Inst # 2019040053 Wed Oct 09 13:43:35 CDT 2019
Filing Fee: \$28.00
Lancaster County; NE Assessor/Register of Deeds Office Pages 4

After recording return to: Seacrest & Kalkowski, PC, LLO 1128 Lincoln Mall, Suite 105 Lincoln, NE 68508

FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS

THIS FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS ("Fourth Amendment") is effective this 23 day of September, 2019.

RECITALS

WHEREAS, a Declaration of Covenants and Restrictions dated March 21, 2008, was recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No. 2008018540, together with an Amendment to Declaration of Covenants and Restrictions dated March 7, 2010, and recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No. 2010015385, a Second Amendment and Addition to Declaration of Covenants and Restrictions dated September 26, 2011, and recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No. 2011045973, and a Third Amendment and Addition to Declaration of Covenants and Restrictions dated September 23, 2019, and recorded in the office of the Register of Deeds of Lancaster County, Nebraska as Instrument No. 2019037145 (collectively, the "Covenants"), with respect to the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Properties"), and

WHEREAS, pursuant to Paragraph 28 of the Covenants, FUSC desires to exercise its right to add Contiguous Property to the Class A Properties governed by the Covenants.

NOW THEREFORE, for and in consideration of the recitals set forth above and the mutual representations, warranties and covenants set forth in the Covenants, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the undersigned hereby agree to amend the Covenants as follows:

1. <u>Contiguous Property</u>. FUSC hereby exercises its right to add Lots 1, 2 and 3, Firethorn 46th Addition, Lincoln, Lancaster County, Nebraska ("Wenta Lots"), to the "Class A Properties" as that term is defined in the Covenants, and the Wenta Lots are hereby made subject to the Covenants.

- 2. <u>Irrigation Line</u>. The parties acknowledge that an irrigation line currently serving the Corporation is located within the east five (5) feet of the Wenta Lots ("Irrigation Line"). The Corporation is hereby granted an easement to maintain, inspect and repair the irrigation line located on the Wenta Lots at its cost; provided, (i) any and all damage caused by the Corporation's access or construction, maintenance, inspection or repair thereon shall be promptly repaired by the Corporation and to the extent practical, restored, replaced or rebuilt to the condition as it existed before such construction, maintenance, inspection or repair; and (ii) any activity allowed by the terms hereof upon the Wenta Lots shall be performed by the Corporation in an expeditious manner consistent with accepted construction practice so as to minimize interference with the lot owners' use and occupancy of the Wenta Lots.
- 3. Roadway Damage. In the event that any of the private roads owned by FUSC are damaged during construction on a lot within the Wenta Lots, FUSC may assess the actual costs incurred by FUSC to repair such damage and the titleholder of such lot shall reimburse FUSC for such assessment within thirty (30) days of receipt of an invoice therefore. If such assessment is not paid within thirty (30) of written notice of such assessment to the titleholder of such lot, such assessment shall bear interest at the rate of 16% per annum and, when notice of nonpayment is filed with the Lancaster County Register of Deeds, shall be a lien upon the lot.
- 4. <u>Binding</u>. Except as modified by this Fourth Amendment, each of the conditions, covenants, restrictions and reservations set forth in the Covenants shall continue and be binding upon the parties thereto and upon their successors and assigns and upon each of them and all parties and all persons claiming under them.

IN WITNESS WHEREOF, the undersigned have executed this Fourth Amendment to the Declaration of Covenants and Restrictions as of the 23 day of September 2019.

Deciaration of Covenants and Res	Suichons	as of the Zo day of September 2019.	
		FIRETHORN UTILITY SERVICE CO., a Nebraska corporation By: Mark A. Wible, President	
STATE OF NEBRASKA)) ss.		
COUNTY OF LANCASTER)	Ah mudall	

The foregoing instrument was acknowledged before me this the day of the corporation, on behalf of the corporation.

GENERAL NOTARY - State of Nebraska
BRITTANY N. WAGNER
My Comm. Exp. February 27, 2021

Notary Public

PHILLIP B. WENTA, a married person

STATE OF NEBRASKA)
COUNTY OF LANCASTER) ss.)
The foregoing instrument was 2019, by Phillip B. Wenta , a marrie	s acknowledged before me this 23 day of years, ed person.
GENERAL NOTARY - State of Nebraska DANAY KALKOWSKI My Comm. Exp. May 18, 2022	

EXHIBIT "A"

Properties

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Lots 1-10 and 12-20, Block 1, Firethorn 27th Addition; Lot 1, Firethorn 35th Addition;

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Lots 1-16 Block 1, and Lots 1-3 and 6-18, Block 2, Firethorn 32nd Addition; Lots 1 and 2, Firethorn 39th Addition;

Lots 1-5, Block 1, Lots 1-4 Block 2, and Lots 1-29, Block 3, Firethorn 44th Addition;

All located in Lincoln, Lancaster County, Nebraska

