option to choose which of the foregoing alternatives to perform, but shall be obligated to perform one (1) of such alternatives.

(b) No Building or Public Open Space shall be designed, commenced, constructed, installed, erected or placed upon or within any Lot, nor shall any material and significant addition, change or alteration be made to any completed Building or Public Open Space until such times as all plans with respect thereto have been submitted to the Declarant and approved by Declarant for consistency with the PLDP

and this Declaration (such approval not to be unreasonably withheld, conditioned or delayed), regardless of whether the Lot in question is subject to the terms of the PLDP. In order to insure compliance with the foregoing, each Owner shall, at least sixty (60) days prior to the submission to the City of Pittsburgh of an FLDP for its Lot, submit its plans to Declarant for approval, such approval not to be unreasonably withheld, conditioned or delayed. If Declarant should reject the plans as not being consistent with the PLDP or this Declaration, the submitting Owner and Declarant shall, acting in good faith, consult with one another to establish mutually satisfactory plans for the proposed work. Declarant shall not unreasonably withhold approval of or recommend changes to any Plans which conform with the PLDP or this Declaration, nor shall Declarant withhold approval of exterior remodeling or exterior reconstruction which does not either substantially enlarge an existing structure, or substantially change an existing structure. Approval of any plans by Declarant shall not constitute assumption of responsibility for the accuracy, sufficiency, or propriety thereof, nor shall such approval constitute a representation or warranty that the plans comply with Applicable Laws or that the plans will receive FLDP approval, as the case may be, from the City of Pittsburgh. No material deviation shall be made from the approved plans without Declarant's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(c) All Buildings or other improvements shall comply with any and all applicable zoning and/or land use regulations regarding height, set back, lot coverage and similar matters.

(d) Prior to construction of any Buildings on a Lot, or should any Buildings on a Lot otherwise be removed, such unimproved Lot shall be kept by such Lot Owner in a good and safe state of repair and in a clean and orderly condition, and in compliance with all Applicable Laws, so as not be detrimental to the appearance of the Development and the use, occupancy and enjoyment by other Owners of other Lots. For the purpose of clarity and avoidance of doubt, the use of a Lot as a surface parking area shall not be deemed under this Declaration to violate any Applicable Law nor shall any Lot used as a surface parking area be considered to be detrimental to the Development or the use, occupancy and enjoyment by other Owners of other Lots.

7.3 Signs. Declarant shall have the right to approve the design, location, and size of all permanent signs, placards, banners, or advertisements to be located on any Lots and to be prominently visible from any other Lots (collectively, "Signs"). No Signs shall be permitted on any exterior of any Buildings, or in any Buildings to the extent prominently visible from the exterior thereof, or elsewhere on the exterior of any Lot unless such Signs (a) conform to the requirements of the SP Zone, (b) are approved in writing by Declarant (such approval not to be unreasonably withheld, conditioned or delayed), and (c) comply with all Applicable Laws and other governmental approvals relating to the Development. Nothing contained herein shall exclude or limit temporary signs or banners typically used to market or denote new construction or development so long as the same comply in all instances with all ordinances of the City of Pittsburgh and are approved by Declarant in its sole reasonable judgment (not to be unreasonably withheld, conditioned or delayed).

7.4 Landscaping and Other Exterior Improvements. All landscaping and other exterior improvements placed or installed on any Lot shall (a) conform to the

requirements of the SP Zone; and (b) comply with all Applicable Laws and other governmental approvals. Declarant shall have the right to approve the initial design, location, and size of all such landscaping and exterior improvements and any material and significant modifications, relocations, replacements, and reconstructions thereof (such approval not to be unreasonably withheld, conditioned or delayed). Subsequent to the planting, placing or installing of any and all landscaping and other improvements on any Lot, the Owner of such Lot shall maintain, repair and/or replace such landscaping and exterior improvements, as required, to maintain a consistently first class appearance on such Lot.

7.5 Site Lighting. All exterior lighting for parking and loading areas shall be by LED type lamps providing average illumination equal to 2 foot candles, three feet above ground. All exterior lighting shall otherwise comply with the requirements of the SP Zone and all Applicable Laws and other governmental approvals. Declarant shall have the right to approve the initial design, location and size of all exterior lighting fixtures on any Lot and to require material and significant changes to any of the same that does not meet the requirements of this Declaration to also be approved by Declarant (all such approvals not to be unreasonably withheld, conditioned or delayed).

7.6. Engineering. In order to maintain consistent regulatory treatment for the entire Development, each Lot Owner agrees prior to the initial development of such Owner's Lot that all professional engineering services with respect to either (a) stormwater management submissions to any governmental agencies, units or authorities relating to the initial development of such Owner's Lot or (b) environmental reviews, testing or other submissions to governmental agencies, units or authorities relating to the initial development of such Owner's Lot; shall only be undertaken and completed by such engineering firms or companies as shall be approved by Declarant, which approval shall not be unreasonably withheld, conditioned or delayed.

7.7 Additional Requirements. Each Owner, Declarant, Operator and the Association agree that:

(a) All land within the SP Zone shall be owned, occupied and used in accordance with all Applicable Laws, and all development, occupancy and use of the land within the SP Zone shall be substantially in accordance with the requirements of the SP Zone; the foregoing shall not in and of itself prohibit or restrict the use of any Lot as a surface parking area so long as such use is otherwise permitted as a legal non-conforming use under the Code.

(b) Each Owner agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities, all real property taxes and assessments which are levied against such Owner's Lot. The Declarant (or the Association once formed) agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities, all real property taxes and assessments which are levied against the Common Areas.

(c) Each Owner and Declarant hereby indemnify and save the other parties harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and

occurring on or from such Owner's Lot or the Common Areas or Limited Common Areas with respect to Declarant, except if caused by the act or negligence of the party seeking indemnification hereunder.

(d) Each Owner and Declarant shall procure and maintain in force and effect commercial general liability insurance against claims for personal injury, death or property damage occurring upon, in or about its property (or the Common Areas and Limited Common Areas with respect to Declarant), each party's insurance to afford protection to the limit of not less than \$1,000,000.00 for injury or death of a single person, and to the limit of not less than \$2,000,000.00 for any one occurrence, and to the limit of not less than \$500,000.00 for property damage. Each party shall provide the other party with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the party which may cover other property in addition to the property covered by this Declaration. In order to maintain commercially reasonable coverage limits, coverage limits provided for herein may be reasonably increased from time to time by the Declarant (or the Association once formed) upon prior written notice provided to all Owners and so long as such increase is uniformly applied to all parties hereto in a non-discriminatory manner.

(e) Each Owner shall keep structural improvements on its Lot, and as to Declarant shall keep the Common Areas, insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause, with such insurance to be for the full replacement value of the insured improvements.

(f) Each Owner and Declarant for itself and its property insurer hereby releases the other Owners of portions of the SP Zone from and against any and all claims, demands, liabilities or obligations whatsoever for damage to property or loss of rents or profits resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated hereunder to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

#### ARTICLE VIII MISCELLANEOUS

8.1 Estoppel Certificates. Each Owner, as well as Declarant, Operator and the Association (once formed) shall, upon not less than twenty (20) days' written notice from another Owner or the Association, execute and deliver to the requesting Owner a certificate stating: (a) that either this Declaration is unmodified and in full force and effect or is modified (and stating the modification); and (b) whether or not, to the best of its knowledge, the other Owners, as well as Declarant, Operator and the Association (once formed) are in default in any respect under this Declaration and if in default, specifying such default; and (c) whether or not, to the best of its knowledge, there are



any unpaid or delinquent amounts or claims or other unfulfilled obligations arising hereunder, or any Claim of Lien, as to the requesting Owner or any other parties hereto. Should any Owner, Declarant, Operator or the Association (once formed) fail to timely deliver such requested estoppel certificate as provided for herein, then such failure shall be deemed a certification by such party that failed to timely deliver the requested estoppel that this Declaration is unmodified and in full force and effect, that there are no defaults under this Declaration, and that there are not any unpaid or delinquent amounts or claims or other unfulfilled obligations arising hereunder, and no Claim of Lien, as to the requesting Owner or any other parties hereto. The estoppel certificate provided for herein may be relied upon by a bona fide purchaser (or person or entity obtaining a mortgage or other encumbrance) for value without knowledge of facts to the contrary and shall constitute a waiver of any claim by the certifying party based upon facts contrary to the certificate of which that party had knowledge at the time of making the certificate. The certificate shall not subject the party furnishing the certificate to any liability for any inaccurate statement which such party in good faith believed was correct when made or any obligation to correct or disclose any change in the information certified.

8.2 No Public Dedication. Nothing contained herein shall be deemed or implied to be a gift, grant, or dedication of any portion of the Lots to the general public, or for any public use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges, or immunities of Declarant or any Owner hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed or considered to be a beneficiary of any of the provisions herein contained.

8.3 Non-Merger. This Declaration shall not be subject to the doctrine of merger.

8.4 Effective Term. This Declaration and the rights and obligations hereunder shall commence on the date hereof and shall touch, concern and run with the land and be perpetual.

8.5 Limitation of Liability. Any Person acquiring fee or leasehold title to a Lot, or any portion thereof, shall be bound by this Declaration only as to the Lot or portion of the Lot acquired by such Person. In addition, such Person shall be bound by this Declaration only during the period such Person is the fee or leasehold owner of such Lot or portion of the Lot; and notwithstanding anything contained herein to the contrary, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Although Persons may be released under this Section 8.5, the easements, covenants, and restrictions in this Declaration shall continue to be benefits to and servitudes upon said Lots running with the land.

8.6 Force Majeure. Notwithstanding anything contained in this Declaration to the contrary, any delay in the performance by any Owner or Operator (excluding the payment of money) of any of its obligations hereunder shall be excused if and so long as the performance of the obligation is prevented, delayed or otherwise hindered by fire, earthquake, floods, explosion, actions of the elements which are not reasonably foreseeable, war, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of

transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, laws, regulations or orders of governmental or military authorities, actions (or lack of actions) by governmental authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of such Owner or Operator, as applicable.

8.7 Notices. Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified mail, return receipt requested, or by reputable overnight courier, at such Owner's Designated Address or at the address of Declarant as provided for herein.

8.8 Time of the Essence. Time is of the essence of this Declaration.

8.9 Binding Effect. The rights and obligations pertaining hereto shall be binding upon the Declarant and the Owners and their respective heirs, personal representatives, successors and assigns. Any holder of a first lien on any portion of the SP Zone, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Declaration.

8.10 Recording. This Declaration shall be recorded in the Department of Real Estate of Allegheny County, Pennsylvania.

8.11 Amendment. Until such time as at least seventy-five percent (75%) of the Lots have been sold, ground leased or conveyed to Persons other than Declarant, this Declaration may only be changed, modified, supplemented, waived, discharged or amended by Declarant, in Declarant's sole reasonable discretion (which includes the right to add or withdraw land from the Development, subject to the other terms, provisions, limitations and restrictions set forth herein). Any such change, amendment, modification, supplement, waiver or discharge shall only be effective upon the recording thereof in the Department of Real Estate of Allegheny County, Pennsylvania and written notice thereof having been provided to all Owners. Notwithstanding anything to the contrary as contained in this Declaration, under no circumstances shall there be any change, modification, supplement, waiver, discharge or amendment to this Declaration that would materially and adversely affect the use, operation and/or enjoyment by any Owner of such Owner's Lot or otherwise cause any Owner to incur additional liability or costs hereunder without such Owner's prior written consent. If Declarant withdraws any real estate from the Development, Declarant may reserve the right to reinstate and reincorporate such real estate with the Development at a later date, subject to the other terms, provisions, limitations and restrictions set forth herein. After the date on which at least seventy-five percent (75%) of the Lots have been sold, ground leased or conveyed to Persons other than Declarant, no agreement shall be effective to change, modify, supplement, waive, or discharge this Declaration, in whole or in part, unless such agreement is in writing and signed by the Owners of not less than sixty-seven percent (67%) of the Lots.

8.12 Entire Agreement. This Declaration constitutes the entire agreement as to its subject matter and is a binding and enforceable agreement in accordance with its terms.

8.13 No Waiver. The failure of the Declarant, any Owner or the Association to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which Declarant or such Owner or the Association may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants, or conditions. No waiver by Declarant, any Owner or the Association of any default under this Declaration shall be effective or binding on Declarant, such Owner or the Association unless made in writing by Declarant, such Owner or the Association and no such waiver shall be implied from any omission by Declarant, an Owner or the Association to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One (1) or more written waivers of any default under any provision of this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this Declaration.

8.14 Declaration Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this Declaration shall: (i) entitle any Owner to cancel, rescind, or otherwise terminate this Declaration; or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any Lot. However, such limitation shall not affect in any manner any other rights or remedies which an Owner may have hereunder by reason of any such breach.

8.15 Applicable Law; Venue. This Declaration shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. All claims, demands, suits or actions relating to or arising out of this Declaration and the rights of Declarant or any Owner (whether sounding in contract, tort or otherwise) shall be brought only in the Allegheny County, Pennsylvania, Court of Common Pleas or the United States District Court for the Western District of Pennsylvania. Each Owner and Declarant irrevocably submits to the exclusive jurisdiction of such courts, waives any objection it or they may now or hereafter have to such jurisdiction, venue or convenience of forum, agrees that all claims relating to this Declaration shall be heard and determined only in any such courts and agrees not to bring any claims or commence any action relating to or arising out of this Declaration in any other court.

8.16 Severability. If any of the provisions of this Declaration or the application thereof to any persons or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this Declaration, which can be given effect without the invalid provisions of this Declaration, and they are declared to be severable.

8.17 Captions. The captions preceding the sections of this Declaration are inserted only for convenience of reference and shall not constitute a part of this Declaration, nor shall they in any way affect its meaning, construction, or effect.

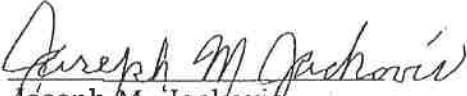
8.18 Cooperation. Without limiting the generality of any other section of this Declaration, each Owner, as well as Declarant, any Operator, and the Association (once formed): (i) shall not unreasonably withhold such party's consent as to any matters requiring such party's consent under this Declaration and reasonably requested by any other party hereunder, and (ii) shall reasonably and in good faith cooperate with respect to the interpretation, enforcement or amendment of this Declaration so as to reasonably allow for the on-going improvement and success of the Development.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

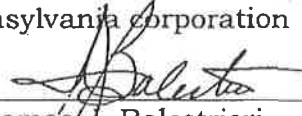
**[SIGNATURE APPEARS ON THE FOLLOWING PAGE]**

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

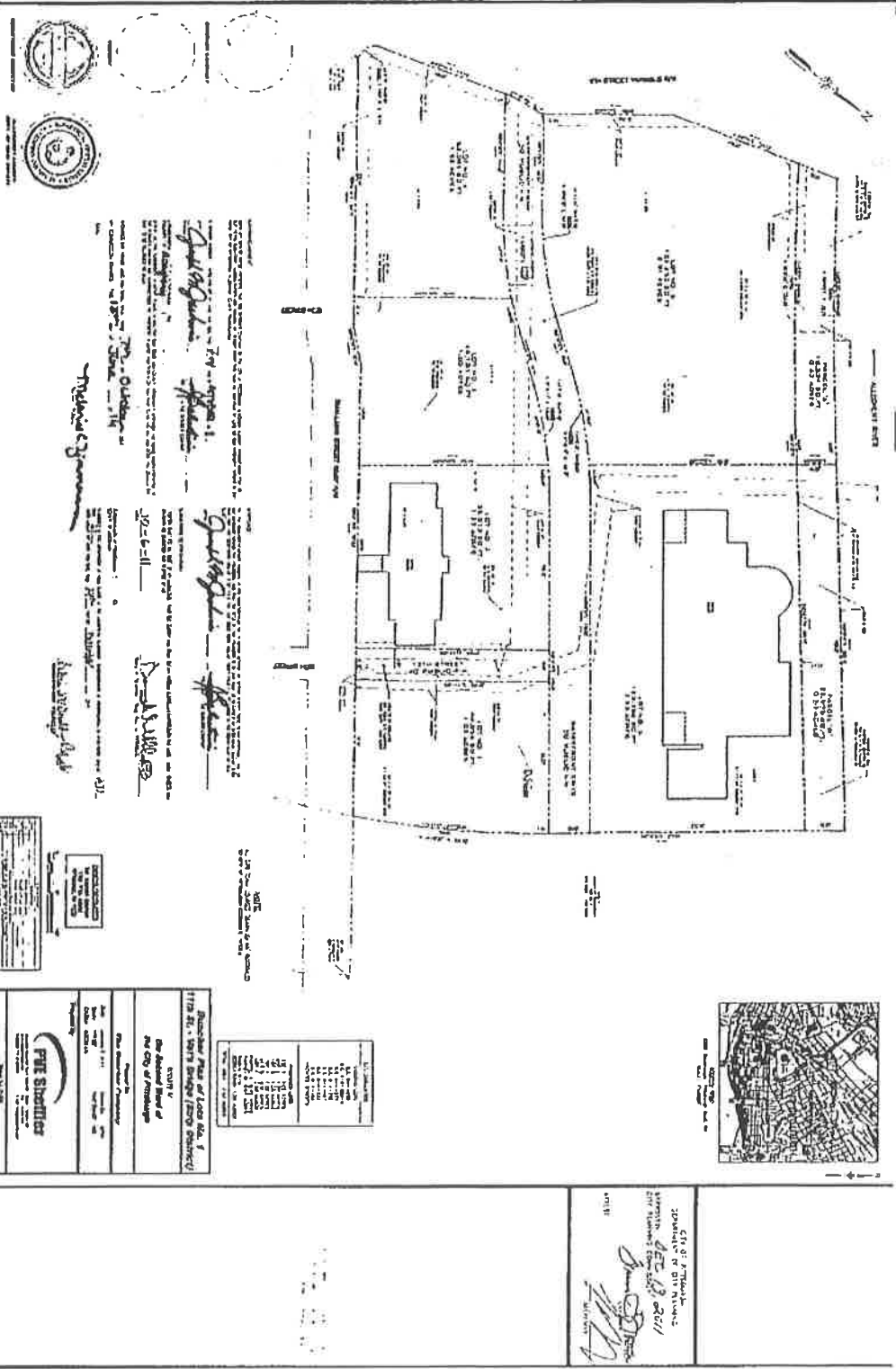
ATTEST:

  
Joseph M. Jackovic  
Executive Vice President  
and General Counsel

THE BUNCHER COMPANY,  
a Pennsylvania corporation

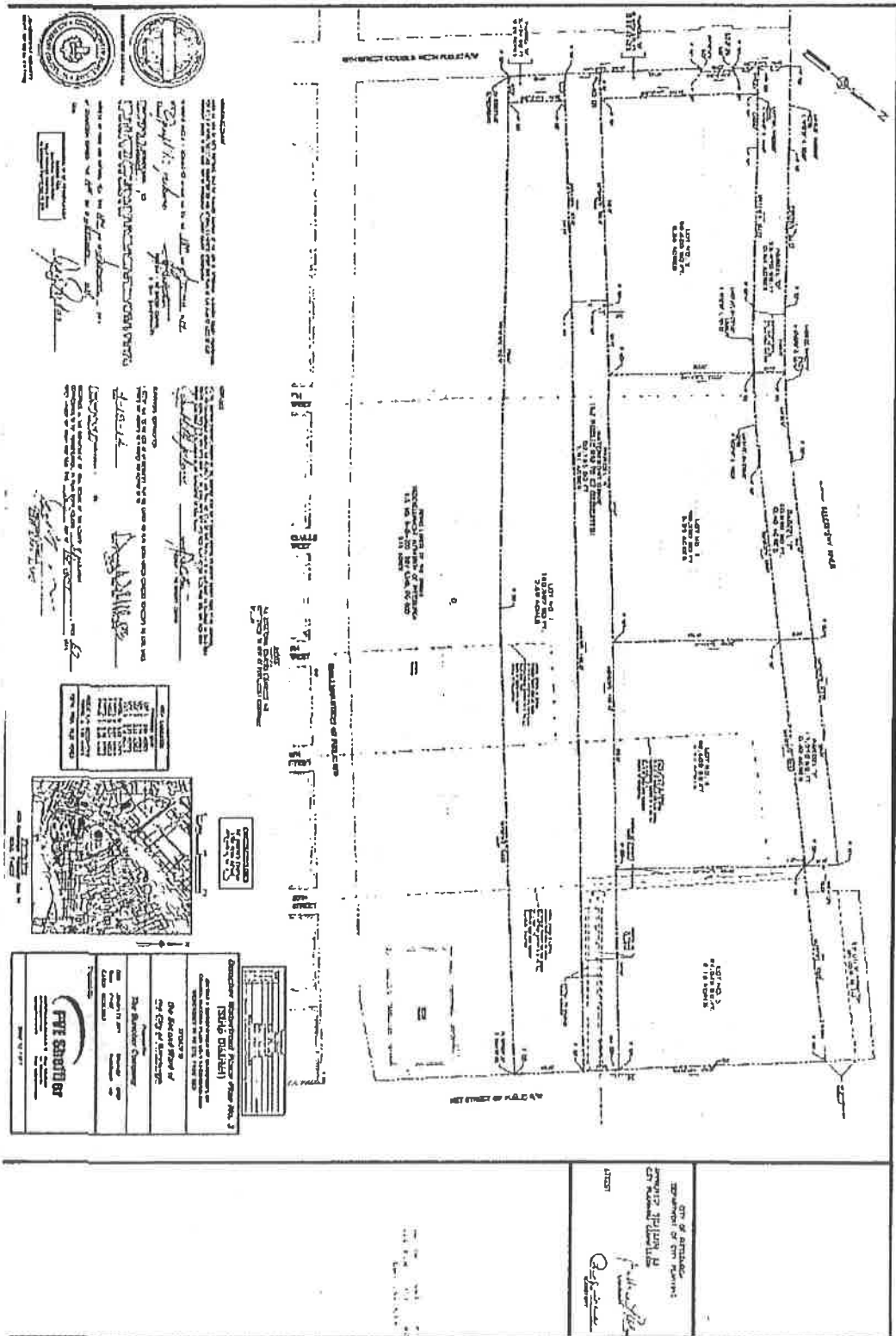
By:   
Thomas J. Balestrieri  
President/CEO





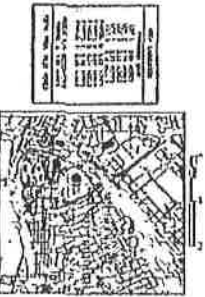
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# **Exhibit A-3** **Third Subdivision Plan**



*[Handwritten signatures and notes]*

*[Handwritten signatures and notes]*



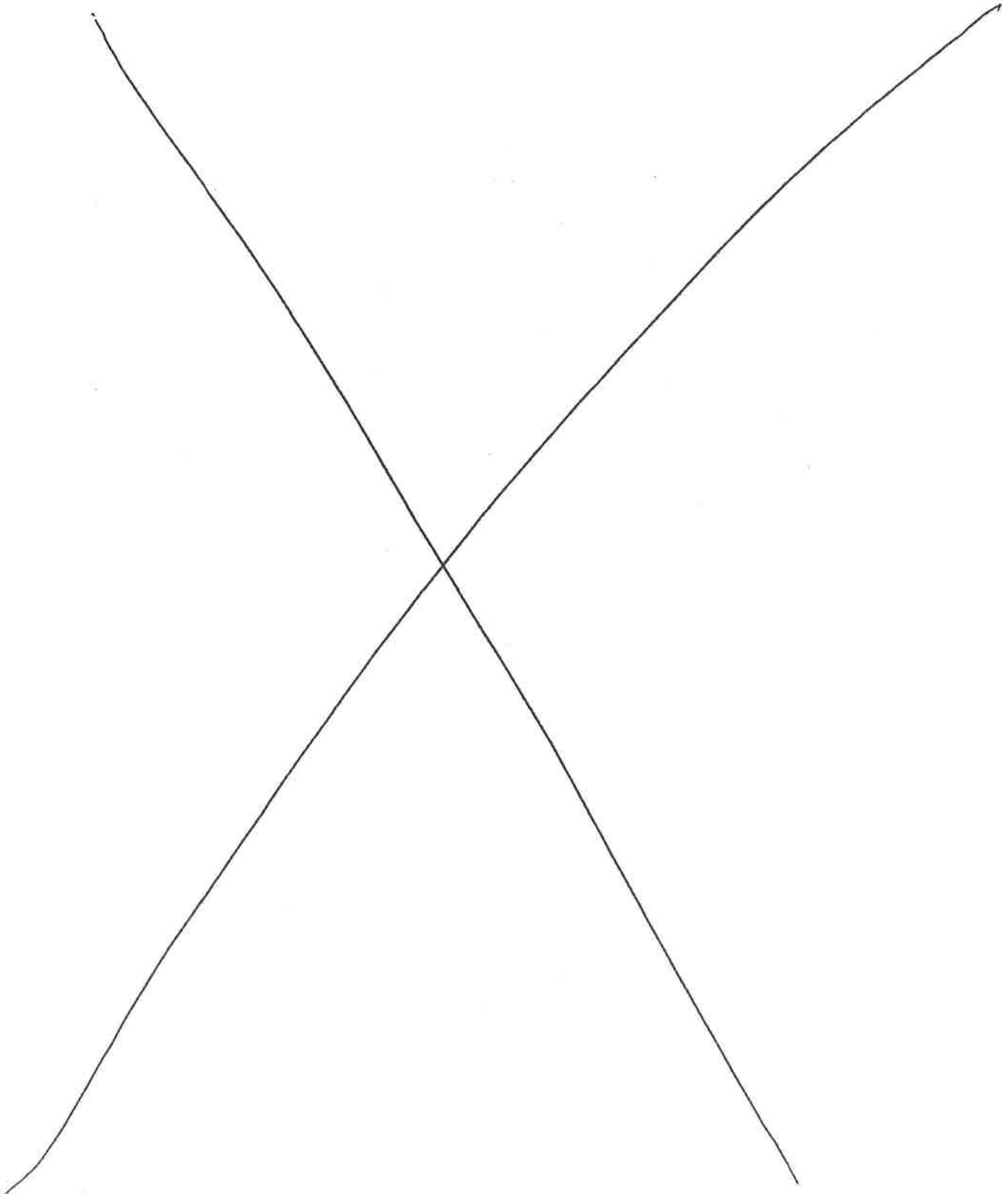
<b>PREPARED BY</b>	
[Signature]	
<b>DATE</b>	
[Date]	
<b>BY</b>	
[Signature]	
<b>DATE</b>	
[Date]	

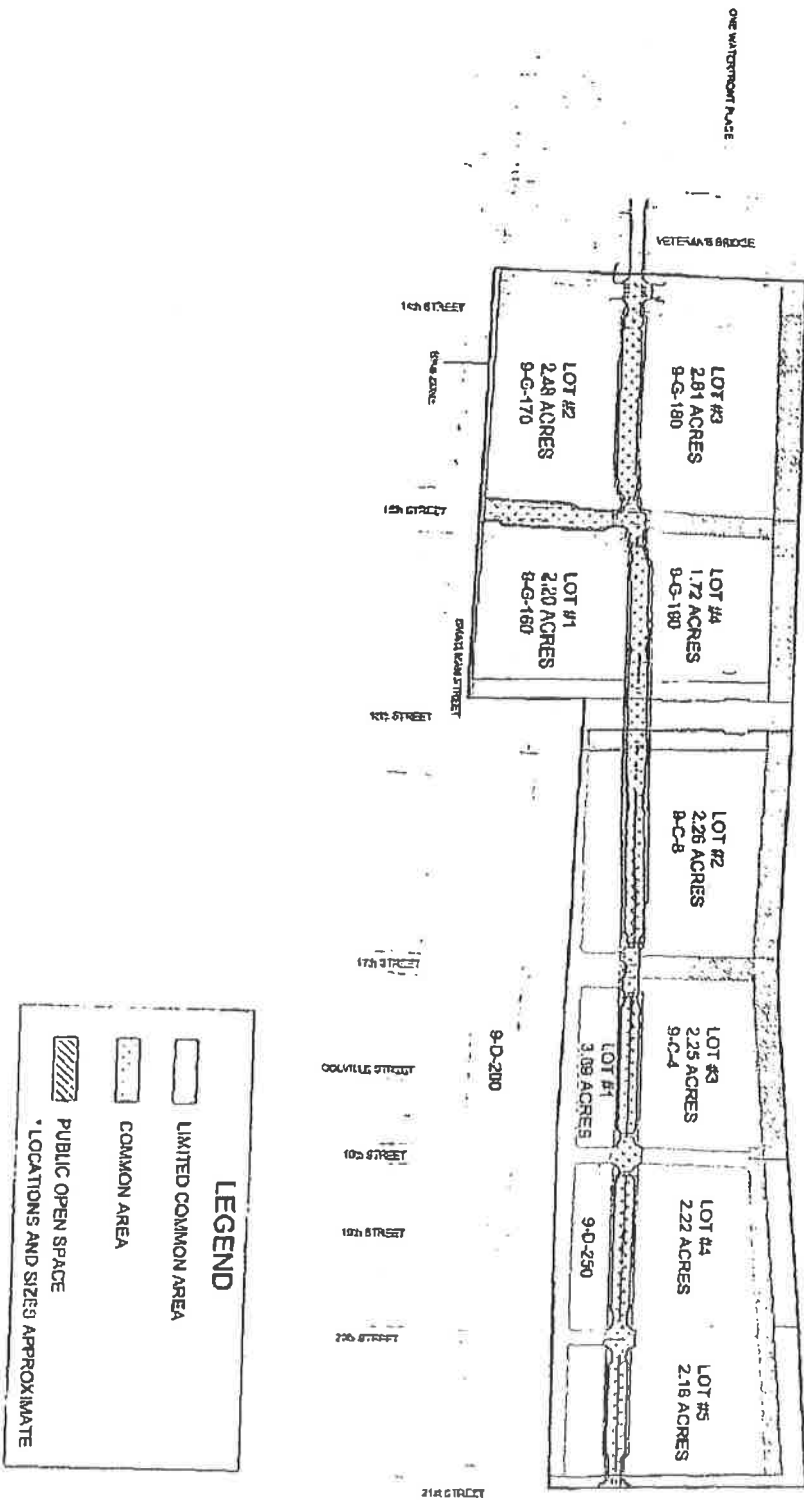
City of [Name]  
[Signature]  
[Date]



**Exhibit B-1**

SP Zone, Limited Common Areas, Common Areas, Public Open Space





**Exhibit B-2**  
**Legal Description of SP Zone**

**Metes and Bounds Legal Description of the perimeter of all  
(11) lots (combined) in Buncher Plan No. 2 (Strip District)  
located in the Second Ward of the City of Pittsburgh, Allegheny  
County, PA**

ALL THAT CERTAIN PIECE OF LAND, now being known as Lots No. A, B, C, D, E, F, G, 1, 2, 3, & 4, (N/F being known as B/L #9-G-150 and #9-F-290), as shown on the Buncher Plan No. 2 (Strip District), as recorded on 12/29/2011 in PBV 273/PG 28, said plan that is located in the Second Ward of the City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania, being more particularly described as follows: Beginning at a point on the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), at the intersection with the northwesterly right-of-way line of Smallman Street (60' wide public ROW), said point also being the southeasterly corner of Parcel A, of said Buncher Plan No. 2 (Strip District);

Thence along the common dividing line of aforementioned northwesterly right-of-way line of Smallman Street (60' wide public ROW), and the southeasterly lines of Parcel A, Lot No.1, Parcel B, Lot No.2 and Parcel C, South 50°42'35" West, for a total distance of 869.21 feet to the southwesterly corner of Parcel C, said point also being the easterly right-of-way line of the Veteran's Bridge (Variable width public ROW);

Thence continuing along the easterly right-of-way line of the Veteran's Bridge (Variable width public ROW), and the common westerly dividing line of Parcel C, by a curve to the left, having a radius of 1,311.00 feet, and an arc distance of 90.91 feet, and also having a chord bearing of North 38°29'28" West, a chord distance of 90.89 feet to a point;

Thence continuing along the easterly right-of-way line of the Veteran's Bridge (Variable width public ROW), and the common westerly dividing lines of Parcel C, Parcel B, Parcel D, and Parcel E, North 40°38'40" West, a total distance of 534.57 feet to a point at the most westerly corner of Parcel E, said point also being at the edge of the Allegheny River;

Thence continuing along the edge of the Allegheny River and also along the northwesterly dividing lines of Parcel E and parcel F, North 48°24'04" East, a total distance of 852.12 feet to a point at the most northwesterly corner of Parcel F, said point also being on the westerly right-of-way line of 16th Street Bridge (Variable width public ROW);

Thence continuing along the northeasterly dividing lines of Parcel F and Parcel G, and also along the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), South 42°12'45" East, a distance of 89.78 feet to a point;

Thence continuing along a widened portion of the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), South 47°47'15" West, a distance of 5.00 feet to a point;

Thence continuing by same, South 42°12'45" East, a distance of 50.00 feet to a point;

Thence continuing by same, North 47°47'15" East, a distance of 5.00 feet to a point;

Thence continuing along the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), South 42°12'45" East, a distance of 131.05 feet to a point;

Thence continuing along a widened portion of the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), South 50°23'35" West, a distance of 5.13 feet to a point;

Thence continuing along the westerly right-of-way line of 16th Street Bridge (Variable width public ROW), and also along the northeasterly dividing line of Parcel G, Parcel B and Parcel A, South 42°20'25" East, a total distance of 389.68 feet to the Point of Beginning,

Said combined area of all (11) described lots containing 12.66 acres, or 551,469 sq. ft., more or less.

**Metes and Bounds Legal Description of the perimeter of all  
(11) lots (combined) in Buncher Waterfront Place Plan No. 3  
(Strip District) located in the Second Ward of the City of  
Pittsburgh, Allegheny County, PA**

ALL THAT CERTAIN PIECE OF LAND, now being known as Lot No. 1, 2, 3, 4, & 5, and also Parcel A (Waterfront Drive/54' Public ROW to be dedicated), Parcel B, Parcel C, Parcel D, Parcel E, & Parcel F, as shown on the Buncher Waterfront Place Plan No. 3 (Strip District), as recorded on 9/26/2014 in PBV 281/PG 67, said plan is located in the Second Ward of the City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania, being more particularly described as follows:

Beginning at a point on the westerly right-of-way line of 21st Street (60' wide public ROW), at the intersection with the common northwesterly dividing line of lands N/F The Urban Redevelopment Authority of Pittsburgh (B/L No. 9-D-200; DBV 6349/PG 800 and containing 8.15 acres), said point also being the southeasterly corner of Lot No. 1, of aforementioned Buncher Waterfront Place Plan No. 3 (Strip District), as recorded on 9/26/2014 in PBV 281/PG 67;

Thence along the common dividing line of the aforementioned lands of N/F The Urban Redevelopment Authority of Pittsburgh (B/L No. 9-D-200; DBV 6349/PG 800 and containing 8.15 acres), and the most southeasterly line of Lot No. 1, South 47°53'30" West, a distance of 722.85 feet to a point;

Thence continuing by same, South 50°38'30" West, a distance of 778.66 feet to a point at a common southeasterly corner of Lot No 1 and corner of vParcel B;

Thence continuing by the southeasterly line of Parcel B, South 50°38'30" West, a distance of 40.05 feet to a point at the most southwesterly corner of Parcel B, and also on the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW);

Thence continuing along the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW), and also along the common dividing line with Parcel B, Parcel A, and part of Parcel C, North 42°12'45" West, a distance of 292.92 feet to a point;

Thence along a widening transition portion of the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW), North 47°47'15" East, a distance of 5.00 feet to a point;

Thence along a widened portion of the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW), North 42°12'45" West, a distance of 50.00 feet to a point;

Thence along a narrowing transition portion of the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW), South 47°47'15" West, a distance of 5.00 feet to a point;

Thence continuing along the easterly right-of-way line of 16<sup>th</sup> Street (Variable width public ROW), and also along portions of Parcel C and Parcel D, North 42°12'45" West, a distance of 89.08 feet to a point at the southwesterly corner of Parcel D, where it adjoins the edge of the Allegheny River;

Thence along the northwesterly boundary line of Parcel D, and also along the common dividing line with the Allegheny River, by a curve to the right, having a radius of 2,880.00 feet, and an arc distance of 125.68 feet, and also having a chord bearing of North 49°58'35" East, a chord distance of 125.67 feet to a point of tangency;

Thence continuing by same, North 51°13'36" East, a distance of 244.33 feet to a point of curvature;

Thence continuing along portions of Parcel D and Parcel E, and their common dividing line with the Allegheny River, by a curve to the left, having a radius of 1,680.00 feet, and an arc distance of 238.12 feet, and also having a chord bearing of North 47°09'59" East, a chord distance of 237.92 feet to a point of tangency;

Thence continuing along the common dividing line of Parcel E and the Allegheny River, North 43°06'21" East, a distance of 275.48 feet to a point at a common corner and common dividing line between Parcel E and parcel F;

Thence continuing along the common dividing line between Parcel F and the adjoining edge of the Allegheny River, North 43°06'21" East, a distance of 350.74 feet to a point at the most northwesterly corner of Parcel F;

Thence continuing along the northeasterly line of Parcel F, South 42°44'15" East, a distance of 52.00 feet to a point at the common corner of Parcel F, Lot No. 4, and Lot No. 5;

Thence continuing along the northwesterly line of Lot No. 5, North 43°27'36" East, a distance of 305.02 feet to a point at the northwest corner of Lot No. 5, said point also being on the westerly right-of-way line of 21st Street (60' wide public ROW);

Thence continuing along the westerly right-of-way line of 21st Street (60' wide public ROW), and also along the common dividing line with Lot No. 5, Parcel A, and Lot No. 1, South 42°44'15" East, a total distance of 479.37 feet to the Point of Beginning, of this herein described piece of land,

Said combined total area of the perimeter of all (11) described lots, contains 16.21 acres, or 706,107 sq. ft., more or less.

COMMONWEALTH OF PENNSYLVANIA )  
 )  
COUNTY OF ALLEGHENY )

SS:

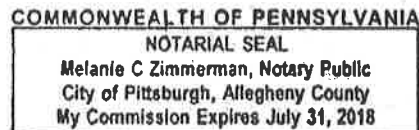
On this, the 13<sup>th</sup> day of October, 2015, before me, a Notary Public, the undersigned officer, personally appeared Thomas J. Balestrieri, who acknowledged himself to be the President/CEO of THE BUNCHER COMPANY, a Pennsylvania corporation, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Melanie C. Zimmerman  
Notary Public

MY COMMISSION EXPIRES:

July 31, 2018





60 2016 00022417

Allegheny County  
Jerry Tyskiewicz  
Department of Real Estate  
Pittsburgh, PA 15219

Instrument Number: 2016-22417

BK-DE VL-16471 PG-144

Recorded On: July 22, 2016

As-Deed Agreement

Parties: BUNCHER CO

To BUNCHER CO

# of Pages: 9

Comment: 1ST AMEND DEC COV RESTRIC

\*\*\*\*\* THIS IS NOT A BILL \*\*\*\*\*

Deed Agreement 162.00  
0  
0  
Total: 162.00

**Realty Transfer Stamp**

Affidavit Attached-No  
NOT A DEED OF TRANSFER EXEMPT  
Value 0.00

**Department of Real Estate Stamp**

Certified On/By-> 07-22-2016 / S B  
NOT A DEED OF TRANSFER

I hereby certify that the within and foregoing was recorded in the Department of Real Estate in Allegheny County, PA

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

**File Information:**

**Record and Return To:**

Document Number: 2016-22417  
Receipt Number: 3107957  
Recorded Date/Time: July 22, 2016 09:07:52A  
Book-Vol/Pg: BK-DE VL-16471 PG-144  
User / Station: R Aubrecht - Cash Super 06

STEWART TITLE GUARANTY CO  
900 W VALLEY RD STE 400  
WAYNE PA 19087



  
Jerry Tyskiewicz, Director  
Rich Fitzgerald, County Executive

Record and Return to:  
 Stewart Title Guaranty Co.  
 900 W Valley Rd., Suite 400  
 Wayne, PA 19087

243143 PRE Certified  
 22-01-2016 08:50AM Int Bar 9 B

**FIRST AMENDMENT TO DECLARATION OF  
 COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "First Amendment") is made as of this 6<sup>th</sup> day of July, 2016 by **THE BUNCHE COMPANY**, a Pennsylvania corporation, having an address at 1300 Penn Avenue, Suite 300, Pittsburgh, Pennsylvania 15219 (hereinafter "Declarant").

**WITNESSETH:**

WHEREAS, by Declaration of Covenants, Conditions and Restrictions dated October 13, 2015 (the "Declaration") and recorded on October 20, 2015 in the Allegheny County Department of Real Estate at Instrument No. 2015-32694, Declarant placed of record various covenants, conditions and restrictions binding upon certain property owned by Declarant and situate in the Second Ward of the City of Pittsburgh, Allegheny County, Pennsylvania, said property being more fully described on Exhibits A-1 through A-3 to said Declaration (the "Land"); and

WHEREAS, Declarant holds fee title to Lot 4R (previously Lot 4 and Lot 5) in the subdivision plan labeled "Buncher Waterfront Place Plan No. 4 (Strip District)" (the "Plan"), which Lot 4R is part of the Land subject to the Declaration, and which Lot 4R is more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Declarant, as ground lessor, under ground lease dated of even date herewith, a memorandum of which is to be recorded immediately prior hereto (the "Ground Lease") has ground leased to Riverfront Residences LLC, a Pennsylvania limited liability company ("Riverfront") having an address at 5309 Transportation Boulevard, Cleveland, Ohio 44125, as ground lessee, Lot 4R in the Plan on which Riverfront intends to construct, own and operate a Class "A" midrise apartment project with other common residential leasing and amenity space; and

WHEREAS, Declarant desires to modify and amend certain of the terms and conditions of the Declaration and acknowledge certain matters relating solely to Lot 4R in the Plan.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Declarant states and agrees as follows:

1. Preambles. The preambles recited above are incorporated herein as if set forth at length. All capitalized terms used in this First Amendment and not otherwise defined herein shall have the meaning given those terms in the Declaration or the First Amendment to Declaration.



## 2. Amendments and Acknowledgments.

(a) Section 2.1, Definitions, shall amend the definition of "Owner" to include Riverfront as the Owner of Lot 4R in the Plan pursuant to the Ground Lease for the period during which the Ground Lease is in effect. Declarant hereby transfers, assigns and grants to Riverfront, and Riverfront shall have, all rights, benefits and obligations as Owner of Lot 4R in the Plan in accordance with the Declaration for the period during which the Ground Lease is in effect, which shall be binding upon and inure to the benefit of any successor-in-interest of Riverfront and any assignee of Riverfront under the Ground Lease.

(b) Declarant shall have no access to Lot 4R in the Plan for installation of any Stormwater Facilities provided for in Section 3.3 of the Declaration during the period when the Ground Lease is in effect. Notwithstanding anything to the contrary as contained herein or in the Declaration, so long as the Ground Lease is in effect, Lot 4R in the Plan shall not be subject to the terms of Section 3.3 of the Declaration.

(c) Declarant has approved Riverfront's drawings and plans submitted to the City of Pittsburgh for permitting, design, development and construction purposes, including, without limitation, the Building and Open Space Plan for Lot 4R in the Plan (collectively, "Riverfront's Development Plans") as consistent with the Declaration and acknowledges that Riverfront has been issued a FLDP by the City of Pittsburgh. No further approvals or consents shall be required or necessary from Declarant, Operator or the Association under Sections 7.2(b), 7.3, 7.4, 7.5, or 7.6 of the Declaration or under any other provision of the Declaration, as amended hereby, with respect to the initial development, construction or installation on Lot 4R in the Plan of any buildings, signage, landscaping and/or other improvements to the extent such buildings, signage, landscaping and/or other improvements are generally consistent with Riverfront's Development Plans.

(d) Declarant is the sole owner of the Land as of the date hereof and other than the interest held by Riverfront under the Ground Lease, there are no other Owners or Persons having any right, title or interest in and to the Declaration as of the date hereof or who would otherwise be needed as a party to this First Amendment. This First Amendment is valid, effective and binding upon the Land and no consents or approvals from any other parties are required in connection with this First Amendment.

(e) Notwithstanding anything in the Declaration or this First Amendment to the contrary, no costs or expenses relating to the installation of any storm water facility installed by Declarant not directly benefiting Lot 4R in the Plan shall be borne by or assessed against Riverfront.

(f) Except with respect to Declarant's approval of Riverfront's Development Plans as provided for in Section 2(c), above, of this First Amendment, nothing contained herein shall be deemed to limit, restrict or relieve Riverfront from otherwise complying with the terms of the Declaration, including but not limited to Section 7.2, thereof.

3. No Other Change or Modification. Except as specifically set forth herein, the Declaration remains in full force and effect and, by this First Amendment, Declarant confirms that the Declaration, as amended and modified by this First Amendment, remains binding upon the Land. No other change or modification to this First Amendment may be made, except in a writing signed by both Declarant and Riverfront.

4. Miscellaneous. This First Amendment shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania. This First Amendment contains the entire understanding of Declarant with respect to the matter set forth herein. This First Amendment shall be placed of record at the sole cost and expense of Declarant. The rights and obligations pertaining hereto shall be binding upon the Declarant and Riverfront and their respective heirs, personal representatives, successors and assigns.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**[SIGNATURE APPEARS ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, Declarant has executed this First Amendment as of the day and year first above written.

**DECLARANT:**

THE BUNCHER COMPANY, a Pennsylvania Corporation

By: \_\_\_\_\_



Thomas J. Balestrieri, President

*RW*  
*(H)*

Exhibit A

Legal Description for Lot 4R

ALL THAT CERTAIN PARCEL OR TRACT OF LAND, SITUATE IN THE 2ND WARD, CITY OF PITTSBURGH, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, BEING KNOWN AS PROPERTY NOW OR FORMERLY OF THE BUNCHER COMPANY, ALSO BEING KNOWN AS LOT 4 IN THE BUNCHER WATERFRONT PLACE PLAN NO. 3 AS RECORDED IN PLAN BOOK VOLUME 281, PAGE 67 IN THE OFFICE OF THE RECORDER OF DEEDS OF ALLEGHENY COUNTY, PENNSYLVANIA, ALSO BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF PARCEL "A" WATERFRONT DRIVE (54' WIDE PUBLIC RIGHT-OF-WAY TO BE DEDICATED) AND THE LINE DIVIDING LOT 3 AND LOT 4 IN THE BUNCHER WATERFRONT PLACE PLAN NO. 3 AS RECORD IN PLAN BOOK VOLUME 281; PAGE 67; THENCE ALONG THE LINE DIVIDING LOT 3 AND LOT 4 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3 NORTH 41°14'27" WEST, A DISTANCE OF 258.38 FEET TO A POINT A THE COMMON CORNER BETWEEN LOT 3, LOT 4, PARCEL "E", & PARCEL "F" IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3; THENCE BY THE LINE DIVIDING LOT 4 AND PARCEL "F" SAID BUNCHER WATERFRONT PLACE PLAN NO. 3 NORTH 43°06'21" EAST, A DISTANCE OF 352.05 TO A POINT ON THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER; THENCE BY THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER SOUTH 42°44'15" EAST, A DISTANCE OF 1.87 FEET TO A POINT ON THE LINE DIVIDING LOT 4 AND LOT 5 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3; THENCE BY THE LINE DIVIDING LOT 4 AND LOT 5 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3 SOUTH 41°14'27" EAST, A DISTANCE OF 291.19 FEET TO A POINT ON THE LINE DIVIDING LOT 4 AND THE AFOREMENTIONED PARCEL "A" WATERFRONT DRIVE IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3; THENCE BY THE LINE DIVIDING LOT 4 AND THE AFOREMENTIONED PARCEL "A" WATERFRONT DRIVE IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3, SOUTH 48°45'34" WEST, A DISTANCE OF 350.39 FEET TO THE PLACE OF BEGINNING.

CONTAINING WITHIN SAID BOUNDS A TOTAL OF 2.22 ACRES OR 96,608 SQ. FT.

BEING BLOCK AND LOT # 9-D-260 IN THE ALLEGHENY COUNTY TAX ASSESSMENT OFFICE.

ALSO ALL THAT CERTAIN PARCEL OR TRACT OF LAND, SITUATE IN THE 2ND WARD, CITY OF PITTSBURGH, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, BEING KNOWN AS PROPERTY NOW OR FORMERLY OF THE BUNCHER COMPANY, ALSO BEING KNOWN AS LOT 5 IN THE BUNCHER WATERFRONT PLACE PLAN NO. 3 AS RECORDED IN PLAN BOOK VOLUME 281, PAGE 67 IN THE OFFICE OF THE RECORDER OF DEEDS OF ALLEGHENY COUNTY, PENNSYLVANIA, ALSO BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF 21ST STREET ( 60' WIDE PUBLIC RIGHT-OF-WAY) AND THE LINE DIVIDING LOT 5 AND PARCEL "A" WATERFRONT DRIVE (54' WIDE PUBLIC RIGHT-OF-WAY TO BE DEDICATED) IN THE BUNCHER WATERFRONT PLACE PLAN NO. 3 AS RECORDED PLAN BOOK VOLUME 281, PAGE 67; THENCE BY THE LINE DIVIDING LOT 5 AND THE AFOREMENTIONED PARCEL "A"

WATERFRONT DRIVE SOUTH 48°45'34" WEST A DISTANCE OF 312.06 FEET TO A POINT ON THE LINE DIVIDING LOT 4 AND LOT 5 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3; THENCE BY THE LINE DIVIDING LOT 4 & LOT 5 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3 NORTH 41°14'27" WEST, A DISTANCE OF 291.19 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER; THENCE BY THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER AND THE LINE DIVIDING LOT 5 IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 3 AND LANDS OF NOW OR FORMERLY THE CITY OF PITTSBURGH NORTH 43°27'36" EAST, A DISTANCE OF 305.02 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 21ST STREET (60' WIDE PUBLIC RIGHT-OF-WAY); THENCE BY THE SOUTHERLY RIGHT-OF-WAY LINE OF 21ST STREET SOUTH 42°44'15" EAST, A DISTANCE OF 319.47 FEET TO THE POINT OF BEGINNING.

CONTAINING WITHIN SAID BOUNDS A TOTAL OF 2.16 ACRES 94,048 SQ.FT.

BEING BLOCK AND LOT # 9-D-264 IN THE ALLEGHENY TAX ASSESSMENT OFFICE.

THE ABOVE DESCRIPTIONS ARE BASED UPON AN ACTUAL FIELD SURVEY OVERSEEN BY DAVID W. LAPEARLE, P.L.S. REGISTRATION NO SU-034201E, ON FEBRUARY 25, 2015.

The premises is also described as follows:

AS SURVEYED LEGAL DESCRIPTION OF LOT 4R:

ALL THAT CERTAIN PARCEL OR TRACT OF LAND, SITUATE IN THE 2ND WARD, CITY OF PITTSBURGH, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, BEING KNOWN AS PROPERTY NOW OR FORMERLY OF THE BUNCHER COMPANY, ALSO BEING KNOWN AS LOT 4R IN THE BUNCHER WATERFRONT PLACE PLAN NO. 4 AS RECORDED IN PLAN BOOK VOLUME 287, PAGE 10 IN THE OFFICE OF THE RECORDER OF DEEDS OF ALLEGHENY COUNTY, PENNSYLVANIA, ALSO BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF PARCEL "A" WATERFRONT DRIVE (54' WIDE PUBLIC RIGHT-OF-WAY TO BE DEDICATED) AND THE LINE DIVIDING LOT 3 AND LOT 4R IN THE BUNCHER WATERFRONT PLACE PLAN NO. 4 AS RECORD IN PLAN BOOK VOLUME 287; PAGE 10; THENCE ALONG THE LINE DIVIDING LOT 3 AND LOT 4R IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 4 NORTH 41°14'27" WEST, A DISTANCE OF 258.38 FEET TO A POINT AT THE COMMON CORNER BETWEEN LOT 3, LOT 4R, PARCEL "E", & PARCEL "F" IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 4; THENCE BY THE LINE DIVIDING LOT 4R AND PARCEL "F" OF SAID BUNCHER WATERFRONT PLACE PLAN NO. 4 NORTH 43°06'21" EAST, A DISTANCE OF 352.05 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER; THENCE BY THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER SOUTH 42°44'15" EAST, A DISTANCE OF 1.87 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER; THENCE BY THE SOUTHEASTERLY LINE OF THE ALLEGHENY RIVER AND LANDS OF NOW OR FORMERLY THE CITY OF PITTSBURGH NORTH 43°27'36" EAST, A DISTANCE OF 305.02 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 21ST STREET (60' WIDE PUBLIC RIGHT-OF-WAY); THENCE BY THE SOUTHERLY RIGHT-OF-WAY LINE OF 21ST STREET SOUTH 42°44'15" EAST, A DISTANCE OF 319.47 FEET TO A POINT AT INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF

21ST STREET ( 60' WIDE PUBLIC RIGHT-OF-WAY) AND THE LINE DIVIDING LOT 4R AND PARCEL "A" WATERFRONT DRIVE (54' WIDE PUBLIC RIGHT-OF-WAY TO BE DEDICATED) IN THE BUNCHER WATERFRONT PLACE PLAN NO. 4 AS RECORDED PLAN BOOK VOLUME 287, PAGE 10; THENCE BY THE LINE DIVIDING LOT 4R AND THE AFOREMENTIONED PARCEL "A" WATERFRONT DRIVE IN SAID BUNCHER WATERFRONT PLACE PLAN NO. 4 SOUTH 48°45'34" WEST, A DISTANCE OF 662.45 FEET TO THE PLACE OF BEGINNING.

CONTAINING WITHIN SAID BOUNDS A TOTAL OF 4.377 ACRES 190,656 SQ.FT.

BEING BLOCK AND LOTS # 9-D-260 & 9-D-264 IN THE ALLEGHENY TAX ASSESSMENT OFFICE.

THE ABOVE DESCRIPTIONS ARE BASED UPON AN ACTUAL FIELD SURVEY OVERSEEN BY DAVID W. LAPEARLE, P.L.S. REGISTRATION NO SU-034201E, ON JANUARY 28, 2016.

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF ALLEGHENY )

On this the 6th day of JULY, A.D., 2016, before me, a Notary Public, the undersigned officer, personally appeared **THOMAS J. BALESTRIERI**, who acknowledged himself to be the President of **THE BUNCHER COMPANY**, a Pennsylvania corporation, known to me or satisfactorily proven, to be the person whose name is subscribed to the within instrument and acknowledged that he, as such officer, being authorized to do so, executed the foregoing instrument as President of **THE BUNCHER COMPANY**.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

MY COMMISSION EXPIRES: 4-2-2017

