

FILED SARPY CO. NE.
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Shirley J. Dowling
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SEC
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**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF LINCOLN PLACE, A SUBDIVISION IN
SARPY COUNTY, NEBRASKA**

THIS FIFTH AMENDMENT is made by LINCOLN DEVELOPMENT, L.L.C., a Nebraska limited liability company, hereinafter referred to as the "Declarant," and made to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska, dated June 1, 1999 and recorded at Instrument Number 99-017671 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on June 4, 1999, and the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska, dated July 6, 1999, and recorded at Instrument Number 99-021633 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on July 8, 1999, and the Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated May 15, 2000 and recorded at Instrument Number 2000-11813 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on May 18, 2000, and the Third Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated August 21, 2000, and recorded at Instrument Number 2000-21303 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on August 25, 2000; the Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated December 14, 2000, and recorded at Instrument Number 2000-34232 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on December 27, 2000 (hereinafter collectively referred to as the "Declaration").

PRELIMINARY STATEMENT

Article V, Paragraph 2 of the original Declaration provides that the covenants and restrictions of the Declaration may be amended by the Declarant for a period of 10 years following June 1, 1999.

NOW, THEREFORE, Declarant hereby declares that the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska, dated June 1, 1999 and recorded at Instrument Number 99-017671 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on June 4, 1999, and the First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska, dated July 6, 1999, and recorded at Instrument Number 99-021633 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on July 8, 1999, and the Second Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated May 15, 2000 and recorded at Instrument Number 2000-11813 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on May 18, 2000, and the Third Amendment to the Declaration of Covenants,

PLEASE RETURN TO:

Jana McDonald
11920 Burt St, Suite 165
Omaha, NE 68154

SEC

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Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated August 21, 2000, and recorded at Instrument Number 2000-21303 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on August 25, 2000; and the Fourth Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Lincoln Place, a subdivision in Sarpy County, Nebraska dated December 14, 2000, and recorded at Instrument Number 2000-34232 in the Miscellaneous Records of the Register of Deeds of Sarpy County, Nebraska on December 27, 2000 should be and hereby are amended in the following manner:

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

Lots 1 through 103, inclusive, in Lincoln Place First Platting, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska; Lots 111 through 192, Lincoln Place Third Platting, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.; and Lots 1 through 49, inclusive, Lincoln Place Phase II Replat I, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

2. By deleting therefrom paragraph 2 of Article III and adding in its place and stead the following:

2. Membership and Voting. Lincoln Place is being initially divided into one hundred and three (103) separate single-family residential lots, additional single-family residential lots such as those within Lincoln Place Third Platting and Lincoln Place Phase II Replat I (also known as Amber Vista at Lincoln Place) (all such lots and other phases collectively referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. The Association shall include further phases of Lincoln Place as may be developed by the Declarant. For 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 of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser 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. Except for Lots owned by the Declarant, the owner of each Lot, whether one or more entities, shall be entitled to one (1) vote for each Lot owned on each matter properly coming, before the Members of the Association. The Declarant shall be entitled to five (5) votes for each Lot owned.

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3. By deleting therefrom paragraph 3 of Article III and adding in its place and stead the following:

3. Additional Lots. Declarant reserves the right, without consent or approval of any owner or Member, to expand the property to which this Declaration is applicable to include additional residential lots in any subdivision which is contiguous to any of the Lots. Such expansion may be affected from time to time by the Declarant by recordation with the Register of Deeds of Sarpy County, Nebraska, of an Amendment to Declaration, executed and acknowledged by Declarant, setting forth the identity of the additional residential lots which shall become subject to this Declaration. In addition, the Amendment to Declaration may declare that all or any part of the additional residential lots which shall become subject to the Declaration shall be Boundary Lots as that term is defined in Article II herein and such additional Boundary Lots shall be subject to all restrictions and obligations on Boundary Lots set forth herein. Upon the filing of any Amendment to Declaration which expands the property subject to this Declaration, the additional residential lots identified in the Amendment shall be considered to be and shall be included in the "Lots" for all purposes under this Declaration, except that such additional Lots may, at the Declarant's option, be subject to a separate Declaration of Covenants, Conditions, Restrictions and Easements and in the event of any inconsistencies between the original Declaration and any separate Declaration, the separate Declaration shall control as to such additional Lots that it encumbers, except as to Article III, in which case the original Declaration, as amended shall control. The Owners of the additional residential lots shall be Members of the Lincoln Place Homeowners Association with all rights, privileges and obligations accorded or accruing to Members of the Association.

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

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 13th day of May 2003.

LINCOLN DEVELOPMENT, L.L.C., a Nebraska limited liability company, "Trustor"

By: Barbara Udes Shaw
Barbara Udes Shaw, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was signed before me this 13 day of May ²⁰⁰³~~2002~~, by Barbara Udes Shaw, Manager of Lincoln Development, L.L.C., a Nebraska limited liability company, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed as Manager of said limited liability company.

Jana L. McDonald
Notary Public

