

Division of Chief Deputy Clerk
Lane County Deeds and Records

2009-066926



\$102.00

01117967200900669260090095

12/03/2009 02:49:27 PM

RPR-REST Cnt=1 Stn=8 CASHIER 02
\$45.00 \$10.00 \$20.00 \$11.00 \$16.00

①
77

7193-1475052
ADP Recording Return
First American Title
PO Box 10146
Eugene, OR 97402

**Amendment to
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
THE RESERVE AT HECETA LAKE**

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE RESERVE AT HECETA LAKE ("Declaration") is effective this 2nd day of December, 2009, having been approved by a vote of the Association as provided in Section 13.2 of the Declaration of Covenants, Conditions and Restrictions for the Reserve at Heceta Lake dated February 3, 2006 and recorded as document 2006-007885 in the records of Lane County, Oregon.

Amendments to Article X.

Article 10.1 shall be amended to read:

10.1. Creation of Assessments There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 10.6. There shall be three (3) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Special Assessments as described in Section 10.3 below; and (c) Emergency Assessments as described in Section 10.4 below. Each Owner, by acceptance of a deed or recorded contract for any portion of the Properties, is deemed to covenant and agree to pay these assessments. Common Assessments shall be levied on all Units as set forth in this Article X.

All Common, Special and Emergency Assessments, together with interest (at a rate established by resolution of the Board of Directors but not to exceed the highest rate allowed by Oregon law) as computed from the date the delinquency first occurs, late charges, costs, reasonable attorney fees, and fines or other charges imposed under this Declaration or the Bylaws, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorneys fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and his or her

grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments that accrued prior to such acquisition of title.

The Association shall, upon request of an Owner or Owner's agent, for the benefit of a prospective purchaser, furnish to any Owner liable for any type of assessment a written statement signed by an officer of the Association of all unpaid assessments against the Owner or the Unit effective through a date specified in the statement. The purchaser of such Unit shall not be liable for any unpaid assessments against the Owner or the Unit not included in the written statement. An escrow agent or a title insurance company providing escrow services or issuing title insurance in conjunction with the conveyance of such Unit (a) may rely on such statement, and (b) shall not be liable for failure to pay the Association at closing any amount in excess of the amount set forth in such statement. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such written statement.

All assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, Common Assessments shall be paid annually in advance on or before February 1 of each year. Each Owner, by acceptance of a deed to his or her Unit, acknowledges that all Common Assessments levied hereunder are annual assessments due and payable in advance annually or as otherwise fixed by the Board. The first annual Common Assessment on a unit shall be due at the closing of the sale of the unit, and the amount of the first Common Assessment shall be the amount payable for a full year, not prorated. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may revoke any privilege of paying in installments and require assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by nonuse of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association is specifically authorized but not obligated, to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials for the payment of some portion of the Common Expenses.

Article 10.6 shall be amended to read:

10.6. Date of Commencement of Assessments. Each Unit shall be subject to Common Assessments on the day on which an Owner (excluding Declarant) acquires record title to a Unit or a purchaser's interest under a recorded contract of sale.

Declarant shall not at any time be subject to Common Assessments on Units owned by Declarant.

**Amendments to Article XII.
Use Restrictions**

Article 12.6.1 shall be amended to read:

12.6. Animals and Pets.

12.6.1. Except as provided below, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of three (3) may be permitted in a Unit.

(i) Excluded from the foregoing number restriction shall be birds, fish, small reptiles and small animals that are kept in cages or tanks which are permanently kept within the interior of a dwelling or residence situated on the Unit.

(ii) The Owner of a Unit may apply to the Board of Directors to increase the maximum number of three (3) household pets set forth above if the increased number and the type of household pet or pets would not be reasonably objectionable to the Owners of neighboring Units or other Units in the vicinity. The Board, in its sole discretion, may grant such applications subject to such terms, conditions and modifications as the Board may determine to be appropriate to accomplish the intent and purpose of this Section 12.6 and the other use restrictions of this Article.

(iii) On lots exceeding 3.6 acres in size and no others, the Owner shall be permitted to keep two horses provided that: a) the grazing area for the horses must be fenced and on the most northerly 425 feet of the lot; b) the design and construction of the fence shall be subject to approval of the ARC; c) the grazing area fence must protect any jurisdictional wetlands; d) any shelter for the horses must be in the most northerly 200 feet of the lot, and it's design and construction shall be subject to approval of the ARC. Provided further that horses shall not be allowed on lot 83.

Article 12.11 shall be amended to read:

12.11. Subdivision of Unit. No Unit shall be partitioned, subdivided, or its boundary lines changed except for the Units designated as Lots 1, 2, 3, 54, 55 and 56, which are outside of the Urban Growth Boundary identified in the City of Florence's comprehensive Plan, but inside the Urban Growth Boundary for Lane County. These Units are required under the Lane County Code, which governs the use of unincorporated land within Lane County's Urban Growth Boundary, to contain a minimum of 2 acres per lot. If the Units are incorporated into the City of Florence's Urban Growth Boundary or otherwise rezoned to allow smaller lot sizes that would permit the Units to be partitioned into two lots, then the Owner of such a Unit may do so provided the Owner obtains all required land use approvals. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant in accordance with any applicable subdivision and zoning regulations.

**Amendments to Article XIII.
General Provisions**

Article 13.2 Amendment shall be amended to read:

13.2. Amendment. Prior to the conveyance of the first Unit, Declarant may unilaterally amend this Declaration. Thereafter, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least seventy five percent (75%) of the total votes in the Association (but the votes of the Class B Members shall be calculated for purposes of this Section 13.2 without regard to the weighted voting right otherwise given to the Class B Members). In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Recorder's Office of Lane County, Oregon. References to specific sections in this Declaration shall mean those sections as amended from time to time pursuant to this Section 13.2 or pursuant to other sections of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege during the Class B Control Period. Furthermore, no amendment may increase the number of Units or change the boundaries of any Unit or any uses to which any Unit is restricted unless the Owners of the affected Unit(s) unanimously consent to such amendment.

Article 13.10 is amended to read:

13.10. **Common Irrigation System.** The Declarant shall have the right, but not the obligation, to install an irrigation system with non-potable water to service the Common Area, or parts thereof, utilizing water from wells on the Properties, subject to the approval of any appropriate government entities with approval authority. Such irrigation system may be constructed, operated and maintained on a joint basis with other property owners adjacent to the Properties upon such terms and conditions as the Declarant or the Board of Directors may determine on behalf of the Association. The Board of Directors may from time to time adopt rules and regulations as to the irrigation water. Costs in connection with a common irrigation system for Common Area shall be treated as Common Expenses, which will be funded by Common Assessments.

**Amendments to Article XIV.
Mortgagee Provisions**

Article 14.3 is amended to read:

14.3. Anything to the contrary in this Declaration notwithstanding, the following requirements shall control:

- (a) The lien of any assessment is subordinate to the lien of any first Mortgage, as more particularly set forth in Section 10.7.
- (b) Mortgagees are not required to collect assessments.
- (c) Failure to pay assessments shall not constitute a default under any insured Mortgage.

(d) Approval by Members representing at least seventy five percent (75%) of the total votes in the Association calculated without regard to weighted voting rights is required to amend this Declaration, as more particularly set forth in Section 13.2.

(e) The Common Area cannot be mortgaged or conveyed without the approval of Members representing at least seventy five percent (75%) of the total votes of the Association (calculated without regard to weighted voting rights).

(f) If ingress or egress to any Unit is through Common Area, any conveyance or encumbrance of such area is subject to the easement of the Owner of the Unit.

(g) The Common Area shall be conveyed to the Association free and clear of all encumbrances (except easements, conditions and restrictions of record).

(h) Absolute liability is not imposed on Owners of Units for damage to Common Area or to Units.

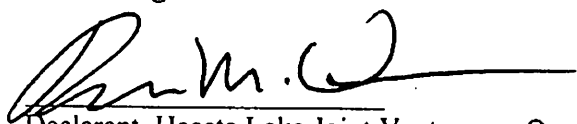
AMENDMENTS TO EXHIBIT D

Exhibit D shall be amended to read:

(Units Containing Wetlands)

The Units designated on the Plat of Phase 1 as Lots 1, 2, 3, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 32, 33, 34, 35, 36, 37, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55 and 56 contain wetlands. The Units designated on the Plat of Phase 2 as Lots 65, 66, 67, 75, 76, 77, 79 through 91, 93, and 96 through 100 contain wetlands.

Acknowledged

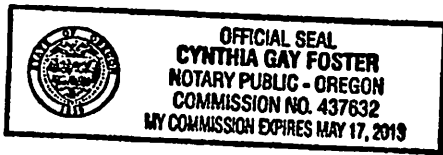


Declarant, Heceta Lake Joint Venture, an Oregon Partnership
by Roger M. Van, a general partner of Heceta Lake Joint Venture

State of OREGON

County of Lane

This instrument was acknowledged before me on Dec. 2, 2009 by Roger M. Van as a general partner of Heceta Lake Joint Venture.



Cynthia Gay Foster
Notary Public - State of Oregon

My Commission Expires 5-17-13

Certification

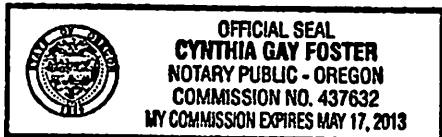
Roger M. Van

I, Roger M. Van hereby swear and certify that these amendments were adopted by an affirmative vote of the Declarant and Owners of The Reserve at Heceta Lake effective November 19, 2009 as provided in Section 13.2 of the Declaration of Covenants, Conditions and Restrictions for the Reserve at Heceta Lake dated February 3, 2006 and recorded as document 2006-007885 in the records of Lane County, Oregon.

State of OREGON

County of Lane

Signed and sworn to before me on Dec 2, 2009 by Roger M. Van.



Cynthia Gay Foster
Notary Public - State of Oregon

My Commission Expires 5-17-13

After Recording Return to:

Mike Van Investments Real Estate
6860 SW Boeckman Road
Wilsonville, Oregon 97070