

INST. NO. 04-03250  
STORY COUNTY, IOWA  
FILED FOR RECORD

8 27

AM MAR 22 2004

SUSAN L. VANDEKAMP, Recorder

REC. FEE \$21.00 AUD. FEE \$

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Prepared by & Return to: Timothy C. Hogan, 3101 Ingersoll Ave., Des Moines, IA 50312 515-279-9059  
(enw)

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BLOOMINGTON HEIGHTS WEST TOWNHOMES**

THIS AMENDMENT is made this 12<sup>th</sup> day of March, 2004, by BLOOMINGTON HEIGHTS WEST TOWNHOMES, L.C., an Iowa limited liability company, Declarant of the Declaration of Covenants, Conditions and Restrictions for Bloomington Heights West Townhomes recorded September 25, 2002 as Instrument No. 02-14649 in the records of Story County, Iowa (hereinafter referred to as the "Declaration").

WHEREAS, pursuant to the Declaration, Declarant has established and placed certain covenants, conditions and restrictions on the following described real estate:

Lots 13 - 38 in BLOOMINGTON HEIGHTS WEST PLAT 1, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa; and

WHEREAS, pursuant to Article XIV of the Declaration, Declarant may amend the Declaration without approval by the other Owners so long as Declarant has any ownership interest in any Lot; and

WHEREAS, Declarant owns certain Lots in the Property; and

WHEREAS, the Properties described in the Declaration have been subsequently replatted and the Declarant desires to more accurately describe the real estate to be subjected to the Declaration, to identify the Common Area subjected to the Declaration and to make certain other amendments.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. The legal description of the Properties contained in the Declaration is hereby replaced with the following legal description to more clearly define the real estate subjected to the Declaration:

Lots 1 - 26 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa.

2. The following definition for the Common Area is added to Article I of the Declaration:

*what is out of it*

Section 13. "Common Area" shall mean and refer to Outlot "A" in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa, as shown on the Official Plat thereof.

3. Article I Section 2 of the Declaration relating to the Association Responsibility Elements is amended as follows:

(f) Private streets, driveways and sidewalks.

(k) Common Area.

4. Article V Section 2 is hereby deleted in its entirety and the following is inserted in lieu thereof:

Section 2. Maintenance of Private Streets and Driveways. The Association shall be responsible for the maintenance, including snow removal, repair and repaving of all private streets and driveways and for the maintenance and repair of any pedestrian walkways or sidewalks, excluding the stoops located at entrances of any Living Unit, constructed or to be constructed within the Properties by Declarant for the benefit of all Owners of Lots. Private streets and driveways shall be maintained at all times in such manner as to provide ingress and egress, both pedestrian and vehicular, from each Lot to and from a public street or highway. The specification for replacement of any private streets, driveways, walkways or sidewalks shall be determined by the Board of Directors, or by an architectural committee composed of three (3) or more representatives appointed by the Board of Directors.

5. Article III Section 3 is hereby deleted in its entirety and the following is inserted in lieu thereof:

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Eighty Dollars and 00/100 (\$80.00) per Lot plus a pro rata portion of the amount of real estate taxes and special assessments payable by the Association. Thereafter, the maximum monthly assessment may be increased effective January 1 of each year at an amount fixed by the Board of Directors.

6. Except as expressly amended hereby, all of the terms and conditions of the Declaration shall continue in full force and effect and are hereby ratified and confirmed.

IN WITNESS WHEREOF, the undersigned has executed this First Amendment as of the date and year first above written.

BLOOMINGTON HEIGHTS WEST TOWNHOMES, L.C.,  
an Iowa limited liability company

By: \_\_\_\_\_  
John D. Gamble, Secretary

STATE OF IOWA )  
                  ) ss:  
COUNTY OF POLK )

On this 12<sup>th</sup> day of March, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared JOHN D. GAMBLE, to me personally known who, being by me duly sworn, did say that he is Secretary of the Iowa limited liability company executing the foregoing instrument; that no seal has been procured by the limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its managers and that JOHN D. GAMBLE acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.

Peggy Hutchinson  
Name: \_\_\_\_\_  
Notary Public





Common Area") shall be conveyed by the Declarant to the Association and the Association shall hold and maintain the Additional Common Area pursuant to the terms and conditions described in the Declaration.

3. Except as expressly amended hereby, all of the terms and conditions of the Declaration shall continue in full force and effect and are hereby ratified and confirmed.

IN WITNESS WHEREOF, the undersigned has executed this Second Amendment as of the date and year first above written.

BLOOMINGTON HEIGHTS WEST TOWNHOMES, L.C.,  
an Iowa limited liability company

By: [Signature]  
John D. Gamble, Secretary

STATE OF IOWA  
COUNTY OF DALLAS

} ss:

On this 16th day of June, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared JOHN D. GAMBLE, to me personally known who, being by me duly sworn, did say that he is Secretary of the Iowa limited liability company executing the foregoing instrument; that no seal has been procured by the limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its managers and that JOHN D. GAMBLE acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.

[Signature]  
Printed Name: Lisa Majors  
Notary Public



Page 2

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Instrument: 2006-0000832  
Date: Jan 20, 2006 12:26:28P  
Rec Fee: 10.00 E-Conv Fee: 1.00  
Ad Fee: .00 Trans Tax: .00  
Rec Management Fee: 1.00  
Non-Standard Page Fee: .00  
Filed for record in Story County, Iowa  
Susan L. Vande Kamp, County Recorder

Prepared by & Return to: Timothy C. Hogan, 3101 Ingersoll Ave., Des Moines IA 50312 (515) 279-9059

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**THIS AMENDMENT** is made this 3rd day of January, 2006, by **BLOOMINGTON HEIGHTS WEST TOWNHOMES, L.C.**, an Iowa limited liability company, Declarant of the Declaration of Covenants, Conditions and Restrictions, as amended, recorded September 25, 2002, as Instrument No. 02-14649, in the records of Story County, Iowa (the "Declaration").

**WHEREAS**, pursuant to the Declaration, Declarant has established and placed certain covenants, conditions, restrictions and easements on the following described real estate:

Lots 1 - 26 in **BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1**, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa.

AND

Lots 1 - 44 in **BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 2**, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa.

**WHEREAS**, until Declarant has sold all of the Lots subject to the Declaration, Declarant has the right to make amendments to the Declaration without the consent of any other Owners.

**WHEREAS**, Declarant owns certain Lots subject to the Declaration.

**NOW, THEREFORE**, Declarant hereby amends the Declaration as follows:

1. Article V, Section 3 of the Declaration is hereby deleted in its entirety and the following is inserted in lieu thereof:

Section 3. Maintenance Obligations of Association. In addition to maintenance upon the private streets, driveways and sidewalks, the Association shall provide all maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements and Common Elements, including but not limited to, maintenance upon each Lot that is subject to assessment hereunder as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces and other exterior improvements, lawns, shrubs and excluding any lawns, shrubs, etc. within

any fenced area, trees, trash removal and snow removal (but excluding the stoops located at the entrances of any Living Unit).

2. Article XIII, Section 4 of the Declaration is hereby deleted in its entirety and the following is inserted in lieu thereof:

Section 4. The Owner of each Lot shall keep the same free of debris.

3. Except as expressly amended hereby, all of the terms and conditions of the Declaration shall continue in full force and effect and are hereby ratified and confirmed.

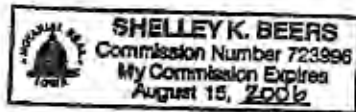
IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the date and year first above written.

**BLOOMINGTON HEIGHTS WEST  
TOWNHOMES, L.C.**  
an Iowa limited liability company

By: \_\_\_\_\_  
John D. Gamble, Secretary

STATE OF IOWA            )  
  )ss.  
COUNTY OF DALLAS    )

On this 17<sup>th</sup> day of January, 2006, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared JOHN D. GAMBLE, to me personally known who, being by me duly sworn, did say that he is Secretary of the Iowa limited liability company executing the foregoing instrument; that no seal has been procured by the limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its managers and that JOHN D. GAMBLE acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it voluntarily executed.



By: Shelley K. Beers  
Printed Name: Shelley K. Beers  
Notary Public



Instr. Number: 2011-00003819  
Recorded: 4/26/2011 at 8:37:28.0 AM  
Recording Fee: \$19.00  
Transfer Tax:  
Susan L Vande Kamp - Recorder  
Story County, Iowa

Prepared by & Return to: Nathan Barber, Belin McCormick, P.C., 666 Walnut Street, Ste. 2000, Des Moines, IA 50309 (515) 283-4676; Legal at Page 1.

**AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

This **Amendment to Declaration of Covenants, Conditions and Restrictions** is made this 25<sup>th</sup> day of April, 2011 by Family Homes Construction LLC.

**WHEREAS**, on August 5, 2002, Bloomington Heights West Townhomes, L.C., as Declarant, executed the Declaration of Covenants, Conditions and Restrictions, filed on September 25, 2002 as Instrument No. 02-14649 of the Story County, Iowa records (the "Declaration"). Terms not defined herein shall have the meanings set forth in the Declaration.

**WHEREAS**, on March 12, 2004, the Declaration was amended by a certain Amendment to Declaration of Covenants, Conditions and Restrictions, filed on March 22, 2004 as Instrument No. 04-03250 of the Story County, Iowa records.

**WHEREAS**, on January 3, 2006, the Declaration was further amended by a certain Amendment to Declaration of Covenants, Conditions and Restrictions, filed on January 3, 2006 as Instrument No. 2006-832 of the Story County, Iowa records.

**WHEREAS**, the Declaration pertains and applies to the following property:

Lots 1 - 26 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1, an Official Plat, now included in and forming a party of the City of Ames, Story County, Iowa.

AND

Lots 1 - 44 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 2, an Official Plat, now included in and forming a party of the City of Ames, Story County, Iowa.

**WHEREAS**, Family Homes Construction LLC entered into an Agreement for Alternative Voluntary Non-Judicial Foreclosure on August 7, 2008 and filed August 14, 2008 in



Instrument No. 2008-9254 of the Story County, Iowa records, and in connection therewith, Bloomington Heights West Townhomes, L.C. assigned and conveyed to Family Homes Construction LLC all right, title, and interest as "Declarant" under the Declaration, pursuant to Assignment of Declarant's Reserved Rights, Powers and Obligations dated August 7, 2008 and filed August 14, 2008 in Instrument No. 2008-9256 of the Story County, Iowa records.

**WHEREAS**, until Declarant has sold all of the Lots subject to the Declaration, Declarant has the right to make amendments to the Declaration without the consent of any other Owners.

**WHEREAS**, Family Homes Construction LLC, as Declarant, owns certain Lots subject to the Declaration.

**WHEREAS**, the Bloomington Heights West Townhomes Association has levied or intends to levy special assessments for the cost of capital repairs to the roofs for the Living Units constructed on Lots 1 - 26 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1 and Lots 1-3, 5-7, 22-25, 27-30 and 39-42 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 2, Official Plats, now included in and forming parts of the City of Ames, Story County, Iowa, which Living Units were constructed beginning in 2002 and completed in approximately October 2009.

**WHEREAS**, Declarant desires to amend the Covenants to exempt the unimproved lots from the special assessments related to the cost of repairs to the roofs for the townhomes constructed on lots within Plat 1 of the development.

**NOW, THEREFORE**, Declarant hereby amends the Declaration as follows:

1. The following sentence is added to the end of Article III, Section 4 of the Declaration:

Notwithstanding anything in this Section 4 to the contrary, Lots 8-20, 26 and Lots 31-38 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 2, an Official Plat, now included in and forming a part of the City of Ames, Story County, Iowa, shall not be responsible for any regular or special assessments to the extent related to the cost of any construction, repair, or replacement of the current roofs for the Living Units located on Lots 1 - 26 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 1 and Lots 1-3, 5-7, 22-25, 27-30 and 39-42 in BLOOMINGTON HEIGHTS WEST TOWNHOMES PLAT 2, Official Plats, now included in and forming parts of the City of Ames, Story County, Iowa. This exemption from regular or special assessments shall not apply to any subsequent repair or replacement of the roofs.

2. Except as expressly amended hereby, all of the terms and conditions of the Declaration shall continue in full force and effect and are hereby ratified and confirmed.

**IN WITNESS WHEREOF**, the undersigned has executed this Amendment as of the date and year first above written.

Family Homes Construction LLC

By: Gary Buelt  
Gary Buelt, Manager

STATE OF IOWA            )  
  )ss:  
COUNTY OF POLK        )

This instrument was acknowledged before me this 25<sup>th</sup> day of April, 2011, by Gary Buelt as Manager of Family Homes Construction LLC.



By: Victoria Huck Fackl  
Notary Public, State of Iowa

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Instrument: 2008-00009256  
Date: Aug 14, 2008 01:26:22P  
Rec Fee: 15.00 E-Com Fee: 1.00  
Add Fee: .00 Trans Tax: .00  
Rec Management Fee: 1.00  
Non-Standard Page Fee: .00  
Filed for record in Story County, Iowa  
Susan L. Vande Kamp, County Recorder

**RETURN TO:**

Prepared by: Terry M. Giebelstein, LANE & WATERMAN LLP, 220 N. Main St. #600 Davenport IA 52801 (563)374-3246

**ASSIGNMENT OF DECLARANT'S RESERVED  
RIGHTS, POWERS AND OBLIGATIONS REGARDING  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR BLOOMINGTON HEIGHTS WEST TOWNHOMES**

This Assignment of Declarant's Reserved Rights, Powers and Obligations is made this 7<sup>th</sup> day of August, 2008, by Bloomington Heights West Townhomes, L.C., an Iowa limited liability company (hereinafter "Declarant"), for the use and benefit of Family Homes Construction, LLC, an Iowa limited liability company ("FHC"):

WHEREAS, Declarant is identified as the Declarant under a certain Declaration of Covenants, Conditions and Restrictions for Bloomington Heights West Townhomes, which document was filed on September 25, 2002 as Instrument No. 02-14649 in the Office of the Story County, Iowa, Recorder, as the same has been or may be amended from time to time (the "Declaration");

WHEREAS, pursuant to Article I, § 6 of the Declaration, the term "Declarant" shall include Declarant and "its successors and assigns"; and

WHEREAS, the Declaration sets forth various rights, powers and obligations of the Declarant and Declarant desires to assign all of Declarant's reserved rights, powers and

obligations under the Declaration to FHC and intends that FHC act as Declarant's assignee under the Declaration.


NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

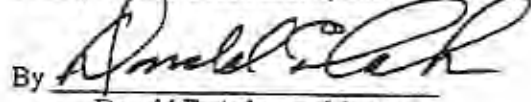
1. Declarant hereby assigns all of its reserved rights, powers and obligations under the Declaration to FHC and it intends that FHC act as Declarant's assignee under the Declaration.
2. FHC hereby accepts this Assignment.
3. Declarant shall promptly provide to FHC all architectural plans, architectural specifications, engineering plans, engineering specifications, other plans, other specifications, storm water protection plan documents and permits, homeowner's association records, keys to common areas, keys to units transferred to FHC, and all other documents, materials or items used or useful in the development, construction or management of Bloomington Heights West Townhomes (the "Project"). Declarant shall have a continuing obligation to FHC to provide documents, materials and items which are in the possession or under the control of Declarant, as FHC may reasonably request from time to time in connection with the development, construction and/or management of the Project.

Dated the date first stated above.

Bloomington Heights West Townhomes, L.C.

Family Homes Construction, LLC

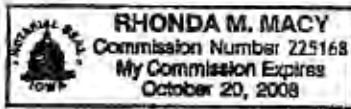
By  \_\_\_\_\_  
James M. Myers, President

By  \_\_\_\_\_  
Donald E. Acheson, Manager

STATE OF IOWA            )  
  ) SS:  
COUNTY OF POLK        )

On this 7<sup>th</sup> day of August, 2008, before me, the undersigned, a Notary Public in and for said State personally appeared James M. Myers, to me personally known, who, being by me duly sworn, did say that that person is the President of said limited liability company, that said instrument was signed on behalf of said limited liability company by authority of its managers and the said James M. Myers acknowledged the execution of said

instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



(NOTARIAL SEAL)

*Rhonda M. Macy*  
Notary Public in and for said  
County and State

STATE OF IOWA            )  
  ) SS:  
COUNTY OF POLK        )

On this 13 day of August, 2008, before me, the undersigned, a Notary Public in and for said State personally appeared Donald E. Acheson, to me personally known, who, being by me duly sworn, did say that that person is the Manager of said limited liability company, that said instrument was signed on behalf of said limited liability company by authority of its managers and the said Donald E. Acheson acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



(NOTARIAL SEAL)

*Victoria Huck Fackre*  
Notary Public in and for said  
County and State

Filed By / Return To: ATS of Story County  
212 SE 16th Street, Ames, IA 50010  
File No. 13-2269

ATS  
13-2269

Instrument: 2013-0009206  
Date: Jul 30, 2013 03:00:08P  
Rec Fee: 15.00 E-File Fee: 1.00  
Ad Fee: .00 Trans Tax: .00  
Rec Management Fee: 1.00  
Non-Standard Page Fee: .00  
Filed for record in Story County, Iowa  
Susan L. Vande Kepp: County Recorder

Prepared by and upon recording, return to: Nathan Barber, Belin McCormick, P.C., 2006 Financial Center, 666 Walnut Street, Des Moines, IA 50399, 515-242-7100

**ASSIGNMENT AND ASSUMPTION OF DECLARANT'S RESERVED RIGHTS,  
POWERS AND OBLIGATIONS UNDER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR BLOOMINGTON HEIGHTS WEST  
TOWNHOMES, L.C.**

This Assignment and Assumption of Declarant's Reserved Rights, Powers and Obligations under Declaration of Covenants, Conditions and Restrictions For Bloomington Heights West Townhomes, L.C. (the "Assignment"), is from Family Homes Construction, LLC ("FHC") to and in favor of Integrity Construction Services, LLC ("Integrity").

**WHEREAS**, Bloomington Heights West Townhomes, L.C. (the "Original Declarant") is the original Declarant under the Declaration of Covenants, Conditions and Restrictions filed on September 25, 2002 as Instrument No. 02-14649 of the Story County, Iowa records (the "Declaration") pertaining to a townhome development in City of Ames, Story County, Iowa, which Declaration was amended to encompass Lots 1-44 in Bloomington Heights West Townhomes Plat 2 by an Amendment Recorded January 20, 2006 as Instrument No. 06-00832.

**WHEREAS**, FHC entered into an Agreement for Alternative Voluntary Non-Judicial Foreclosure on August 7, 2008 and filed August 14, 2008 in Instrument No. 2008-9254 of the Story County, Iowa records, and in connection therewith, Original Declarant assigned and conveyed to Family Homes Construction LLC all right, title, and interest as "Declarant" under the Declaration, pursuant to Assignment of Declarant's Reserved Rights, Powers and Obligations dated August 7, 2008 and filed August 14, 2008 in Instrument No. 2008-9256 of the Story County, Iowa records.

**WHEREAS**, FHC has sold to Integrity all its interest in the property subject to the Declaration and in connection therewith also has agreed to transfer, without warranty or representation of any kind, any rights it may have as Declarant under the Declaration.

**NOW, THEREFORE**, in consideration of the premises FHC hereby, effective upon the recording of this Assignment in the public records of Story County, Iowa (the "Effective Date"),

assigns to Integrity any rights, but only to the extent such rights exist and without warranty or representation of any kind, as Declarant under the Declaration, subject to the terms of the Declaration, including, without limitation, and any and all rights as Declarant under the Declaration. By its execution hereof, Integrity accepts such assignment and assumes all obligations of the Declarant under the Declaration accruing subsequent to the Effective Date. Integrity shall indemnify, defend and hold harmless FHC from and against any and all claims, actions, liability, expenses, including reasonable attorney's fees arising in connection with any acts or omissions by the Declarant occurring subsequent to the Effective Date.

IN WITNESS WHEREOF, FHC and Integrity have executed this Assignment as of the  
29<sup>th</sup> day of July, 2013.

[One Signature Page Follows]



Family Homes Construction, LLC

Integrity Construction Services, LLC

By: Gary Buelt  
Gary Buelt, Manager

By: Brad Heemstra  
Brad Heemstra, Manager

STATE OF IOWA, POLK COUNTY, ss:

This instrument was acknowledged before me on the 26<sup>th</sup> day of July, 2013 by Gary Buelt as Manager of Family Homes Construction, LLC.



Marjorie Garrison  
Notary Public in and for the State of Iowa

STATE OF IOWA, STORY COUNTY, ss:

This instrument was acknowledged before me on the 29 day of July, 2013 by Brad Heemstra as Manager of Integrity Construction Services, LLC.

C. R. Hastings  
Notary Public in and for the State of Iowa

(NBA1298)

