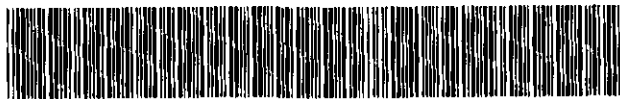


MISC 2004147719



NOV 12 2004 09:37 P 2

*a misc*  
*0W-17342*  
*36.00* FB *0W-17343*  
 2 B- C/G COMP *g*  
 32 DEL SCAN FV

**RETURN RECORDED DOCUMENT TO:**

**MICHAEL C. CARTER, ESQ.**  
 11506 Nicholas Street, Suite 200  
 Omaha, NE 68154

Received - RICHARD TAKECHI  
 Register of Deeds, Douglas County, NE  
 11/12/2004 09:37:44.38  
  
 2004147719

*This Instrument Prepared by: Michael C. Carter, Esq., 11506 Nicholas St., Suite 200, Omaha, NE 68154*

**AMENDMENT TO  
 DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
 AND EASEMENTS FOR THE HOMES AT RIVER ROAD**

THIS AMENDMENT TO DECLARATION, made on this 9<sup>th</sup> day of November, 2004 pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easement dated March 1, 2004 and filed with the Register of Deeds in Douglas County, Nebraska at MISC. 2004028337 on March 3, 2004, (the "Declaration") by Homes at River Road L.L.C., a Nebraska limited liability company, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the County of Douglas, State of Nebraska, which is more particularly described as:

Lots 1-8, 20 and 21, The Homes At River Road, a subdivision as surveyed; and, Lots 1-6 The Homes at River Road Replat I, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, the Developer has made further sales and replats to the subdivision for which certain Lots are no longer included in the legal description.

WHEREAS, the Developer desires to amend the legal description of the aforementioned Declaration, as follows:

Lots 1 - 53, Homes at River Road, and Lots 1 - 6, Homes at River Road Replat I, being a replat of Lots 12 - 19 Homes at River Road, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.  
 Lot 8, Homes at River Road, now known as Lot 8A - 8B Homes at River Road.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

*019248 - H1*

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 9<sup>th</sup> day of November, 2004.

Homes at River Road, L.L.C., a Nebraska limited liability company, Declarant

By: [Signature]  
Jess R Berglund, Managing Member

By: [Signature]  
Donald F. Day, Managing Member

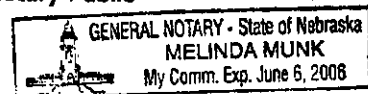
State of Nebraska )  
                                  ) ss.  
County of Douglas )

Before me, a Notary Public, in and for said county and state, personally came Jess Berglund, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

Dated this 9<sup>th</sup> day of November, 2004.

[Signature]  
Notary Public

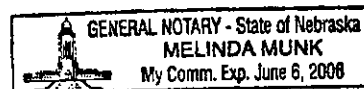
State of Nebraska )  
                                  ) ss.  
County of Douglas )



Before me, a Notary Public, in and for said county and state, personally came Donald F. Day, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

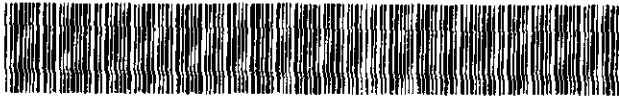
Dated this 9<sup>th</sup> day of November, 2004.

[Signature]  
Notary Public





MISC 2005071293



JUN 21 2005 11:47 P 2

misc  
FEE 4050 FB 2005-17394  
BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP CC  
SCAN \_\_\_\_\_ PV \_\_\_\_\_

**RETURN RECORDED DOCUMENT TO:**

**MICHAEL C. CARTER, ESQ.**  
11506 Nicholas Street, Suite 200  
Omaha, NE 68154

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
6/21/2005 11:47:01.53  
  
2005071293

This Instrument Prepared by: Michael C. Carter, Esq., 11506 Nicholas St., Suite 200, Omaha, NE 68154

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR THE HOMES AT RIVER ROAD**

THIS SECOND AMENDMENT TO DECLARATION, made on this 15<sup>th</sup> day of June, 2005 pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easement dated March 1, 2004 and filed with the Register of Deeds in Douglas County, Nebraska at MISC. 2004028337 on March 4, 2004, (the "Declaration") and whose First Amendment was filed in the Miscellaneous #2004147719 on November 12, 2004, in the office of the Registrar of Douglas County, Nebraska, by Homes at River Road L.L.C., a Nebraska limited liability company, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the County of Douglas, State of Nebraska, which is more particularly described as:

Lots 1-8, 20 and 21, The Homes At River Road, a subdivision as surveyed; and, Lots 1-6 The Homes at River Road Replat I, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska; and Lots 1 - 53, Homes at River Road, and Lots 1 - 6, Homes at River Road Replat I, being a replat of Lots 12 - 19 Homes at River Road, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, the Developer has made further replats to the subdivision for which additional Lots are added in the legal description.

WHEREAS, the Developer desires to amend the legal description of the aforementioned Declaration, as follows:

Lots 54 through 110 and Outlots B, C, D and E,, Homes at River Road, <sup>Addition</sup> 1st /, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real

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property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 15<sup>th</sup> day of June, 2005.

Homes at River Road, L.L.C., a Nebraska limited liability company, Declarant

By: Karla LeMaster  
Karla LeMaster, Managing Member

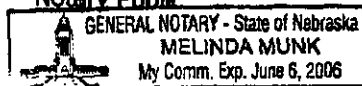
By: Donald F. Day  
Donald F. Day, Managing Member

State of Nebraska       )  
                                  ) ss.  
County of Douglas     )

Before me, a Notary Public, in and for said county and state, personally came Karla LeMaster, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

Dated this 15<sup>th</sup> day of June, 2005.

Melinda Munk  
Notary Public



State of Nebraska       )  
                                  ) ss.  
County of Douglas     )

Before me, a Notary Public, in and for said county and state, personally came Donald F. Day, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

Dated this 15<sup>th</sup> day of June, 2005.

Melinda Munk  
Notary Public





MISC 2004028337



MAR 04 2004 13:51 P 10

RETURN RECORDED DOCUMENT TO:

**MICHAEL C. CARTER, ESQ.**  
11506 Nicholas Street, Suite 200  
Omaha, NE 68154

10 FEE 109.00 FB DW-17342  
18 BNP C/O COMP  
DEL PV SCAN FV

Received - RICHARD TAKECHI  
Register of Deeds, Douglas County, NE  
3/4/2004 1:51:57 PM



2004028337

*This Instrument Prepared by: Michael C. Carter, Esq., 11506 Nicholas St., Suite 200, Omaha, NE 68154*

# **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE HOMES AT RIVER ROAD**

THIS DECLARATION, made on the date hereinafter set forth by Homes at River Road L.L.C., a Nebraska limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Douglas, State of Nebraska, which is more particularly described as:

Lots 2 through 18, and Outlots A and B, inclusive, THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I DEFINITIONS**

Section 1. "Association" shall mean and refer to The Homes at River Road Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties. Initially, "Lot" shall mean, refer and include Lots 2 through 18,

inclusive, THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska. It is intended that single-family dwelling units and/or Duplex be constructed on the Properties hereinabove described, with one single-family dwelling unit and or Duplex unit being constructed on each Lot.

Section 5. "Declarant" shall mean and refer to Homes at River Road, L.L.C., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6. "Common Area" shall mean and refer to Outlots A and B, all in THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, which may be used as open green space and which shall be privately owned and maintained.

## **ARTICLE II**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. The Association. Declarant has caused the incorporation of The Homes at River Road Homeowner Association, a Nebraska nonprofit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of The Homes at River Road, including:

- A. The acquisition, construction, landscaping, improvement, maintenance, operation, repair, and upkeep of the Common Areas, including but not limited to any Common Facilities located on the Common Areas (such as any recreational facilities including playground or park equipment, paths or linear trails), and including as Common Areas all outlots, green areas, and all signs and entrances for The Homes at River Road. Common Facilities may be situated on property owned or leased by the Association, or on private property subject to an easement in favor of the Association.
- 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 are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, 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 The Homes at River Road; and the protection and maintenance of the residential character of The Homes at River Road.

Section 2. Membership and Voting. The Homes at River Road is initially divided into 116 separate single-family and/or duplex residential lots (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. 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. It is understood that the Owner of each respective Lot created as a result of a Lot split shall be each entitled to one (1) vote.

The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

**Section 3. Purposes and Responsibilities.** The Declarant shall exercise and administer all powers and duties of the Association as such are specified herein, until such are released or relinquished from time by Declarant, such shall thereafter be exercised and administered by the Board of Directors of the Association. At such time as Declarant no longer holds title to any Lot, any powers and duties not previously released or relinquished shall be deemed to have been released and relinquished. Thereafter, the Association shall have the powers conferred upon nonprofit corporations by the Nebraska Nonprofit Corporation Act, and the Association shall have all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and, upon authorization of the Board of Directors, by the officers, shall include, but shall not be limited to, the following:

- A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Area, and the enforcement of the rules and regulations relating to the Common Area.
- B. The landscaping, mowing, watering, repair and replacement of parks, outlots, and other public property and improvements on parks or public property within or near The Homes at River Road.
- C. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- D. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Area against property damage and casualty, and purchase of liability insurance coverage for the Association, the Board of Directors of the Association and the Members.
- E. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.
- F. The acquisition by purchases or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.
- G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, certificates of deposit or the like.
- H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.
- I. General administration and management of the Association and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.
- J. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

**ARTICLE III**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges as hereinafter provided, as such assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas.

**Section 3. Uniform Rate of Assessment.** Except as provided for in Article III, Section 4, annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or other periodic basis, as may be established by the Board.

**Section 4. Abatement of Assessments.** Notwithstanding any other provision of this Declaration, the Board of Directors may abate all assessments due in respect to any Lot, and shall abate all assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

**Section 5. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots at the sole discretion of the Board. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. The assessments may be collected on a monthly or other periodic basis by the Association. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

**Section 6. Assessments: Apportionment.** Assessments shall be paid pro-rata by the owners of all Lots based upon the total number of Lots; however, vacant lots shall not be assessed but shall be maintained by the owners. Assessments may be apportioned against Lots where inordinate wear, tear and/or damages occur to the items to be maintained by the Association due to the fault or negligence of a Lot owner.

**Section 7. Certificate of Payment.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association or a designated agent of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear the maximum rate of interest allowable by law. Should any assessment remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any court having jurisdiction of actions for the



enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment of title or transfer of such Owner's Lot.

**Section 9. Subordination of Assessments.** The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, and the holder of any first mortgage, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have sole responsibility to collect all assessments due.

**ARTICLE IV  
RESTRICTIONS AND COVENANTS**

**Section 1.** Each Lot shall be used exclusively for residential purposes except for such Lots or parts thereof as may hereafter or previously have been conveyed or dedicated by Declarant, for use as a school or park.

**Section 2.** The ground floor finished and enclosed living area of main residential structures, exclusive of porches, breezeways, basements and garages, shall be not less than the following minimum sizes:

i) One-story house with attached garage	950 sq.ft.	On the main floor, exclusive of garage area (garage must be approximately at the same level as the main floor)
ii) One and one-half	1100 sq.ft.	Total area above the basement level; minimum 1100 sq.ft. on the main floor
iii) Two-story houses	1300 sq.ft.	Total area above grade

For each dwelling, there must be erected a private garage for not less than two (2) cars, (each car stall to be a minimum size of ten feet by twenty-one feet).

**Section 3.** No residence, building, fence, wall, driveway, patio enclosure, rock garden, swimming pool, tennis court, dog house, tree house, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

(i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "Plans"). Such Plans shall reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the Plans, owner shall notify the Declarant of the owner's mailing address.

(ii) Declarant shall review such Plans in relation to the type and exterior of improvements and construction, or approved for construction, on neighboring Lots and in

the surrounding area and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the Plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the Plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligations shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

Section 4. The exposed front foundation wall as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete, brick, paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding. The roof of all improvements shall be covered with shingles that have been approved in writing by the Declarant.

Section 5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of the Lots.

Section 6. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot. No exposed exterior television or radio antenna, satellite dish exceeding 18" in diameter, or other similar device shall be attached to or installed on any Lot, unless contained entirely within the interior of a dwelling or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot, which may unreasonably interfere with the reception of television or radio signals within the Properties.

Section 7. No vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the properties shall be allowed on the Properties. The Association is expressly authorized to tow away, at an offending owner's expense, any vehicle referred to in this Section which is in violation hereof or in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat, trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked in the subdivision, for a period not to exceed seven (7) days, except in an area, if any, designated

by the Board of Directors or except as otherwise permitted by the Association's Board of Directors or Declarant.

Section 8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, motorcycle, motor home, recreation vehicle, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for a period not to exceed seven (7) days. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this restriction shall not apply to trucks, tractors, or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

Section 9. No outside trash or garbage pile, burner, receptacle or incinerator shall be erected, placed or permitted on any Lot. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible. No clothes line shall be permitted outside of any dwelling at any time.

Section 10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarant. No chain link fences shall be permitted. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

Section 11. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

Section 12. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.

Section 13. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view.

Section 14. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of eight (8) inches.

Section 15. No structure of a temporary character, trailer, basement, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings or modular housing improvements shall be moved from outside The Homes at River Road subdivision to any Lot, provided, a tent may be erected for a period not to exceed three (3) days.

In addition to the restrictions above, the Association shall have the right to make and to enforce reasonable rules and regulations governing the use of the Lots.

## **ARTICLE V MAINTENANCE**

The Association may provide maintenance as set forth hereinafter.

Section 1. Assessments levied against each Lot, as defined in Article 1, Section 4, may be assessed for, but not limited to, the following:

- (a) Maintaining the landscaping of all Common Areas.
- (b) Providing such other services or maintenance as may be deemed appropriate by the Board or by a two-thirds (2/3) vote of the Association.

Section 2. With the exception of improvements to Common Area and any duties undertaken pursuant to section 1 of this Article, the Association shall have no duty to repair, replace or maintain any concrete surfaces, buildings, systems, fences or other improvements to the Properties, but may, at its discretion, in the event that any Owner of any Lot in the Properties has not maintained, replaced or kept repaired the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to maintain, repair (including painting), restore and replace the Lot and the exterior of the buildings and any other improvements erected thereon, including, but not limited to any roofs, gutters, concrete, exterior walls, glass surfaces, doors, door openers, and cooling units for air condition systems which have not been so maintained, repaired or replaced. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

## **ARTICLE VI ARCHITECTURAL CONTROL**

No building, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, and in relation to other trees, shrubs and plantings, by the Declarant pursuant to the procedure set forth in Article IV, Section 3, or by the Declarant's successors or assigns, or by an architectural committee composed of three (3) or more representatives appointed by the Declarant. No exterior painting shall be commenced upon the Properties except such painting as shall be approved by the Declarant, or its successors, assigns, appointees or designees. In the event the Declarant, or its designated committee, fails to act upon such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The Architectural Control referred to in this paragraph shall not be applicable to initial construction by any builder or Owner, the plans and specifications of which have been approved by the Declarant.

## **ARTICLE VII INSURANCE**

Section 1. Liability Insurance. The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association may provide liability coverage insurance for the Association's Officers,

and members of the Board of Directors. In addition, the Association may purchase such additional insurance against other hazards that may be deemed appropriate by the Board of Directors.

**Section 2. Annual Review of Policies.** All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient.

## **ARTICLE VIII**

### **UTILITY, PIPELINE AND OTHER EASEMENTS**

A perpetual easement is hereby reserved in favor of and granted to the Omaha Public Power District, U.S. West Communications, and any company which has been franchised to provide cable television system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair and renew underground poles, wires, cables, conduits, and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat, and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five-foot (5') wide strip of land abutting all front and side boundary lot lines; an eight-foot (8') wide strip of land abutting the rear boundary lines of all lots; and a sixteen-foot (16') wide strip of land abutting the rear boundary lines of all exterior lots. The term "exterior lots" is herein defined as those lots forming the outer perimeter of the above-described addition. Said sixteen-foot (16') wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded, and a perpetual easement is hereby granted to the Village of Waterloo and Aquila, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot (5') wide strip of land abutting all streets. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

## **ARTICLE IX**

### **GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by Homes at River Road, L.L.C., or by any entity designated by Homes at River Road, L.L.C., in writing, in any manner which it may determine in its full and absolute discretion for a period of seven (7) years from the date that this Declaration is recorded with the Register of Deeds in which the Properties is located. Thereafter, this Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

**Section 4. Annexation.** Additional residential property may be annexed to the Properties with the consent of two-thirds (2/3) of the members of the Association. There will be no annexation or dedication of Common Area.

Section 5. Homes at River Road, L.L.C., or its successors or assigns, may assign all or in part of its rights under the Declaration to any entity, including but not limited to the Association. Homes at River Road, L.L.C., or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 13 day of March, 2004.

Homes at River Road, L.L.C., a Nebraska limited liability company, Declarant

By: [Signature]  
Jess R Berglund, Managing Member

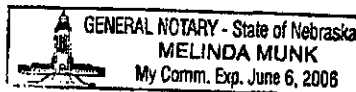
By: [Signature]  
Donald F. Day, Managing Member

State of Nebraska )  
County of Douglas ) ss.

Before me, a Notary Public, in and for said county and state, personally came Jess Berglund, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

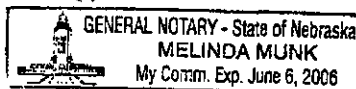
[Signature]  
Notary Public

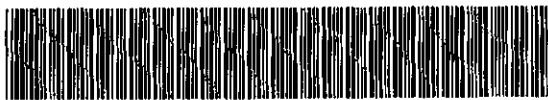
State of Nebraska )  
County of Douglas ) ss.



Before me, a Notary Public, in and for said county and state, personally came Donald F. Day, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

[Signature]  
Notary Public





MISC 2004028337



MAR 04 2004 13:51 P 10

RETURN RECORDED DOCUMENT TO:

**MICHAEL C. CARTER, ESQ.**  
11506 Nicholas Street, Suite 200  
Omaha, NE 68154

*(1/11 MISC 5900)*

10	FEE	109	FB	DLW - 17342
18	BKP		C/O	COMP
	DEL	PU	SCAN	FV

Received - RICHARD TAKECHI  
Register of Deeds, Douglas County, NE  
3/4/2004 1:51:57 PM



2004028337

*This Instrument Prepared by: Michael C. Carter, Esq., 11506 Nicholas St., Suite 200, Omaha, NE 68154*

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR THE HOMES AT RIVER ROAD**

THIS DECLARATION, made on the date hereinafter set forth by Homes at River Road L.L.C., a Nebraska limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Douglas, State of Nebraska, which is more particularly described as:

*9/15-04*  
Lots 2 through 18, and Outlots A and B, inclusive, THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to The Homes at River Road Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties. Initially, "Lot" shall mean, refer and include Lots 2 through 18,

inclusive, THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska. It is intended that single-family dwelling units and/or Duplex be constructed on the Properties hereinabove described, with one single-family dwelling unit and or Duplex unit being constructed on each Lot.

Section 5. "Declarant" shall mean and refer to Homes at River Road, L.L.C., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6. "Common Area" shall mean and refer to Outlots A and B, all in THE HOMES AT RIVER ROAD, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, which may be used as open green space and which shall be privately owned and maintained.

## **ARTICLE II**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. The Association. Declarant has caused the incorporation of The Homes at River Road Homeowner Association, a Nebraska nonprofit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of The Homes at River Road, including:

- A. The acquisition, construction, landscaping, improvement, maintenance, operation, repair, and upkeep of the Common Areas, including but not limited to any Common Facilities located on the Common Areas (such as any recreational facilities including playground or park equipment, paths or linear trails), and including as Common Areas all outlots, green areas, and all signs and entrances for The Homes at River Road. Common Facilities may be situated on property owned or leased by the Association, or on private property subject to an easement in favor of the Association.
- 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 are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, 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 The Homes at River Road; and the protection and maintenance of the residential character of The Homes at River Road.

Section 2. Membership and Voting. The Homes at River Road is initially divided into 116 separate single-family and/or duplex residential lots (referred to as the "Lots"). The "Owner" of each Lot shall be a Member of this Association. 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. It is understood that the Owner of each respective Lot created as a result of a Lot split shall be each entitled to one (1) vote.

The Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.



**Section 3. Purposes and Responsibilities.** The Declarant shall exercise and administer all powers and duties of the Association as such are specified herein, until such are released or relinquished from time by Declarant, such shall thereafter be exercised and administered by the Board of Directors of the Association. At such time as Declarant no longer holds title to any Lot, any powers and duties not previously released or relinquished shall be deemed to have been released and relinquished. Thereafter, the Association shall have the powers conferred upon nonprofit corporations by the Nebraska Nonprofit Corporation Act, and the Association shall have all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and, upon authorization of the Board of Directors, by the officers, shall include, but shall not be limited to, the following:

- A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Area, and the enforcement of the rules and regulations relating to the Common Area.
- B. The landscaping, mowing, watering, repair and replacement of parks, outlots, and other public property and improvements on parks or public property within or near The Homes at River Road.
- C. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- D. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Area against property damage and casualty, and purchase of liability insurance coverage for the Association, the Board of Directors of the Association and the Members.
- E. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.
- F. The acquisition by purchases or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.
- G. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, certificates of deposit or the like.
- H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.
- I. General administration and management of the Association and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.
- J. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

**ARTICLE III**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges as hereinafter provided, as such assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas.

**Section 3. Uniform Rate of Assessment.** Except as provided for in Article III, Section 4, annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or other periodic basis, as may be established by the Board.

**Section 4. Abatement of Assessments.** Notwithstanding any other provision of this Declaration, the Board of Directors may abate all assessments due in respect to any Lot, and shall abate all assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

**Section 5. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots at the sole discretion of the Board. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. The assessments may be collected on a monthly or other periodic basis by the Association. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

**Section 6. Assessments: Apportionment.** Assessments shall be paid pro-rata by the owners of all Lots based upon the total number of Lots; however, vacant lots shall not be assessed but shall be maintained by the owners. Assessments may be apportioned against Lots where inordinate wear, tear and/or damages occur to the items to be maintained by the Association due to the fault or negligence of a Lot owner.

**Section 7. Certificate of Payment.** The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association or a designated agent of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear the maximum rate of interest allowable by law. Should any assessment remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any court having jurisdiction of actions for the

enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment of title or transfer of such Owner's Lot.

**Section 9. Subordination of Assessments.** The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, and the holder of any first mortgage, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have sole responsibility to collect all assessments due.

#### **ARTICLE IV RESTRICTIONS AND COVENANTS**

**Section 1.** Each Lot shall be used exclusively for residential purposes except for such Lots or parts thereof as may hereafter or previously have been conveyed or dedicated by Declarant, for use as a school or park.

**Section 2.** The ground floor finished and enclosed living area of main residential structures, exclusive of porches, breezeways, basements and garages, shall be not less than the following minimum sizes:

i) One-story house with attached garage	950 sq.ft.	On the main floor, exclusive of garage area (garage must be approximately at the same level as the main floor)
ii) One and one-half	1100 sq.ft.	Total area above the basement level; minimum 1100 sq.ft. on the main floor
iii) Two-story houses	1300 sq.ft.	Total area above grade

For each dwelling, there must be erected a private garage for not less than two (2) cars, (each car stall to be a minimum size of ten feet by twenty-one feet).

**Section 3.** No residence, building, fence, wall, driveway, patio enclosure, rock garden, swimming pool, tennis court, dog house, tree house, antenna, satellite receiving station ("dish"), flag pole, solar heating or cooling device, shed, wind mill, wind generating equipment, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

(i) An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "Plans"). Such Plans shall reflect the type of structure, quality and use of exterior materials, exterior design, exterior color or colors, and location of structure proposed for such Improvement. Concurrent with submission of the Plans, owner shall notify the Declarant of the owner's mailing address.

(ii) Declarant shall review such Plans in relation to the type and exterior of improvements and construction, or approved for construction, on neighboring Lots and in

the surrounding area and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall form a developed residential community with homes constructed of high quality materials. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(iii) Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the Plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the Plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Declarant.

(iv) The decision to approve or refuse approval of a proposed Improvement shall be exercised by the Declarant to protect the values, character and residential quality of all Lots. However, no Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligations shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

Section 4. The exposed front foundation wall as well as any foundation wall facing a street of all main residential structures must be constructed of or faced with brick or simulated brick or stone or stucco. All exposed side and rear concrete or concrete block foundation walls not facing a street must be painted. All driveways must be constructed of concrete, brick, paving stone, asphalt or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, stone or siding. The roof of all improvements shall be covered with shingles that have been approved in writing by the Declarant.

Section 5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a Lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Further, no retail business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, their agents or assigns, during the construction and sale of the Lots.

Section 6. No exposed exterior television, broadcasting or radio antenna of any sort shall be permitted on any Lot. No exposed exterior television or radio antenna, satellite dish exceeding 18" in diameter, or other similar device shall be attached to or installed on any Lot, unless contained entirely within the interior of a dwelling or other structure, nor shall radio or television signals, nor any other form of electromagnetic radiation, be permitted to originate from any Lot, which may unreasonably interfere with the reception of television or radio signals within the Properties.

Section 7. No vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the properties shall be allowed on the Properties. The Association is expressly authorized to tow away, at an offending owner's expense, any vehicle referred to in this Section which is in violation hereof or in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat, trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked in the subdivision, for a period not to exceed seven (7) days, except in an area, if any, designated

by the Board of Directors or except as otherwise permitted by the Association's Board of Directors or Declarant.

Section 8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, motorcycle, motor home, recreation vehicle, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for a period not to exceed seven (7) days. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, airplanes, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this restriction shall not apply to trucks, tractors, or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction.

Section 9. No outside trash or garbage pile, burner, receptacle or Incinerator shall be erected, placed or permitted on any Lot. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. Lots shall be maintained free of trash and debris. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible. No clothes line shall be permitted outside of any dwelling at any time.

Section 10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. No fence shall be permitted to extend beyond the front line of a main residential structure unless written approval is first obtained from Declarant. No chain link fences shall be permitted. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line. All produce or vegetable gardens shall be maintained only in rear yards.

Section 11. A dwelling on which construction has begun shall be completed within one (1) year from the date the foundation was commenced for such dwelling.

Section 12. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof.

Section 13. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. Dog runs and dog houses shall only be allowed at the rear of the building, concealed from public view.

Section 14. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of eight (8) inches.

Section 15. No structure of a temporary character, trailer, basement, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structures, dwellings or modular housing improvements shall be moved from outside The Homes at River Road subdivision to any Lot, provided, a tent may be erected for a period not to exceed three (3) days.

In addition to the restrictions above, the Association shall have the right to make and to enforce reasonable rules and regulations governing the use of the Lots.

## **ARTICLE V MAINTENANCE**

The Association may provide maintenance as set forth hereinafter.

Section 1. Assessments levied against each Lot, as defined in Article 1, Section 4, may be assessed for, but not limited to, the following:

- (a) Maintaining the landscaping of all Common Areas.
- (b) Providing such other services or maintenance as may be deemed appropriate by the Board or by a two-thirds (2/3) vote of the Association.

Section 2. With the exception of improvements to Common Area and any duties undertaken pursuant to section 1 of this Article, the Association shall have no duty to repair, replace or maintain any concrete surfaces, buildings, systems, fences or other improvements to the Properties, but may, at its discretion, in the event that any Owner of any Lot in the Properties has not maintained, replaced or kept repaired the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to maintain, repair (including painting), restore and replace the Lot and the exterior of the buildings and any other improvements erected thereon, including, but not limited to any roofs, gutters, concrete, exterior walls, glass surfaces, doors, door openers, and cooling units for air condition systems which have not been so maintained, repaired or replaced. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

## **ARTICLE VI ARCHITECTURAL CONTROL**

No building, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, and in relation to other trees, shrubs and plantings, by the Declarant pursuant to the procedure set forth in Article IV, Section 3, or by the Declarant's successors or assigns, or by an architectural committee composed of three (3) or more representatives appointed by the Declarant. No exterior painting shall be commenced upon the Properties except such painting as shall be approved by the Declarant, or its successors, assigns, appointees or designees. In the event the Declarant, or its designated committee, fails to act upon such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The Architectural Control referred to in this paragraph shall not be applicable to initial construction by any builder or Owner, the plans and specifications of which have been approved by the Declarant.

## **ARTICLE VII INSURANCE**

Section 1. Liability Insurance. The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association. The Association may provide liability coverage insurance for the Association's Officers,

and members of the Board of Directors. In addition, the Association may purchase such additional insurance against other hazards that may be deemed appropriate by the Board of Directors.

Section 2. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient.

## **ARTICLE VIII**

### **UTILITY, PIPELINE AND OTHER EASEMENTS**

A perpetual easement is hereby reserved in favor of and granted to the Omaha Public Power District, U.S. West Communications, and any company which has been franchised to provide cable television system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair and renew underground poles, wires, cables, conduits, and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat, and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five-foot (5') wide strip of land abutting all front and side boundary lot lines; an eight-foot (8') wide strip of land abutting the rear boundary lines of all lots; and a sixteen-foot (16') wide strip of land abutting the rear boundary lines of all exterior lots. The term "exterior lots" is herein defined as those lots forming the outer perimeter of the above-described addition. Said sixteen-foot (16') wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded, and a perpetual easement is hereby granted to the Village of Waterloo and Aquila, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot (5') wide strip of land abutting all streets. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

## **ARTICLE IX**

### **GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by Homes at River Road, L.L.C., or by any entity designated by Homes at River Road, L.L.C., in writing, in any manner which it may determine in its full and absolute discretion for a period of seven (7) years from the date that this Declaration is recorded with the Register of Deeds in which the Properties is located. Thereafter, this Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property may be annexed to the Properties with the consent of two-thirds (2/3) of the members of the Association. There will be no annexation or dedication of Common Area.

Section 5. Homes at River Road, L.L.C., or its successors or assigns, may assign all or in part of its rights under the Declaration to any entity, including but not limited to the Association. Homes at River Road, L.L.C., or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 13<sup>th</sup> day of March, 2004.

Homes at River Road, L.L.C., a Nebraska limited liability company, Declarant

By: [Signature]  
Jess R Berglund, Managing Member

By: [Signature]  
Donald F. Day, Managing Member

State of Nebraska     )  
                                  ) ss.  
County of Douglas    )

Before me, a Notary Public, in and for said county and state, personally came Jess Berglund, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

[Signature]  
Notary Public

State of Nebraska     )  
                                  ) ss.  
County of Douglas    )



Before me, a Notary Public, in and for said county and state, personally came Donald F. Day, Managing Member of Homes at River Road, L.L.C., a Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

[Signature]  
Notary Public







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Received - RICHARD TAKECHI  
 Register of Deeds, Douglas County, NE  
 4/1/2004 7:29:14 AM  
 2004040598

When recorded return to: Michael C. Carter, Esq., 11506 Nicholas St., #200, Omaha, NE 68154

### CONSTRUCTION EASEMENT AGREEMENT

WHEREAS, the undersigned Homes at River Road, L.L.C., a Nebraska limited liability company ("Owner") ("Grantor") owns property, set forth on attached Exhibit "A" attached hereto commonly known as Lot 10 of Homes at River Road Waterloo, Nebraska ("Property"); and

WHEREAS, Dial Integrity, L.L.C., a Nebraska limited liability company ("Dial") ("Grantee") is the owner of adjacent land to the Property; and

WHEREAS, Dial desires to develop the property, (including construction of a single-family dwelling) which requires ingress and egress access for equipment across the property owned by Owner; and

WHEREAS, Owner desires to grant a temporary easement for construction purposes under the following terms and conditions.

#### IT IS THEREFORE AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. That Owner agrees to grant a temporary easement across property for construction purposes, including to install sanitary, storm sewer systems, foundation, building and landscaping.
2. That said easement shall be for a period of six (6) months from commencement of construction, not to exceed one (1) years.
3. That at the end of the six (6) month easement or upon completion of the house, Dial shall, at its sole expense, return the property as closely as possible to its condition prior to the commencement of the easement, including the removal of any gravel if requested by Owner.
4. That this Agreement shall be binding upon the heirs and assigns of the parties hereto.

DATED this 1<sup>st</sup> day of March ~~February~~, 2004.

HOMES AT RIVER ROAD, L.L.C.,  
 A Nebraska limited liability company

By: 

Its: Member

DIAL INTEGRITY HOMES, L.L.C.,  
 A Nebraska limited liability company

By: 

Its: Member

0477278

16223-41-

STATE OF NEBRASKA )  
 )ss  
COUNTY OF DOUGLAS )

BEFORE ME the undersigned Notary Public in and for said County personally appeared Patrick  
O. Day, to me known to be member of Homes at River Road, L.L.C. and the  
identical person whose signature is affixed to the foregoing option as Grantor, and he, being first duly sworn,  
acknowledged execution of the same to be his voluntary act and deed and the voluntary act and deed of said  
corporation.

IN WITNESS WHEREOF, I have hereunto affixed my hand and Notarial Seal this 1st day of  
March, 2004.

Melinda Munk  
NOTARY PUBLIC

My commission Expires: 6-6-06



STATE OF NEBRASKA )  
 )ss  
COUNTY OF DOUGLAS )

BEFORE ME, the undersigned Notary public in and for said county personally appeared Donald  
F. Day, to me known to be the member  
of Dial Integrity Homes, L.L.C., and the identical person whose signature is affixed to the foregoing option  
as Grantee, and he, being first duly sworn, acknowledged execution of the same to be his voluntary act and  
deed and the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto affixed my hand and Notarial Seal this 1st day of  
March, 2004.

Melinda Munk  
NOTARY PUBLIC

My Commission Expires: 6-6-06



Exhibit "A"

PARCEL I:

A parcel of land located in the Southwest Quarter of the Southeast Quarter of Section 10, Township 15 North, Range 10 East of the Sixth P.M., Douglas County, Nebraska being described as follows: Commencing at the Southwest corner of said Southwest Quarter Southeast Quarter; thence  $N00^{\circ}37'50''E$  (assumed bearing) on the West line of said Southwest quarter Southeast Quarter, a distance of 890.93 feet to the true point of beginning; thence continuing  $N00^{\circ}37'50''E$  on said West line, a distance of 219.04 feet to a point being 211.46 feet South of the Northwest corner of said Southwest Quarter Southeast Quarter; thence  $S89^{\circ}54'24''E$ , a distance of 771.58 feet to a point on the West right of way line of County Road No. 109-B; thence  $S05^{\circ}10'16''E$  on said West right of way line, a distance of 227.44 feet; thence  $N89^{\circ}22'10''W$ , a distance of 794.54 feet to the true point of beginning.

# Homes at River Road 1st add

## Plat and Dedication

Filed 1-8-05, in Book 2005 at Page 065737, Instrument No: \_\_\_\_\_

- ☒ Grants a perpetual easement in favor of  
☒ Omaha Public Power District,  
☒ U.S. West Communications  
Northwestern Bell Telephone Company  
☒ and any cable company granted a cable television franchise system,  
and /or

for utility, installation and maintenance  
on, over, through, under and across  
or

a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a \_\_\_\_\_ foot wide strip of land abutting the rear boundary line of all exterior lots.

Does it include the following?? Yes or No (Circle One)

Also grants an easement to ~~Metropolitan Utilities District~~ all utilities Company for utility,  
installation and maintenance on, through, under and across a 5 foot wide strip of land  
abutting all cul-de-sac streets.

Any additional info,

- \*\*\*\*\*  
☒ Declaration of Covenants, Conditions, Restrictions and Easements, filed 3-4-04 Book 2004 Page 028337  
Restrictive Covenants  
Protective Covenants

or

- ☒ Omaha Public Power District,  
☒ U.S. West Communications  
Northwestern Bell Telephone Company  
☒ and any cable company granted a cable television franchise system,  
and /or

for utility, installation and maintenance  
on, over, through, under and across  
or

a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.

Does it include the following?? Yes or No (Circle One)

Also grants an easement to Village of Waterloo and Aquila for utility,  
installation and maintenance on, through, under and across a 5 foot wide strip of land  
abutting all cul-de-sac streets.

Does it include the Following?? Homeowners Association Yes or No. (Circle One)

Does it include the following ?? Possible Telephone Connection Charge Yes or No (Circle One)

Any additional info.

\*\*\*\*\*  
Easement Right of Way 12, 2<sup>nd</sup> 3<sup>rd</sup> or \_\_\_\_\_ Amendment to 2004-028337  
Dated \_\_\_\_\_ Filed 11-12-04, Book 2004 at Page 147719, Instrument No. \_\_\_\_\_

2nd Amend 2005-071293 filed 6-11-05 to 2004-028337 & 2004-147719

Perm Sanitary Sewer Eas 1417-555 filed 1-9-02  
copy