



RE: Lots 1 and 2, Spring Valley Plaza Replat 4, a subdivision in Douglas County, Nebraska,
and Lot 1, Spring Valley Plaza, a subdivision in Douglas County, Nebraska.

**FIRST AMENDMENT TO
DECLARATION FOR INGRESS AND EGRESS**

THIS FIRST AMENDMENT TO DECLARATION FOR INGRESS AND EGRESS
("First Amendment") is made as of this 9th day of January, 2020, by FIFTY JOINT VENTURE
II LLC, a Nebraska limited liability company ("Fifty Joint Venture II").

PRELIMINARY STATEMENT

Fifty Joint Venture II is the Owner of Lots 1 and 2, Spring Valley Plaza Replat 4, a subdivision in Douglas County, Nebraska ("Lots 1 and 2 Replat 4") which were created by Administrative Subdivision recorded in the records of the Douglas County Register of Deeds on January 6, 2020 as Instrument No. 2020001108. Lots 1 and 2 Replat 4 are subject to that certain Declaration for Ingress and Egress dated September 2, 2005 and recorded on September 23, 2005 in the office of the Register of Deeds of Douglas County, Nebraska, as Instrument No. 2005119156 ("2005 Declaration") by which certain easements were created for the purpose of providing vehicular access, ingress, egress, passage and traffic to and from both "F" Street and 50th Street and the various Parcels more particularly described in the 2005 Declaration.

Fifty Joint Venture, a Nebraska general partnership (the "Lot 1 Owner"), the owner of Lot 1, Spring Valley Plaza, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, is the "Declarant" of the 2005 Declaration and has joined in the execution of this First Amendment.

Fifty Joint Venture II is the current Owner of the Parcels within which the Access Drive is situated. The term "Access Drive" is defined in Section 1.1 and depicted in Exhibit "A" of the 2005 Declaration with such Exhibit "A" by this reference incorporated in its entirety in this First Amendment. Pursuant to Section 8.2 of the 2005 Declaration, the Lot 1 Owner as the Declarant of the 2005 Declaration and Fifty Joint Venture II as the Owner of the Parcels within which the Access Drive is situated have determined that it is in the best interests of the Parcels which are subject to and benefit from the 2005 Declaration and their respective Owners, successors and assigns to amend certain provisions of the 2005 Declaration for the purpose of clarifying certain

provisions thereof and reaffirming certain easement rights and obligations consistent with the intended and actual use of the Access Drive.

TERMS AND CONDITIONS

In consideration of the foregoing Preliminary Statement, which by this reference is repeated and incorporated in this portion of this First Amendment, and other consideration, the receipt and sufficiency of which are hereby acknowledged, Fifty Joint Venture II hereby amends the 2005 Declaration as follows.

1. The terms used in this First Amendment shall have the same meaning as ascribed to them in the 2005 Declaration unless otherwise specifically stated in this First Amendment or the context of this First Amendment requires otherwise.

2. Section 1.3 of the 2005 Declaration shall be amended in its entirety to read as follows:

“1.3 Parcel. The term “Parcel” shall mean or refer to any of the following platted lots: Lots 1, 3, 4 and 5, Spring Valley Plaza; Lot 1, Spring Valley Plaza Replat 1; Lot 1, Spring Valley Plaza Replat 2; Lot 1, Spring Valley Plaza Replat 3; and Lots 1 and 2, Spring Valley Plaza Replat 4, all subdivisions in Douglas County, Nebraska, as surveyed, platted and recorded. The term “Parcels” shall mean all of the platted lots identified in this Section 1.3 and any administrative subdivision(s), replat(s) or lot combination(s) of such Parcels. From time to time, reference to one or more Parcels will be made in this First Amendment by its or their platted lot number(s).”

3. Section 2.1 B. of the 2005 Declaration is amended in its entirety to read as follows:

“B. The record owner of Lot 1, Spring Valley Plaza, a subdivision in Douglas County, Nebraska (“Record Owner of Lot 1”) may, from time to time, at its sole expense, during the term of this Declaration, enlarge or make minor adjustments to the location, contour, width, and grade of one or more portions or all of the Access Drive, provided that (i) access, ingress and egress to and from the Parcels and both “F” Street and 50th Street is maintained at all times, and (ii) the grade of the Access Drive is not materially altered. In the event the Record Owner of Lot 1 or its successors exercises the rights provided in this Subsection B., temporary access to and from both “F” Street and 50th Street shall be provided to the Owners of the Parcels during the exercise of such rights without cost to such Owners.”

4. The first introductory paragraph of Section 2.3 of the 2005 Declaration shall be amended in its entirety to read as follows:

“2.3 Maintenance of Access Drive. Except as otherwise specifically provided in this Declaration, the Record Owner of Lot 1, at its sole expense, shall operate, maintain and replace all of the areas of the Access Drive in a good condition and repair at all times and shall be entitled to all fees and reimbursements required of Owners under the terms

of the 2005 Declaration in connection with the maintenance, repair and replacement of the Access Drive. Such repairs, replacements and maintenance shall include, but shall not be limited to:"

5. The following Section 2.4 shall be added to and considered a part of the 2005 Declaration:

"2.4 Failure to Maintain. If any part of the area within the Access Drive shall become in disrepair or non-operational, the Record Owner of Lot 1 shall promptly remedy the same at its sole cost and expense. In the event the Record Owner of Lot 1 fails to perform any of the obligations under Section 2.3 immediately preceding, the Owners of Lots 1 and 2, Spring Valley Plaza Replat 4 may perform the obligations of the Record Owner of Lot 1 under Section 2.3 immediately preceding; provided, however, that written notice of such intention specifying the nature of the alleged default and actions to be performed has been given to the Record Owner of Lot 1 not less than thirty (30) days prior to the commencement of such action or without notice if such default is of an emergency nature. During such thirty (30) day period, the Record Owner of Lot 1 will have the right to perform or commence performance of action appropriate to remedy such default, and provided such action is diligently carried out to completion, the right of any Owner of a Parcel to perform any such obligations will terminate without prejudice to correct further defaults. If any Owner of Lots 1 and 2, Spring Valley Plaza Replat 4 elects to perform the action to have been performed by the Record Owner of Lot 1, on completion of such action, or from time to time, if the action is of a continuing nature, an itemized statement of the reasonable costs thereof shall be submitted to the Record Owner of Lot 1 by the Owner performing such curative action and the amount thereof will be immediately due and payable to such curative owner by the Record Owner of Lot 1, which amount will bear interest at the rate of twelve percent (12%) per annum from the date such costs are incurred by such curative owner to the date reimbursement is made by the Record Owner of Lot 1.

Notwithstanding anything to the contrary in this First Amendment or the 2005 Declaration, during any period in which the Record Owner of Lot 1 is in default under this Section 2.4, beyond any applicable notice period, any fees and/or reimbursements required to be paid under Section 3 of the 2005 Declaration by any Owner of a Parcel with respect to the maintenance, repair and replacement of the Access Drive shall be abated until such default is properly corrected; additionally, any such Owner of a Parcel may offset any such fees and/or reimbursements against any amounts owed to such Owner as a result of such Owner's cure of a default of the Record Owner of Lot 1."

6. Section 3 of the 2005 Declaration is amended in its entirety to read as follows:

"3. Maintenance Fee.

A. Beginning on February 1, 2006 and on February 1 of each succeeding calendar year, the (i) Owner of Lot 1, Spring Valley Plaza Replat 2, and (ii) the Owner of Lot 1, Spring Valley Plaza Replat 3 shall pay the Record Owner of Lot 1, the yearly maintenance fee equal to Five Hundred and No/100 Dollars (\$500.00) as

their reimbursements of or contributions towards such Record Owner's costs and expenses of maintaining, repairing and replacing the Access Drive. Beginning on February 1, 2021 and on February 1 of each succeeding calendar year, the Owner of Lot 1, Spring Valley Plaza Replat 4 shall pay the Record Owner of Lot 1 the yearly maintenance fee equal to One Thousand and No/100 Dollars (\$1,000.00) as its reimbursement of or contribution towards such Record Owner's cost and expense of maintaining, repairing and replacing the Access Drive. Beginning on February 1, 2021 and on February 1 of each succeeding calendar year, the Owner of Lot 2, Spring Valley Plaza Replat 4 shall pay the Record Owner of Lot 1 the yearly maintenance fee equal to Five Hundred and No/100 Dollars (\$500.00) as its reimbursement of or contribution towards such Record Owner's cost and expense of maintaining, repairing and replacing the Access Drive. The yearly sum shall be adjusted annually thereafter by the increase, if any, in the Consumer Price Index (U.S. average; all-items index; All Urban Consumers; 1982-84=100; published by the U.S. Department of Labor) (herein "CPI-U"); the adjusted annual amount shall be determined by multiplying the applicable beginning annual fee or contribution by a fraction, the numerator of which is the CPI-U for the calendar month immediately preceding the next payment date in question and the denominator of which is the CPI-U for the calendar year in the month in which the first payment was made. In the event the CPI-U is discontinued or not available, an equivalent index or measure shall be substituted. The yearly sum shall be due and payable thirty (30) days after invoice from the Record Owner of Lot 1, and if unpaid beyond thirty (30) days of the due date, shall accrue interest at the rate of twelve percent (12%) per annum from such date to the date paid.

B. In the event of any future replatting or subdivision of any Parcel, all new lots created or resulting from an administrative subdivision or replatting shall be responsible to pay the same yearly maintenance fee then applicable to the Parcel(s) being subdivided or replatted, subject to annual CPI-U adjustments provided in Section 3. A. immediately preceding.

C. In the event Lot 1, Spring Valley Plaza, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded is replatted or subdivided into two or more lots, then the maintenance, repair and replacement responsibilities for the Access Drive as described in Section 2.3 of the 2005 Declaration shall be deemed delegated, transferred and assigned to the record owner of the Parcel resulting from such replatting or subdivision which is largest in land area size ("Largest Resulting Lot") which record owner will be deemed to have assumed all of such responsibilities from and after the recordation date of the applicable administrative subdivision or replatting; provided, however, nothing in this Subsection C. shall be deemed to relieve any liability of the Record Owner of Lot 1 to the Owners of Parcels who may have elected to cure a default of the Record Owner of Lot 1.

D. Owners required to pay reimbursements or fees to the Record Owner of Lot 1 shall not be obligated to apportion or allocate such amounts because of such replatting or subdivision, but instead, subject to Section 2.4 as set forth in Section 5 of this First Amendment, shall pay the full amount thereof which is due on the scheduled due date to the Largest Resulting Lot.”

7. The following shall be added as Section 9.11 to the 2005 Declaration:

“9.11 Exculpation. The conveyance of any Parcel shall subject the grantee of such Parcel to the terms and provisions of the Original Declaration as described in the 2005 Declaration and the 2005 Declaration, as amended by this First Amendment, and shall release the conveying Owner from any obligation arising under the Original Declaration or the 2005 Declaration, as amended by this First Amendment, from and after the recordation date of such conveyance. Only the equity of an Owner in a Parcel shall be subject to collection of any deficiency or judgment against such Owner requiring the payment of money and no other assets of any Owner of a Parcel or its members, partners, officers, shareholders and directors shall be subject to levy, execution or other process or personal liability for the satisfaction of any such judgment or for the enforcement of any rights or remedies against such Owner. To the extent this Section 9.11 affects, contradicts, or modifies any related provision, this Section 9.11 shall control.”

8. Except as amended by this First Amendment, the 2005 Declaration is hereby ratified and affirmed.

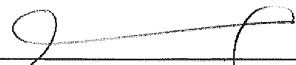
9. Fifty Joint Venture, a Nebraska general partnership, for itself and its successors and assigns, assents to and joins in the execution and delivery of this First Amendment for the purpose of (i) agreeing to be bound by the terms and provisions of this First Amendment, and (ii) subjecting Lot 1, Spring Valley Plaza and its record owner(s) to the provisions of this First Amendment.

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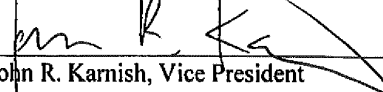
Dated as of January 9, 2020.

FIFTY JOINT VENTURE II LLC, a Nebraska limited liability company

By: Lerner Fifty, a Nebraska general partnership, Member

By: 
Salvadore Carta, Partner


By: Venture 50, Inc., a Nebraska corporation, Member

By: 
John R. Karnish, Vice President

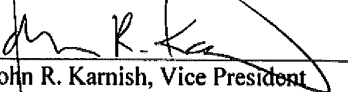
LOT 1 OWNER:

FIFTY JOINT VENTURE, a Nebraska general partnership

By: Lerner Fifty, a Nebraska general partnership, Partner

By: 
Salvadore Carta, Partner

By: Venture 50, Inc., a Nebraska corporation, Partner

By: 
John R. Karnish, Vice President

ACKNOWLEDGMENTS

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

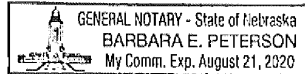
The foregoing instrument was acknowledged before me this 9th day of January, 2020, by Salvadore Carta, Partner of Lerner Fifty, a Nebraska general partnership, Member of Fifty Joint Venture II LLC, a Nebraska limited liability company, on behalf of such limited liability company.



Dee Muesel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 9th day of January, 2020, by John R. Karnish, Vice President of Venture-50, Inc., a Nebraska corporation, Member of Fifty Joint Venture II LLC, a Nebraska limited liability company, on behalf of such limited liability company.



Barbara E. Peterson
Notary Public