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JRNICE K VOS CAUDILL PITKIN COUNTY CO R 46.00

CONDOMINIUM DECLARATION
OF
W/J RANCH LOT 66 CONDOMINIUMS

THIS CONDOMINIUM DECLARATION (the "Declaration") is made this 21st day of June, 2006 by Lowe W/J, LLC, a Colorado limited liability company (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the W/J Ranch Lot 66 Condominiums (the "Property"), as the same is set forth on the Condominium Map thereof recorded in Plat Book 81 at Page 62 as Reception No. 530003 in the Office of the Clerk and Recorder of Pitkin County, Colorado (the "Map"); and

WHEREAS, the Property is improved with a two unit duplex residential dwelling, which units are designated as Unit 161 and Unit 163 on the Map (Unit 161 and Unit 163 shall sometimes be collectively referred to herein as the "Units"); and

• WHEREAS, Declarant desires by this Declaration to establish the respective rights and obligations of the Owners of said Units with respect to the use, maintenance, repair, replacement and insuring of common structural elements, common utility systems, and limited common elements thereof, to provide for a reasonable allocation between the Owners of the common costs and expenses associated therewith, and to establish a procedure for billing and paying for such common expenses and for collecting the same (including interest) from a delinquent Owner.

NOW, THEREFORE, for the purposes set forth above and herein, Declarant for itself and its successors and assigns hereby declares that the Units shall be owned, held, transferred, conveyed, sold, leased, encumbered, used, occupied, improved, altered, maintained and enjoyed subject to the covenants, conditions, easements, restrictions and other matters hereinafter set forth, all of which shall run with the title to the Units and be binding upon and inure to the benefit of the Owners, occupants and other persons having or acquiring from time to time any right, title or interest in or to either Unit or any part thereof, or any improvement thereon, and their respective heirs, personal representatives, successors and assigns.

1. Subject to Condominium Map. This Declaration, and the ownership, use, improvement and enjoyment of the Units, shall at all times be subject to and governed by the restrictions set forth on the Map, as said instrument may be amended from time to time. In the event of any conflict or inconsistency between the terms and provisions of this Declaration and the terms and provisions of the Map, the Map shall govern and control.

2. Subject to W/J Ranch Homes Governing Documents. This Declaration, and the ownership, use, improvement and enjoyment of the Units, shall at all times be



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subject to and governed by the terms, provisions, covenants, obligations and restrictions of the governing documents recorded in connection with the W/J Ranch Homes, a Planned Unit Community, including without limitation the plat thereof filed in Plat Book 73 at Page 67, the Declaration for the W/J Ranch Homes recorded in Book 776 at Page 177 (the "Master Declaration"), as said instruments may be amended from time to time. In the event of any conflict or inconsistency between the terms and provisions of this Declaration and the terms and provisions of the Master Declaration and/or the Final Plat, the Master Declaration and/or the Final Plat shall govern and control.

3. Subject to Metropolitan District Rules and Regulations. This Declaration, and the ownership, use, improvement and enjoyment of the Units, shall at all times be subject to and governed by the terms, provisions, covenants, obligations and restrictions set forth in the various rules and regulations of the W/J Metropolitan District as said instruments may be amended from time to time. In the event of any conflict or inconsistency between the terms and provisions of this Declaration and the terms and provisions of such rules and regulations, the rules and regulations shall govern and control.

4. Subject to Housing Authority Rules and Regulations. This Declaration, and the ownership, use and conveyance of the Units, shall at all times be subject to and governed by a deed restriction which shall encumber the Property for the benefit of the Aspen/Pitkin County Housing Authority, as may be amended, as well as any and all applicable rules of such Housing Authority.

5. General Common Elements. The common walls, floor and ceiling that divide the Condominiums, and all other structural elements of the Condominium that are necessary for the continued existence, common support, integrity, preservation, protection, and/or enjoyment of both Units comprising the Condominium, including without limitation the roof, footings, floor joists, exterior walls and foundation, common crawl spaces, common fences, common driveways, all common utility systems or facilities that serve both Units, and any utility systems that are located on one Unit but serve only the other Unit, are hereinafter referred to as the "General Common Elements". Certain General Common Elements are specifically depicted on the Map.

a. Perpetual Reciprocal Easements for General Common Elements. There is hereby created, granted and reserved for the use and benefit of the respective Unit Owners from time to time perpetual, non-exclusive reciprocal easements for the continued existence of said General Common Elements, in their present location, and for the use, enjoyment, maintenance, repair, preservation, restoration and replacement when necessary of said General Common Elements, together with and including a right of reasonable access, ingress and egress over, upon and across both Units and the improvements thereon for such purposes.

b. No Damage or Alteration by Owners. Unless otherwise approved by both Unit Owners in writing, both Unit Owners shall be and hereby are prohibited from destroying, damaging, altering, relocating, repairing or replacing any of the



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General Common Elements in any manner which directly or indirectly impairs, interferes with or otherwise adversely affects the common function and purpose thereof within the Condominium.

c. Maintenance of General Common Elements. The Unit Owners shall maintain, repair and replace the General Common Elements as may be reasonably required from time to time, at their joint and equal expense. Such maintenance shall include, without limitation, the snowplowing and general maintenance of any portion of the driveway that serves both of the Units. Any Unit Owner shall have the right to cause to be performed such maintenance, repair or replacement work on the General Common Elements as may be reasonably required from time to time by the circumstances, and to pay for the same, and to bill the other Unit Owner for its fifty percent (50%) share of such costs, or one hundred percent (100%) thereof if the other Unit Owner's negligence or intentional act was the sole reason for such maintenance, repair or replacement work. Any such bill not paid by the other Unit Owner within thirty (30) days of mailing the bill shall bear interest at the rate of eighteen percent (18%) per annum from the date of mailing until paid in full, and the billing Unit Owner shall be entitled to an award of its reasonable attorneys' fees and costs if it files a civil action to collect the delinquent amount and prevails therein. Finally, the Unit Owner paying for the work shall be entitled to have a lien on the Unit of the Unit Owner failing to pay its share of the cost, for the amount of said defaulting Unit Owner's share of the repair, restoration or maintenance cost, as more specifically provided in Section 8, below.

In the event a General Common Element is damaged or destroyed from any cause other than the negligence or intentional act of a Unit Owner, the Unit Owners shall, at their joint and equal expense, repair or rebuild said General Common Element to its original condition as promptly as reasonably possible following the event of damage or destruction. If damage or destruction is caused by the negligence or intentional act of a Unit Owner, that Unit Owner shall promptly repair or rebuild the same at its sole cost. All such work shall be performed in a good and workmanlike manner, by qualified contractors, and in compliance with applicable laws, regulations and codes, and where necessary shall be made in accordance with plans and specifications prepared by a registered Colorado engineer.

6. Limited Common Elements. Those portions of the Property that are created for the exclusive use of only one Unit are known as "Limited Common Elements" or "LCE's," which Limited Common Elements are depicted on the Map.

a. Use of LCE's. Unless otherwise set forth herein, no Owner shall be entitled to use such exclusive use area of the other Owner, as the same are separated by the Boundary, without the express written consent of the other Owner. Upon mutual agreement between the Owners, trees, shrubs, fencing or other privacy improvements may be installed on the center line of the Boundary,



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which improvements shall thereafter be considered General Common Elements and subject to equal expense sharing as set forth in Section 2 above, in order to offset and separate each Unit's exclusive use area. The actual location of any landscaping or fencing element or structure installed along the Boundary shall not affect, modify or be deemed to vary the location of any such Boundary as delineated on the Map, or the legal effect and consequence of such Boundary as provided herein.

b. Maintenance of LCE's. In the absence of damage caused by the negligence or intentional act of the other Unit Owner, the repair, restoration or maintenance of any LCE that only serves one Unit shall be the sole responsibility of the Owner that such LCE exclusively serves.

c. A valid easement over and under all LCE areas shall and does exist for the benefit of the Owners otherwise not entitled to use such area for purposes of the installation and maintenance of underground utility and infrastructure systems now or hereafter necessary to serve either or both Units.

7. Restrictions on Use.

a. Nuisances and Offensive Activities. There shall be no noxious or offensive activities conducted on, in, or upon any part of the Property, and no loud noises or noxious odors shall be permitted to occur anywhere on the Property. Nothing shall be done on the Property that may be or become an unreasonable annoyance or a nuisance to any other Owner or any occupant of any Unit. Any Owner shall have the right to enforce the provisions of this Article by bringing suit at law or in equity, or as otherwise provided by law. No Owner or occupant of any Unit shall permit or cause anything to be done or kept on the Property which will increase the cost of insurance or which will result in the cancellation of such insurance. Each Owner shall be accountable to the other Owner for the uses and behavior of its tenants or guests.

b. Structural Integrity. Nothing shall be done to any Unit or to any General or Limited Common Element that will impair the structural integrity of any improvements on or within the other Unit unless prior written unanimous authorization is obtained from the other Owner.

c. Restriction Upon Occupancy. Except as the Owners might otherwise agree, each Unit shall be used and occupied solely for residential purposes and no trade or business of any kind may be conducted on, in, or upon any Unit. Lease or rental of a Unit for residential purposes shall not be considered a violation of this covenant and is permissible. Similarly, the maintenance of a home office shall not be considered a violation of this restriction so long as the nature and conduct of the business complies with applicable local laws and the Master Declaration.



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d. No Unsightliness; Trash Storage. No unsightliness or waste shall be permitted on or in any part of the Property. Without limiting the generality of the foregoing, no Owner shall keep or store anything on or in any of the General Common Elements. No Owner shall have, erect, affix or place anything on any of the General Common Elements (except for decorative items within the Owner's Unit), including without limitation satellite dishes, and nothing shall be placed on or in windows or doors of Units which would create an unsightly appearance. No wiring, television antennae, or other items may be installed which protrude through windows, walls or roof areas, except as expressly authorized this Declaration. All trash shall be stored by the Owners within each Owner's respective Unit.

e. Utilities. All water, sewer, gas, electrical, telephone, cable television and other utility lines, pipes or other infrastructure (except for that overhead electric line currently serving the Property) shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated by and at the expense of the Owner causing the installation of the utilities no later than the next growing season following such installation. Each Owner shall be responsible for arranging for provision of utilities to their respective Unit and shall only be obligated to pay for those utilities supplied or delivered directly to their respective Unit. It is anticipated that each Unit shall be separately metered, serviced, and billed for purposes of utilities.

f. Animal Restrictions. No animals other than normal household pets shall be kept in or about the Units. No Owner shall at any time keep more than two (2) dogs or two (2) cats on their respective Unit. All dogs must be kenneled or inside a fenced area while outside and no construction workers or other service providers shall be allowed to bring dogs onto the Property. An Owner shall be absolutely liable to the other Owner and their families and guests for any unreasonable noise, nuisance or damage to any person or property caused by any animal brought or kept on the Property by such Owner or by members of his family or his guests.

g. Construction/Remodeling of Units. Without the prior written consent of the other Owner(s), no Owner shall: (a) make any changes or alterations of any type or kind to the exterior surfaces of the Units, including any doors or windows; or (b) modify or alter the appearance or color scheme of the exterior of the Unit. To the extent an Owner desires to remodel, rebuild or otherwise reconstruct in any way the Owner's Unit or any portion thereof that would result in a change to the exterior of the Unit, no such action may occur until such time as the Owner desiring such action has submitted plans to the other Unit Owner and received the approval of such plans by the other Unit Owner in writing, which approval may not be unreasonably withheld. The plans shall be detailed and include adequate information on the proposed size, materials, colors and



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other significant matters related to the new construction. To the extent such plans are so submitted and no written response is received within thirty (30) days after providing the plans to the other Owner(s), such plans shall be deemed approved by the other Owner(s). Any and all construction or reconstruction undertaken in connection with the Units shall be subject to and in accordance with all applicable Master Declaration covenants, Pitkin County Land Use Code rules and regulations, Pitkin County Housing Authority rules and regulations, and any and all other applicable state or local codes, rules or regulations.

h. Maintenance of Units. Each Owner shall, at such Owner's sole cost and expense: (i) keep and maintain in good order and repair the equipment and the infrastructure located in such Owner's Unit, which serve that Unit exclusively; (ii) replace any finishing or other materials removed with materials of a similar type, kind, and quality; (iii) maintain in a clean, safe and attractive condition and in good repair the interior of such Owner's Unit, including the fixtures, doors and windows thereof, the improvements affixed thereto, and that portion of the roof serving such Unit; (iv) maintain in a neat and clean condition all the decks, yard, porches, roof, balconies, patio areas, and any and all other Limited Common Elements associated with each Unit.

i. Fencing. Each Owner may construct a fence along the boundaries of their respective yard areas; provided, however, that in the case of fencing along the common boundaries of the Units, the materials and height of such fencing shall be mutually approved by both Owners.

j. Individual Sewage Disposal Systems. The Property is served by an individual sewage disposal system ("ISDS") located on Lot 66A. The ISDS shall be deemed to constitute a General Common Element and subject to the terms and provisions set forth herein related to General Common Elements.

8. Insurance. The Owners shall obtain, maintain and keep in full force and effect at all times property insurance on the General Common Elements for not less than the full insurable replacement cost thereof. Such insurance shall be for broad form covered causes of loss, including casualty, fire, and extended coverage insurance including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk.

If the Unit Owners collectively agree to do so, they shall also obtain, maintain and keep in full force and effect at all times comprehensive general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or occupancy of the Units and the improvements thereon, and covering public liability or claims for injury to persons and/or property, and death of any person or persons. Said liability insurance shall have such coverage limits and deductibles as the Unit Owners may determine from time to time. If the Unit Owners do not agree to carry such liability



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insurance jointly, each Unit Owner shall obtain and pay for a comprehensive general liability insurance policy on that Unit Owner's Unit and the improvements thereon.

The costs of carrying the above-described property insurance (and liability insurance, if jointly purchased) shall be shared equally by the Unit Owners; provided, however, that if the insurance rates are different for each Unit based on the value of improvements located on the respective Units, the Unit Owners shall pay that amount attributable to Owner's Unit based on such values. If a Unit Owner fails to pay its share of a premium by the due date, the other Unit Owner shall have the right to pay such share and to bill the other Unit Owner therefor. Any such bill not paid by the other Unit Owner within 30 days of mailing the bill shall bear interest at the rate of 18 percent per annum from the date of mailing until paid in full, and the billing Unit Owner shall be entitled to an award of its reasonable attorneys' fees and costs if it files a civil action to collect the delinquent amount and prevails therein. Finally, the Unit Owner paying the premium shall be entitled to have a lien on the Unit of the Unit Owner failing to pay its share thereof, for the amount of said defaulting Unit Owner's share of the premium, as more specifically provided in Section 8 below.

Finally, each Owner shall maintain personal property and liability insurance with respect to its Unit in such reasonable amounts as each Owner may desire from time to time. Each Owner shall use its best efforts to cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against other Owners in connection with any damage covered by any policy.

9. Lien Right. The lien shall be evidenced by a written notice, setting forth the details of the delinquent bill, which is signed and sworn to before a notary public by the Unit Owner claiming the lien, and which is recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado. Said lien may be foreclosed in the same manner as mortgages are foreclosed under the laws of the State of Colorado. Any such lien shall be subordinate only to the lien of the holder of a first mortgage or deed of trust and to liens for real estate taxes and other governmental assessments or charges against the Unit. If a Unit Owner initiates foreclosure proceedings in order to enforce lien rights created by this instrument, such Unit Owner shall be entitled to recover in that action all foreclosure costs including, without limitation, reasonable attorneys' fees.

10. General Provisions.

a. Duration/Amendment of Declaration. The term of this Declaration shall be perpetual. This Declaration may only be amended by a writing signed by both Unit Owners and duly recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado.

b. Enforcement. Each of the covenants, obligations and undertakings in this Declaration to be performed by the respective Unit Owners is intended to and shall be deemed to be for the specific benefit of the other Unit Owner. Each Unit Owner shall have the right to interpret and/or enforce, by any proceeding at law

or in equity, any or all of the covenants, conditions, easements, restrictions, rights, obligations, liens and other provisions set forth in this Declaration. Such enforcement rights shall include without limitation the right to bring an action for any form of injunctive relief available under Colorado law (including specific performance), or an action for damages, or both. For any such action brought by an Owner, the substantially prevailing party shall be awarded its reasonable attorneys' fees and costs incurred in connection therewith.

c. No Subdivision. The execution and recordation of the Map and this Declaration do not constitute a legal subdivision of land pursuant to the Pitkin County Land Use Code and the separate ownership interests in Unit A and Unit B do not result in the creation of separate, legal lots under the Pitkin County Land Use Code.

d. Subject to County Zoning Regulations. Any alteration, change, expansion, modification of any structure on the Property may require the approval of Pitkin County.

e. Partition. The partition of any interest in the Condominiums is prohibited. The Declarant and Declarant's successors and assigns hereby forever waive any right to maintain a legal partition action of the Property or any portions of the Units. In the case where a court may allow a partition action, the interested party agrees that a partition action constitutes an evasion of Pitkin County Land Use Code relating to subdivision.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

LOWE W/J, LLC, a Colorado limited liability company
By: Lowe Enterprises Community Development, Inc., its manager

By: _____
James M. DeFrancia, President



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