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2005131387

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS OF WHISPERING RIDGE, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA

This Amendment is made to the Declaration of Covenants, Conditions, Restrictions and Easements of Whispering Ridge, a subdivision in Douglas County, Nebraska, filed on or about April 22, 2002, at Book 1436 Page 160 of the Miscellaneous Records in the Register of Deeds of Douglas County, Nebraska (hereinafter referred to as the "Declaration") executed and filed by M.J.A., L.L.C., a Nebraska limited liability company (hereinafter referred to as the "Declarant").

PRELIMINARY STATEMENT

A. The Declarant is the developer of the Whispering Ridge subdivision located within Douglas County, Nebraska and caused the Declaration to be filed against:

Lots 191 through 202, inclusive, and Lots 233 through 294, inclusive, all in Whispering Ridge, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

B. Declarant desires to amend the Declaration for purpose of providing for duplex, villa and/or townhome use of lots formerly known as Lots 282 - 294, inclusive, all in Whispering Ridge, which are now legally described as Lots 1 - 18, inclusive, in Whispering Ridge Replat 4,

C. Article IV, Section 4.2 of the Declaration grants Declarant the authority to amend the Declaration, in its full and absolute discretion, for a period of five years from April 19, 2002.

NOW, THEREFORE, pursuant to the authority granted to the Declarant in Article IV, Section 4.2 of the Declaration, Declarant hereby amends and supplements the Declaration as follows:

1. By deleting the legal description contained in the Preliminary Statement and adding in its place and stead the following:

Lots 191 through 202, inclusive, Lots 233 through 281, inclusive, all in Whispering Ridge, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, and Lots 1 through 18, inclusive, all in Whispering Ridge Replat 4, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska. *mc-43921*

2. By deleting Section 1.1 of Article I of the Declaration and adding in its place and stead the following:

1.1 Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or

FULLENKAMP, DOYLE & JOBEUN  
11440 WEST CENTER ROAD  
OMAHA, NEBRASKA 68144-4482

AJH

*mc-43909*  
*misc*  
FEE 59.50 FB See above  
*4/79* BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP BW  
DEL \_\_\_\_\_ SGAN \_\_\_\_\_ FV \_\_\_\_\_

dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a church, school, park, or for other non-profit use, and except for those Lots designated by Declarant as duplex, townhome and/or villa Lots, including but not limited to Lots 1 - 18, inclusive, in Whispering Ridge Replat 4.

3. By deleting Section 1.3 of Article I of the Declaration and adding in its place and stead the following:

Except for duplex, townhome and villa lots, as designated by Declarant, no single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height and shall conform to the following minimum requirements:

- |    |   |               |  |
|----|---|---------------|--|
| A. | Two-story                                       | 1,800 sq. ft. | Total area above basement level with 1,200 sq. ft. minimum on main floor, exclusive of garage area             |
| B. | One-story ranch type house with attached garage | 1,500 sq. ft. | On the main floor, exclusive of garage area (garage must be approximately at the same level as the main floor) |
| C. | One-story house                                 | 1,800 sq. ft. | On the main floor with basement garage   |
| D. | One and one-half                                | 1,800 sq. ft. | Total area above basement level; minimum 1,200 sq. ft. on the main floor, exclusive of garage area.            |
| E. | Tri-level                                       | 1,750 sq. ft. | Total area above (split level) grade house, exclusive of garage area.  |

4. By deleting Section 1.20 of Article I of the Declaration and adding in its place and stead the following:

1.20 Except for any duplex, townhome or villa lot, as designated by Declarant, no residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat.

5. By deleting Section 2.1 of Article II of the Declaration and adding in its place and stead the following:

2.1 The Association Declarant has or will cause the incorporation of the Whispering Ridge Homeowners Association, a Nebraska non-profit corporation (hereinafter the "Association"). The Association has as its purpose the promotion of the

health, safety, recreation, welfare and enjoyment of the residents of Whispering Ridge, including Lots 151 -189, inclusive, Lots 191 - 202, inclusive, Lots 233 - 281, inclusive, all in Whispering Ridge and Lots 1 - 18, inclusive, all in Whispering Ridge Replat 4, including

- A. The acquisition, construction, landscaping, improvement, equipment maintenance, operation, repair, upkeep and replacement of Common Facilities. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways, linear trails, outlots and green areas; and signs and entrances for Whispering Ridge. Common Facilities may be situated on property owned or leased by the Association, on public property, on private property subject to an easement in favor of the Association, or on property dedicated to a Sanitary and Improvement District.
- B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules and regulations are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.
- C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Whispering Ridge, and the protection and maintenance of the residential character of Whispering Ridge.

The Association is formed for the benefit of all residential property owners in Whispering Ridge (single family and duplex/townhome/villa).

6. By deleting Section 2.2 of Article II of the Declaration and adding in its place and stead the following:

2.2 Membership and Voting. Whispering Ridge was originally divided into 113 separate residential lots, including 39 lots in the first phase of the subdivision, and, it is intended that all Lots, whether original or replats, if in compliance with the Declaration as amended, will be referred to collectively as the "Lots" and individually as a Lot and the Owner of each Lot shall be a Member of the Association. For the purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any Lot merely as security for performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust or mortgagee). The purchase of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. It is understood that the Owner of each respective Lot created as a result of a Lot split, so long as it complies with the Declaration as amended, shall be each entitled to one (1) vote. The Owner of each Lot, whether one or more persons or entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

All other terms and provisions of said Declaration shall remain in full force and effect.

M.J.A., L.L.C., a Nebraska limited liability company,  
"Declarant,"

By: *Gerald Torczon*  
Gerald Torczon, President and Managing Member

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 1 day of October 2005, by Gerald Torczon, President and Managing Member of M.J.A., L.L.C., a Nebraska limited liability company, to me known to be the identical person who executed the foregoing instrument and acknowledged the same to be his voluntary act and deed on behalf of said entity.

*Doris J. Nicholson*  
Notary Public

