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PATRICK F GILL AUDITOR & RECORDER
Woodbury County, Iowa

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE RESIDENCE AT ELK CREEK
Recorder's Cover Sheet**

Preparer Information:

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Taxpayer Information:

Elk Creek Development, LLC
2106 3rd Street
Sioux City, IA 51102

Return Document To:

Jeremy B. Saint
Attorney at Law
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Sioux City, IA 51101

Grantors:

Elk Creek Development, LLC

Grantees:

See page 2.

Legal Description: See Exhibit "A".

Document or instrument number of previously recorded documents: Instrument No. 2021-10801

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE RESIDENCE AT ELK CREEK**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RESIDENCE AT ELK CREEK (hereinafter “**First Amendment**”) is made as of this 3rd day of JUNE, 2022 (the “**Effective Date**”), by **Elk Creek Development, LLC**, an Iowa limited liability company (hereinafter “**Declarant**”).

RECITALS:

WHEREAS, Declarant established a Declaration of Covenants, Conditions and Restrictions for the Residence at Elk Creek dated July 23, 2021 and filed for record with the Woodbury County Auditor and Recorder’s Office on August 4, 2021 as Instrument No. 2021-10801 (hereinafter referred to as the “**Declaration**”) which said Declaration imposed covenants, conditions and restrictions against the real estate described on **Exhibit “A”** attached hereto and incorporated herein by this reference;

WHEREAS, Elk Creek owns one or more Parcels under the terms of the Declaration and has the sole right to amend the Declaration; and

WHEREAS, Elk Creek desires to amend the Declaration as set forth below.

NOW, THEREFORE, it is hereby declared, as of the Effective Date, as follows:

1. Paragraph 4 of Article IV is hereby deleted in its entirety and replaced with the following:

4. **Uniform Rate of Assessment.** Except as set forth below, both quarterly and special assessments shall be fixed at a uniform rate per Parcel and no assessment may be made on a front foot, square footage or other basis. Notwithstanding anything herein to the contrary, the following exceptions shall apply: (a) during the Control Period Declarant shall not be subject to or otherwise be required to pay any portion of the quarterly or special assessments assessed against any Parcel or other property owned by Declarant; and (b) the regular quarterly assessments (whether billed on a monthly or quarterly basis) assessed against Lots 3, 16, and 63 of the Residence at Elk Creek, Second Filing, an Addition to the City of Sioux City, Woodbury County, Iowa, shall not exceed three hundred Dollars (\$300.00) per month per lot regardless of the number of Parcels into which said lots may be divided.

2. Paragraph 10 of Article X is hereby deleted in its entirety and replaced with the following:

10. **Amendments.** Notwithstanding anything herein to the contrary, the Declarant shall have the sole right, in its sole discretion, to amend this Declaration during the Control Period which said amendment shall be filed of record. Thereafter, this Declaration may only be amended by written consent of at least three-fourths (3/4ths) of the Parcel Owners which consent shall be filed of record provided, however, that such amendment shall insure provisions for the continued operation, maintenance, repair, restoration and replacement of improvements to the Property constructed by Declarant, and except that: (a) no such amendment made following the Control Period may change the manner of assessment of any Owner except in a manner applied uniformly to all Owners; and (b) no such amendment shall be made to affect the application of paragraph 4(b) of Article IV to Lots 3, 16, and 63 of the Residence at Elk Creek, Second Filing, an Addition to the City of Sioux City, Woodbury County, Iowa without the consent of the affected Owner(s). Consent of third parties such as mortgagees, tenants, or lienholders to such amendments shall not be required. The recorded affidavit of an abstracter stating the names of the Parcel Owners shall conclusively establish as to all persons and for all purposes the identity of Parcel Owners executing such written consent.

3. The Declaration is hereby ratified, confirmed and approved as amended by this First Amendment.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, we have hereunto set our hands on the day and year first above written.

ELK CREEK DEVELOPMENT, LLC

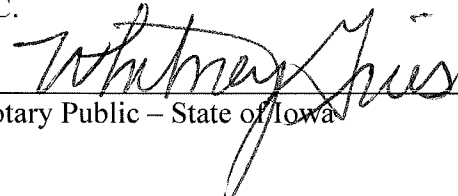
By: Koskovich & Murphy Developments, LLC, Its Manager

By: 
Paul Koskovich, Manager

By: 
Benjamin J. Murphy, Manager

STATE OF IOWA, COUNTY OF WOODBURY:

This record was acknowledged before me on June 3rd, 2022 by Paul Koskovich and Benjamin J. Murphy as Managers of Koskovich & Murphy Developments, LLC as Manager of Elk Creek Development, LLC.



Notary Public – State of Iowa

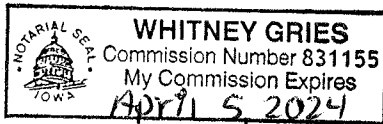


Exhibit "A"
(Original Legal Description)

The East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 17, Township 88 North, Range 47 West of the Fifth Principal Meridian, Woodbury County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 17; thence South $0^{\circ}13'18''$ East along the East line of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 1310.31 feet to the Southeast corner of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence South $88^{\circ}18'02''$ West along the South line of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 658.57 feet to the Southwest corner of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence North $0^{\circ}06'38''$ West along the West line of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 1307.13 feet to the Northwest corner of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence North $88^{\circ}00'59''$ East along the North line of said East $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 656.12 feet to the point of beginning.

Said described parcel contains 19.741 acres, more or less.

And

All that part of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 17, Township 88 North, Range 47 West of the Fifth Principal Meridian, Woodbury County, Iowa, described as follows:

Beginning at the Northwest corner of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 17; thence South $0^{\circ}13'18''$ East along the West line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 1310.31 feet to the Southwest corner of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence North $88^{\circ}25'20''$ East along the South line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ for 1281.14 feet to the centerline of Elk Creek Road; thence North $0^{\circ}20'43''$ West along said centerline for 80.69 feet; thence Northwesterly along said centerline for 291.81 feet on a 350.00 foot radius curve, concave Southwesterly, having a long chord of 283.43 feet, bearing North $24^{\circ}13'48''$ West; thence North $48^{\circ}06'53''$ West along said centerline for 1261.01 feet; thence Northwesterly along said centerline for 139.74 feet on a 1350.00 foot radius curve, concave Northeasterly, having a long chord of 139.68 feet, bearing North $45^{\circ}08'58''$ West to the North line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; thence South $88^{\circ}00'59''$ West along said North line for 131.17 feet to the point of beginning.

Said described parcel contains 24.157 acres, more or less, which includes 1.345 acres in roadway easement.