

**AN ORDINANCE APPROVING A SITE PLAN REVISION FOR PROPERTY LEGALLY DESCRIBED AS MAPLE WOODS VILLAGE, LOT 1.**

**WHEREAS**, pursuant to Ordinance No. 3.973 being the Gladstone Zoning Ordinance, public notice was made of a request for a site plan revision at the above described property; and

**WHEREAS**, public hearings have been held after the publishing of the required notices; and

**WHEREAS**, the City Council finds that the planned development does not materially injure the property and the uses of the properties immediately adjacent to the proposed development; and

**WHEREAS**, the City Council finds that the site plan presents a unified and organized arrangement of buildings and facilities which have a functional relationship to the property comprising the development; and

**WHEREAS**, the City Council finds it is in the best interest of the citizens of the City of Gladstone that the site plan submitted by the applicant be approved subject to the terms and conditions set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**SECTION 1. SITE PLAN APPROVAL.**

The Site Plan for the above described property is hereby approved subject to the terms and conditions set forth herein:

1. Evaluate capacity of existing storm sewer downstream of Point A and the impact of downstream flow on the Rock Creek basin in the storm study. Determine emergency measures that could be implemented to protect homes downstream of the stormwater basin.
2. Stormwater basins shall include a nuisance channel and natural plantings at bottom. Stormwater basin side-slopes shall be manicured. Stormwater basins, including pipes, structures, grounds, BMPs and appurtenances shall be maintained by Maple Woods Village to a standard acceptable by the City. See attached combined basin exhibit.
3. Implement additional landscaping on north side of detention basin and east side of cul-de-sac.
4. Provide sanitary sewer flow calculations with construction plan review.
5. Provide sediment basins and erosion control fencing in accordance with City Code.
6. Install 6 foot chain link temporary construction fencing along the south side of the development site from the existing fence on the east side of the property to the existing fence on the west side of the property, and install a temporary gate on the 72<sup>nd</sup> Street construction entrance.
7. Construct 8 foot privacy fence finished side toward development where highlighted on attached exhibit. This includes the top of the basin located at HyVee. A 6 foot wrought iron fence shall be installed where highlighted. All fencing shall be maintained in perpetuity.
8. Water main shall be looped from N. Agnes to N.E. 72nd Street.
9. Photometric photo study shall be submitted and ground level and building mounted lighting shall be implemented where possible. Exterior low-impact lighting package shall be in accordance with City Code and will be approved by the City. Full cutoff fixtures shall be utilized to limit lighting to zero foot candles beyond the property line.
10. Dumpsters/storage areas shall be enclosed with materials consistent with the primary building and adequately screened from public view. Trash services shall be scheduled between 7:00 am-10:00 pm.

11. Relocate dumpster to west side of the main building.
12. Tractor trailers shall not park or be stored overnight.
13. Fire hydrants shall be installed in accordance with fire code requirements.
14. Fire protection shall be provided within 150 feet of development.
15. All manicured landscaping and related improvements shall be maintained in perpetuity. All manicured grassed areas and landscaping shall be irrigated.
16. Minimum installed size of shrubs shall be 24" in height and size of trees shall be 2" caliper.
17. Provide tree preservation plan. Preserved trees shall be protected at the drip line before and during construction.
18. Portable storage units shall not be placed or stored on site, post construction.
19. Prior to the issuance of development permits, the applicant shall provide \$100,000 in escrow to mitigate impacts of this development on emergency services. In addition, the applicant is exploring alternative funding mechanisms that will need to be acceptable to the City. It will be the applicant's responsibility for securing necessary approvals. Emergency service shall be limited to the front entry of the development between the hours of 8:00 pm to 7:00 am. Owners shall work with Public Safety to limit the use of lights and sirens when possible.
20. A berm shall be constructed near the east edge of the development. The berm shall be sodded.
21. If the City Council approves a development plan for adjoining property, the Maple Woods Village owner shall grant the necessary right-of-way.
22. Parking lot lighting standards located behind the front building line along the west side shall be 10 feet in height. All exterior project lighting shall be dark sky compliant. Existing building flood lighting at HyVee shall be replaced with dark sky compliant fixtures.
23. The independent living portion of the project shall comply with multi-family inspection requirements.
24. A flashing caution light shall be installed within the 72<sup>nd</sup> Street right-of-way and maintained in perpetuity by the owner. Plans and specifications shall be reviewed at the time of building permit consideration.

**SECTION 2. SEVERABILITY CLAUSE.** The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

**PASSED, SIGNED, AND MADE EFFECTIVE BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 27TH DAY OF MAY 2014.**

  
\_\_\_\_\_  
J. Brian Hill, Mayor

ATTEST:

  
\_\_\_\_\_  
Ruth E. Bocchino, City Clerk

## ESCROW AGREEMENT

This ESCROW AGREEMENT (this "Agreement") is made and entered into as of the 3rd day of December, 2014 ("Effective Date"), by and among CCRC of Gladstone, LLC, a Missouri limited liability company ("Developer"), City of Gladstone, Missouri ("City"), and First Bank of Missouri ("Escrow Agent").

### Recitals

- A. Developer is developing Linden Woods Village in accordance with the approved development plan of Maple Woods Village Lot 1.
- B. Scenic Development LLC ("Scenic") is an Iowa limited liability company. Scenic is the managing member of CCRC of Gladstone LLC ("CCRC"). CCRC is a Missouri limited liability company.
- C. As a condition to approval of the Development Plan, City, under Ordinance No. 4.274, has required that Developer deposit \$100,000.00 into an escrow account with Escrow Agent (the "Escrow Payment") for the benefit of City and disbursement as set forth herein below.
- D. The parties hereto desire to set forth the terms and conditions pertaining to the Escrow Payment.

### Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which, is hereby acknowledged, the parties hereto hereby agree as follows.

1. Appointment of Escrow Agent. City and Developer hereby appoint First Bank of Missouri as the "Escrow Agent" hereunder, and Escrow Agent hereby accepts such appointment, with respect to the Escrow Payment and all interest or income earned thereon (the "Escrow Returns", and collectively with the Escrow Payment, the "Escrow Funds").

2. Delivery and Receipt of Escrow Payment. Within ten (10) days following the Effective Date, Developer shall deliver the Escrow Payment of \$100,000.00 to Escrow Agent, and Escrow Agent shall promptly acknowledge receipt of the Escrow Payment.

3. Retention. The Escrow Agent shall hold and pay the Escrow Funds in accordance with the terms and conditions of this Agreement. City and Developer acknowledge and agree that the Escrow Funds shall be disbursed only in accordance with this Agreement. The Escrow Agent shall be permitted, and is hereby directed to deposit, transfer, hold and invest all funds received under this Agreement, including all principal and interest derived from such funds, as directed in writing by the parties. The Escrow Agent shall be entitled to sell or redeem any such investments as are necessary to make any payments or distributions required under this Agreement. The Escrow Agent will not be liable for any loss incurred at such sale or redemption, provided such investment or sale of investment is made pursuant to this Agreement. The parties acknowledge that the Escrow Agent is not providing investment supervision,

recommendations or advice. Proceeds of the sale of investments will be delivered on the business day on which the appropriate instructions are received by the Escrow Agent if received prior to the deadline for same day sale of such permitted investments. If such instructions are received after the applicable deadline, proceeds will be delivered on the next succeeding business day. Investments will be made promptly following the availability of such funds to the Escrow Agent taking into consideration the regulations and requirements (including investment cut-off times) of the Federal Reserve wire system, any investment provider and the Escrow Agent.

4. No Commingling of Funds. Escrow Agent shall deposit the Escrow Funds into a separate money market (interest bearing) account as directed by the parties. Developer will execute the appropriate Internal Revenue Service documentation for the giving of taxpayer identification information relating to this account. Developer and City do hereby certify that each is aware that the Federal Deposit Insurance Corporation coverages may apply to a legally specified maximum amount per depositor. Further, Developer and City understand that Escrow Agent assumes no responsibility for, nor will Developer or City hold same liable for any loss occurring which arises from a situation or event under the Federal Deposit Insurance Corporation coverages. All interest will accrue to and be reported to the Internal Revenue Service for the account of Developer, as set forth below:

Name: CCRC of Gladstone, LLC  
Address: Attn: Gilbert R. Wood  
Suite 103  
11827 W 112th St  
Overland Park, KS 66210

Tax I.D. 47-1487299

5. Disbursement of Escrow Funds. Escrow Agent shall make disbursement of \$100,000.00 from the Escrow Funds in accordance with the following provisions.

a. Escrow Agent shall comply with a notice setting forth a demand by City of payment from the Escrow Funds ("Escrow Claim") upon the following conditions:

i. City shall have provided notice of such demand and proof of its purchase or rehabilitation of an additional ambulance (as evidenced by a certificate of title and paid invoice for such ambulance vesting title in the City), its basis for the Escrow Claim and the amount thereof to Developer and shall have provided Escrow Agent of evidence thereof; and

ii. Ten (10) days shall have elapsed from the date of said notice, and Developer shall not otherwise have objected to disbursement from the Escrow Funds in accordance with City's demand set forth in the notice.

b. On the third anniversary date of this Agreement:

i. If an Escrow Claim has not been made by the City as set forth above, the Escrow Funds shall be delivered to Developer without any further notice required hereunder.

c. Escrow Agent shall otherwise comply with all orders delivered jointly by City and Developer.

6. Disputes and Resolution of Disputes. In the event of any dispute between Developer and City with regard to the funds held by Escrow Agent hereunder, Escrow Agent is hereby expressly authorized to comply with any and all orders, judgments or decrees entered or issued by any court with or without jurisdiction, after providing ten (10) business days prior notice and a copy of such order, judgment or decree to the other parties hereto, and in the case Escrow Agent obeys or complies with any such order, judgment or decree of such court, it shall not be liable to any of the parties hereto or any other person, firm, or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being entered without jurisdiction or being subsequently reversed, modified, annulled, set aside or vacated. Subject to Section 13(g), in a case of any suit or proceeding regarding this escrow, to which Escrow Agent is or may at any time become a party, Escrow Agent shall have a lien on the Escrow Funds for any and all costs and attorneys' fees, whether such attorneys shall be regularly retained or specially employed and any other expenses which it may have incurred or become liable for on account thereof, and it shall be entitled to reimburse itself therefor out of the Escrow Funds.

7. Liability. Escrow Agent undertakes to perform only such duties as are specifically set forth herein. The Escrow Agent, in acting or refraining to act in good faith, shall not be liable for any mistake of fact or error in judgment by it, or for any acts or omissions by Escrow Agent of any kind unless caused by willful misconduct or gross negligence, and shall be entitled to rely upon (a) any written notice, instrument or signature believed by Escrow Agent to be genuine and to have been signed by the party or parties duly authorized to do so, and (b) any court order relating to the subject matter hereof.

8. Compensation. As compensation for the services provided by Escrow Agent hereunder, Escrow Agent shall receive an initial fee of \$100.00. Escrow Agent's compensation hereunder shall be paid from the Escrow Funds.

9. Resignation by Escrow Agent. The Escrow Agent may resign from its duties hereunder at any time by giving notice of such resignation to Developer and City specifying a date (not less than thirty (30) days after giving such notice) when such resignation shall take effect. Promptly after the giving of such notice by Escrow Agent, a successor escrow agent shall be appointed by the mutual agreement of City and Developer pursuant to the terms and conditions of an escrow agreement in form and substance satisfactory to City, Developer and such successor escrow agent, provided, that City and Developer shall use their best efforts to incorporate terms and conditions in such escrow agreement that are substantially the same as the terms and conditions provided herein.

10. Removal of Escrow Agent. Escrow Agent acknowledges and agrees that Developer and City may, by mutual agreement at any time, remove Escrow Agent as escrow agent, and further, may substitute a successor escrow agent pursuant to the terms and conditions of an

escrow agreement in form and substance satisfactory to City, Developer and such successor escrow agent, provided, that City and Developer shall use commercially reasonable efforts to incorporate terms and conditions in such escrow agreement that are substantially the same as the terms and conditions provided herein. City and Developer acknowledge that such removal and/or appointment of a successor escrow agent may only be accomplished by a joint written direct of City and Developer. Said removal shall be effective upon receipt by Escrow Agent of a joint statement by Developer and City setting forth their mutual desire to remove Escrow Agent. Thereafter, all accrued but unpaid fees or reimbursement obligations hereunder shall be paid to the Escrow Agent from the Escrow Funds, and Escrow Agent shall account for and transfer the balance of the Escrow Funds as Developer and City shall jointly direct.

11. Termination of Agreement. This Agreement shall continue in force and effect until (a) the distribution of all Escrow Funds as provided hereunder, or (b) the resignation or removal of Escrow Agent as provided above. In the event of termination of this Agreement prior to the full disbursement of all Escrow Funds, Escrow Agent shall disburse funds only as Developer and City may jointly direct, and absent such joint direction, Escrow Agent shall disburse funds only as required by court order.

12. Notices. All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), or (ii) on the third (3<sup>rd</sup>) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) upon receipt of an e-mail (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

If to Developer: CCRC of Gladstone, LLC  
Attn: Gilbert R. Wood  
Suite 103  
11827 W 112th St  
Overland Park, KS 66210

with a copy to: Bryan Cave LLP  
Attn: Michael Humphrey  
1200 Main Street, Suite 3500  
Kansas City, Missouri 64105

If to City: City of Gladstone  
Attn: City Manager  
7010 N. Holmes Street  
Gladstone, MO 64118

If to Escrow Agent: First Bank of Missouri  
7001 N. Oak Trafficway  
Gladstone, MO 64118

Either party may, by notice given as aforesaid, change the address or addresses, or designate an additional address or additional addresses, for its notices, provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

13. Miscellaneous.

a. This Agreement constitutes the entire agreement of the parties hereto, and this Agreement may not be amended, modified or canceled except pursuant to the terms hereof or an instrument in writing signed by the parties hereto. All understandings and agreements heretofore and between the parties are merged in this Agreement, which alone fully and completely expresses their agreement.

b. This Agreement shall bind and inure to the benefit of the respective heirs, executors, administrators, personal representatives, successors and permitted assigns of the parties hereto; provided, however, that neither party hereto shall assign this Agreement without prior written consent of the other party. Any assignment not permitted hereunder and undertaken without such prior written consent shall be deemed null and void.

c. No waiver of any term, provision or condition of this Agreement, shall be deemed to be or be construed as a further or continuing waiver of any such term, provision or condition of this Agreement. No failure to act shall be construed as a waiver of any term, provision, condition or rights granted hereunder.

d. This Agreement shall be construed and governed in accordance with the internal laws of the State of Missouri.

e. The headings of the various Sections of this Agreement have been inserted only for the purposes of convenience, are not part of this Agreement and shall not be deemed in any manner to modify, explain, qualify or restrict any of the provisions of this Agreement.

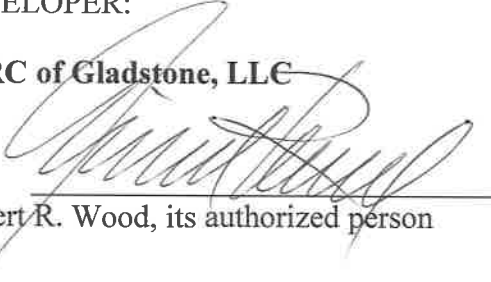
f. If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but, each term and provision shall be valid and be enforced to the fullest extent permitted by law.

g. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and taken together, shall constitute one and the same instrument. Each party agrees that the delivery of this Agreement by facsimile or other electronic transmission shall have the same force and effect as delivery of original signatures and that each party may use such facsimile or other electronically transmitted signatures as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

IN WITNESS WHEREOF, the parties have caused the execution of this Agreement as of the date first set forth above.

DEVELOPER:

**CCRC of Gladstone, LLC**

By:   
Gilbert R. Wood, its authorized person




CITY:

**City of Gladstone**

By:

Printed Name:

Its:

  
Kirk C. Davis  
City Manager

ESCROW AGENT:

**First Bank of Missouri**

By: Kenneth W. Hollander  
Printed Name: KENNETH W. HOLLANDER  
Its: PRES.