



MISC 2005001973



JAN 05 2005 11:19 P 3

*misc*  
 OC-42350 RHP  
 OC-42354  
 FEE 23.50 FL OC-42358 R.  
 OC-42359 R.  
 3/17 B/KP \_\_\_\_\_ C/O \_\_\_\_\_ COMP *JK*  
 DEF \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 1/5/2005 11:19:07.27



2005001973

RETURN TO: R. Thomas Workman, Esq., McGill, Gotsdiner, Workman & Lepp, P.C., L.L.O., 11404 West Dodge Road, Suite 500, Omaha, NE 68154

Space Above Reserved for Recording Information

**ACKNOWLEDGMENT**

**THIS ACKNOWLEDGMENT ("Acknowledgment")** is made by and between **WEST DODGE PLACE, L.L.C.**, a Nebraska limited liability company ("**Declarant**") and **CARMAX AUTO SUPERSTORES, INC.**, a Virginia corporation ("**Purchaser**").

**WHEREAS**, Declarant originally owned property legally described as Lots 1 through 6, inclusive, and Outlots A and B, inclusive, all in West Dodge Place, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, and Lots 1 through 7, inclusive, West Dodge Place Replat, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska ("**West Dodge Place**"); *E Lot 1 West Dodge Place REPLAT 4*  
*now known as Lots 1, 5, 6, out lot A & out lot B West Dodge Place and lots 1 thru 4 inclusive*

**WHEREAS**, Declarant has established and recorded certain Declaration of Covenants, Conditions, Restrictions and Easements for West Dodge Place ("**Declarations**") with the Douglas County Register of Deeds;

*West Dodge Place Replat 2*

**WHEREAS**, the Declarations provide that West Dodge Place may only be used for the sale of used vehicles if the Declarant specifically permits the sale of used vehicles in a recordable document;

**WHEREAS**, Declarant has entered into a Purchase Agreement with Purchaser for the sale of Lot 4, West Dodge Place, Replat 2, Douglas County Nebraska ("**Property**");

**WHEREAS**, Declarant will operate a used vehicle business on the Property;

**WHEREAS**, the parties wish to acknowledge Declarant's consent to Purchaser's sale of used vehicles on the Property and the Purchaser's compliance with all other matters contained in the Declarations;

**NOW THEREFORE**, the parties hereby acknowledge and declare as follows:

1. **Use.** As required pursuant to Section 9.1.1 and 9.3.11 of the Declarations, Declarant hereby permits and consents to Purchaser's sale or leasing of used vehicles on the Property despite the fact that new vehicles will not be sold or leased on the Property. Such consent shall be personal to Purchaser only. No person or entity other than Purchaser shall sell or lease used vehicles on the Property without the prior written consent of the Declarant. For purposes of this paragraph, the term Purchaser shall mean Carmax Auto Superstores, Inc.; any entity controlling, controlled by or under common control with, Carmax Auto Superstores, Inc. ; and Mortgagees as defined in the Declarations.

2. **Applicability of Restrictions.** The Purchaser acknowledges and agrees that all used vehicle sales and leasing activities it conducts on the Property shall be conducted in compliance with the covenants, conditions and restrictions set forth in the Declarations.

3. **Rights of Successors.** This Acknowledgment shall be binding upon the parties, their heirs, representatives, successors and assigns.

*6*

4. **Governing Law.** This Acknowledgment shall be governed by and construed in accordance with the laws of the State of Nebraska.

**IN WITNESS WHEREOF**, this Acknowledgment has been executed this 31<sup>st</sup> day of December, 2004.

**WEST DODGE PLACE, L.L.C.**

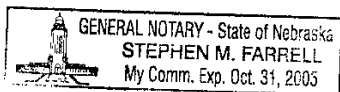
**CARMAX AUTO SUPERSTORES, INC.**

By: Talton K. Anderson  
Talton K. Anderson, Manager

By: \_\_\_\_\_  
K. Douglass Moyers, Vice President

STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF DOUGLAS )

On this 31<sup>st</sup> day of December 2004, before me, the undersigned, a Notary Public, personally appeared Talton K. Anderson, a Manager of **WEST DODGE PLACE, L.L.C.**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed on behalf of such Company.



Stephen M. Farrell  
Notary Public

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_, before me, the undersigned, a Notary Public, personally appeared K. Douglass Moyers, the Vice President of **CARMAX AUTO SUPERSTORES, INC.**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed on behalf of such Company.

\_\_\_\_\_  
Notary Public

#258096.3

4. **Governing Law.** This Acknowledgment shall be governed by and construed in accordance with the laws of the State of Nebraska.

**IN WITNESS WHEREOF**, this Acknowledgment has been executed this \_\_\_\_ day of December, 2004.

**WEST DODGE PLACE, L.L.C.**

**CARMAX AUTO SUPERSTORES, INC.**

By: \_\_\_\_\_  
Talton K. Anderson, Manager

By: *K. Moyers*  
K. Douglass Moyers, Vice President

STATE OF NEBRASKA            )  
  ) SS.  
COUNTY OF DOUGLAS        )

On this \_\_\_\_\_ day of December 2004, before me, the undersigned, a Notary Public, personally appeared Talton K. Anderson, a Manager of **WEST DODGE PLACE, L.L.C.**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed on behalf of such Company.

\_\_\_\_\_  
Notary Public

STATE OF Virginia            )  
  ) SS.  
COUNTY OF Henrico        )

On this 4 day of JANUARY 2005, before me, the undersigned, a Notary Public, personally appeared K. Douglass Moyers, the Vice President of **CARMAX AUTO SUPERSTORES, INC.**, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed on behalf of such Company.

*Raig J. Estes*  
Notary Public

#258096.3

**NOTARIAL SEAL  
REGISTER OF DEEDS**