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STATE OF KANSAS  
COUNTY OF JOHNSON SS  
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2002 MAY 27 A 9:37

BLACKTHORNE ESTATES, THIRD PLAT  
LOTS 89-96 INCLUSIVE, AND TRACT "D"  
DECLARATION OF WAIVER AND RELEASE

REBECCA L. DAVIS  
REGISTER OF DEEDS

AND

HILLS OF IRON HORSE  
SUPPLEMENTAL DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made as of the 22<sup>nd</sup> day of May, 2002, by the declarants, Heritage Development of Kansas, Inc., a Minnesota corporation ("Heritage"), and Hills of Iron Horse Community Association, a Kansas not-for-profit corporation ("Association").

WITNESSETH:

WHEREAS, Heritage is the developer of certain real property in Johnson County, Kansas, platted as Blackthorne Estates 3<sup>rd</sup> Plat, and subject to that certain Declaration of Restrictions filed on October 26, 1998 in the Office of the Register of Deeds of Johnson County, Kansas at Volume 5898, Page 871, as amended and supplemented by that certain Blackthorne Estates, 3<sup>rd</sup> Plat Declaration filed on August 10, 2001 in the Office of the Register of Deeds of Johnson County, Kansas at Volume 7218, Page 352, and that certain Homes Association Declaration filed on October 26, 1998 in the Office of the Register of Deeds of Johnson County, Kansas at Volume 5898, Page 883 (collectively, the "Blackthorne Declarations"); and

WHEREAS, Association is the assignee of the developer of certain real property in Johnson County, Kansas, platted as Hills of Iron Horse, and subject to that certain Declaration of Easements, Covenants, Conditions and Restrictions filed on June 7, 1996 in the Office of the Register of Deeds of Johnson County, Kansas, at Volume 4901, Page 747, and supplemented at Volume 5876, Page 55 (collectively, the "Hills of Iron Horse Declarations"); and

WHEREAS, Heritage desires to waive and release the Blackthorne Declarations for a portion of Blackthorne Estates 3<sup>rd</sup> Plat more particularly described on Exhibit A, attached hereto and incorporated herein by reference (the "Property");

WHEREAS, Association desires to annex the Property as part of the Hills of Iron Horse and make the Property subject to the Hills of Iron Horse Declarations, as amended herein; and

WHEREAS, Heritage desires to retain architectural control in connection with original residential construction on the Property except as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree and declare as follows:

Ret env: Mike Book  
Lathrop & Gage LLC

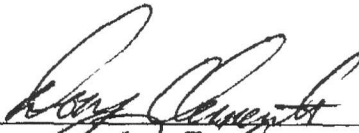
\$12.00

1. Heritage, for itself, and for its successors and assigns, and for its future grantees, hereby releases and waives the Blackthorne Declarations for the Property. As contemplated in the Blackthorne Declarations, this instrument shall have the effect of releasing the Property from all of the provisions of the Blackthorne Declarations as though the Property had not been originally described therein nor subjected to the provisions thereof.

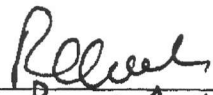
2. Association, for itself, and for its successors and assigns, and for its future grantees, hereby agrees and declares that all of the Property shall be, and hereby is, subject to the covenants, restrictions, easements and other provisions set forth in the Hills of Iron Horse Declarations, as amended herein. As contemplated in the Hills of Iron Horse Declarations, this instrument shall have the effect of subjecting the Property to all of the provisions of the Hills of Iron Horse Declarations as though the Property had been originally described therein and subjected to the provisions thereof. Provided, however, that subject to the terms and conditions hereof, Heritage reserves all rights as to the architectural and other approvals relative to the initial home construction on each lot within the Property until each such home is completed and a certificate of occupancy is issued therefore; Provided further, that if any approval by Heritage would constitute a variance from the Design Standards under Section 7.2 of the Hills of Iron Horse Declarations, such variance shall require the joint approval of Heritage and the Hills of Iron Horse Architectural Control Committee.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be duly executed as of the date and year above written.

HERITAGE DEVELOPMENT OF  
KANSAS, INC., a Minnesota corporation

By:   
Name: DAVID CLEMENTS  
Title: HERITAGE DEV. OF KS, INC. DIRECTOR

HILLS OF IRON HORSE COMMUNITY  
ASSOCIATION, a Kansas not-for-profit  
corporation

By:   
Name: RONALD A MILLER  
Title: PRESIDENT HILLS OF  
IRON HORSE HOMES  
ASSOCIATION

State of Kansas )  
 )ss  
County of Johnson )

BE IT REMEMBERED, that on this 22<sup>nd</sup> day of May, 2002, before me, a Notary Public in and for said County and State, came Roger Clements, as Director of Heritage Development of Kansas, Inc., who is personally known to me to be the same person who executed as such officer the within instrument of writing on behalf of such company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

  
\_\_\_\_\_  
Notary Public

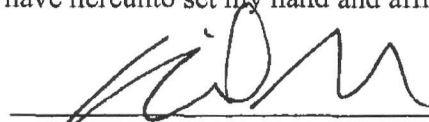
My commission expires:



State of Kansas )  
 )ss  
County of Johnson )

BE IT REMEMBERED, that on this 22<sup>nd</sup> day of May, 2002, before me, a Notary Public in and for said County and State, came Roger A. Miller, as President of Hills of Iron Horse Community Association, who is personally known to me to be the same person who executed as such officer the within instrument of writing on behalf of such company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

  
\_\_\_\_\_  
Notary Public

My commission expires:



**Exhibit A**  
**"Property"**

Lots 89-96, inclusive, and Tract "D", Blackthorne Estates 3<sup>rd</sup> Plat, a subdivision of the city of Overland Park, Johnson County, Kansas.