

CORRECTION SIXTH AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS FOR WHITTIER HEIGHTS

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS

§

COUNTY OF TARRANT

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WHEREAS, Broadland Limited Partnership, a Texas limited partnership (the "Declarant"), then being the owner of Lots 1 through 45 of Block A, Lots 1 through 11 of Block B, Lots 1 through 16 of Block C, Lots 1 through 21 of Block D, and Open Space Lots 46-X through 50-X of Block A, 12-X and 13-X of Block B, 17X of Block C and 22-X of Block D in Whittier Heights, an Addition (the "Addition") to the City of Colleyville, Texas (the "City") according to the plat thereof recorded in Cabinet A, slides 8667 and 8668 of the Plat Records of Tarrant County, Texas (the "County") filed that certain Declaration of Covenants, conditions and Restrictions for Whittier Heights executed August 25, 2003 (as heretofore amended, the "Declaration"), record in Volume 17239, Page 306 of the Deed Records of Tarrant County, Texas; as subsequently amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated October 7, 2003 recorded October 10, 2003 in Volume 17295, Page 41 of the Deed Records of Tarrant County, Texas; as subsequently amended by the Second Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated November 9, 2006 and recorded November 20, 2006 as Instrument #D206366537 in the Real Property Records, Tarrant County, Texas as subsequently corrected by instrument recorded January 29, 2007 as Instrument D207031983; as subsequently amended by the Third Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated April 20, 2007 and recorded April 23, 2007 Instrument D207140009 in the Real Property Records, Tarrant County, Texas; as subsequently amended by the Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated June 22, 2007 and recorded July 17, 2007 Instrument D207249081 in the Real Property Records, Tarrant County, Texas; as subsequently amended by the Fifth Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated October 16, 2008 and recorded October 16, 2008 Instrument D208397305 of the Real Property Records, Tarrant County, Texas; as subsequently amended by the Sixth Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated May 4, 2009 and recorded May 5, 2009 Instrument D209118950 of the Real Property Records, Tarrant County, Texas; and

WHEREAS, Section 5.15 of the Declaration as amended grants to the Declarant, until the sale by Declarant of the total number of lots in the Addition to entities unrelated to Declarant, the right, in its sole discretion, to amend the Declaration; and

WHEREAS, as of the date hereof, Declarant has not sold the total number of lots in the Addition to entities unrelated to Declarant; and

NOW, THEREFORE, Declarant adopts the following amendments to the Declaration, as amended, to wit:

Article VII "Maintenance Assessments" is hereby amended by amending Article B. "Purpose of Assessments" to read as follows:

B. Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of enforcing these covenants, conditions and restrictions as set forth in this Declaration and of promoting the recreation, health, safety, enjoyment and welfare of the

Members in the use of the Common Areas and, in particular, for the improvement, landscaping and maintenance of property and facilities devoted to this purpose and relating to the use and enjoyment of the Common Areas including, but not limited to, the payment of taxes and insurance thereon, repair and replacement and additions thereto, payment for services, including attorneys' and accountants' fees, labor, equipment, and materials, management and supervision necessary or incidental to such purposes as determined by the Board of Directors, repayment of funds advanced by the Declarant pursuant to Article VI.G hereof, plus interest due thereon, expenses of collecting and accounting for assessments, and expenses for preparing and filing tax returns, the preparation, printing and distribution of the roster of members, and for the encouragement of high standards of architecture, landscaping, tree planting and maintenance of the lots within the Addition, providing for the payment or reimbursement of expenses and liabilities related to the indemnity of persons and parties as provided hereafter and as provided in the Association Documents, and otherwise as provided in the Bylaws of the Association. All periodic assessments described in C. below and special assessments described in D. below must be fixed at a uniform rate for all Lots owned by members.

Article VII "Maintenance Assessments" is hereby amended by amending Article D. "Special Assessments" to read as follows:

D. Special Assessments. In addition to the periodic assessments authorized by C. above, the board of directors may levy in any year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, any unanticipated expense of the Association, including but not limited to attorney's fees, cost of litigation, court costs, expenses of mediation and arbitration, the cost of any construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. In addition, special assessments may be assessed for the purpose of defraying, in whole or in part, the costs to enforce the payment of assessments and the costs of paying or reimbursing expenses and liabilities related to the indemnity of persons and parties as provided hereinafter and as provided in the Association Documents including, but not limited to, court costs and attorneys fees.

Article IX entitled "Indemnification" is hereby added to the Declaration to read as follows:

ARTICLE IX

INDEMNIFICATION

Article 9.1 Indemnification. As further provided for and conditioned in Articles 9.2 and 9.3, the Association shall indemnify any member, director, or officer, or former member, director, or officer, of the Association or member or former member of the Committee, against expenses actually and necessarily incurred and any amount paid in satisfaction of judgments in connection with any action, suit or proceeding, arising out of or in connection with the conduct of, or participation in, the business or affairs of the Association or the Committee by such member, director, or officer, or the performance by such member, director, or officer of his or her duties on behalf of the Association or the Committee, whether civil or criminal in nature, in which said member, director, or officer is made a party by reason of being or having been such a member, director, or officer (whether or not a member, director, or officer at the time such costs or expenses are incurred by or imposed upon him). Also as further provided for and conditioned in Articles 9.2 and 9.3, the Association shall pay or cause to be paid to any member, director, or officer the reasonable costs of settlement of an such action, suit or proceeding. Such right of

indemnification shall not be deemed exclusive of any rights to which such member, director, or officer may be entitled by law or under any applicable agreement, or otherwise.

Article 9.2 Conditions of Indemnification.

(a) To the greatest extent not inconsistent with the laws and public policies of Texas, the Association shall indemnify, as a matter of right, any such member, director, or officer, or former member, director, or officer of the Association or member or former member of the Committee (herein referred to as the "Indemnified Person"), including any responsible officer, partner, shareholder, director, or manager of any member which is a legal entity other than a natural person, who is made party to any proceeding, against all liability incurred by the Indemnified Person in connection with any proceeding; provided that it is determined in the specific case according to subArticle (d) of this Article, that indemnification of the Indemnified Person is permissible in the circumstances because the Indemnified Person has met the standard of conduct for indemnification set forth in subArticle (c) of this Article. The Association will pay for or reimburse the reasonable expenses incurred by such an Indemnified Person in connection with any such proceeding in advance of final disposition thereof if (i) the Indemnified Person furnished the Association a written affirmation of the Indemnified Person's good faith belief that he or she has met the standard of conduct for indemnification described in subArticle (c) of this Article; and (ii) a determination is made in accordance with subArticle (d) that based on facts then known to those making the determination, indemnification would not be precluded under this Article. The Association must indemnify each such Indemnified Person who is wholly successful on the merits or otherwise, in the defense of any such proceeding, as a matter of right, against reasonable expenses incurred by the Indemnified Person in connection with the proceeding without the requirement of a determination as set forth in subArticle (c) of this Article. On demand by an Indemnified Person for indemnification or advancement of expenses, the Association must expeditiously determine whether the Indemnified Person is entitled to indemnification in accordance with this Article. The indemnification and advancement of expenses provided under this Article is applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

(b) The Association may, but need not, indemnify an individual who is or was an employee or agent of the Association to the same extent as if the individual were an Indemnified Person as defined above.

(c) Indemnification of an Indemnified Person is permissible under this Agreement only if the Indemnified Person (i) conducted himself or herself in good faith; (ii) reasonably believed that his or her conduct was in or at least not opposed to the Associations' best interest; (iii) in the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; and (iv) is not adjudged in any such proceeding to be liable for gross negligence or intentional misconduct in the performance of his or her duties. The termination of a proceeding by judgment, order, settlement, conviction or on a plea of nolo contendere or its equivalent is not, of itself, determinative that the Indemnified Person did not meet the standard of conduct described in this subArticle (c).

(d) The determination whether indemnification or advancement of expenses is permissible must be made in any one of the following manners:

(i) By a majority vote of the Directors of the Association who are not parties to the proceeding; or

(ii) By written opinion of independent legal counsel selected by a majority vote of the Directors of the Association.

(e) An Indemnified Person who is a party to a proceeding may apply for indemnification from the Association to the court, if any, that is conducting the proceeding or to another court of competent jurisdiction.

(f) This Agreement does not limit or preclude the exercise of or exclude any right under law, by contract or otherwise, relating to indemnification of or advancement of expenses to any individual who is or was an officer or director of the Association or is or was serving at the Association's request as an agent of the Association or any individual who is or was a member of the Committee. Indemnification is provided in accordance with this Article, without regard to the nature of the legal or equitable theory on which a claim is made including without limitation negligence, breach of duty, mismanagement, waste, breach of contract, breach of warranty, strict liability, or violation of any local, state or federal law, rule or regulation.

(g) For purposes of this Article, the following apply:

(i) The term "expenses" includes all direct and indirect costs (including without limitation counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery, service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(ii) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses incurred with respect to a proceeding.

(iii) The term "party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(iv) The term "proceeding" means any threatened, pending, or completed action, suit, arbitration, mediation, or other proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

(v) The Association may purchase and maintain insurance for its benefit, the benefit of any individual who is entitled to indemnification under this Article, or both, against any liability asserted against or incurred by the individual in any capacity or arising out of the individual's service with the Association, whether or not the Association would have the power to indemnify the individual against liability.

9.3 Persons Not Indemnified. It is not the intent or purpose of Articles 9.1 or 9.2 to provide indemnity, and no indemnity shall be provided, to any individual or entity who, as a member of the Association or for or on behalf of such a member, participates in a proceeding in which the member is contesting the formation, structure, conduct, or legality of the Association, or of the Declaration of Covenants, Conditions, and Restrictions, as amended from time to time ("Declaration"), or of its rules, regulations, guidelines, restrictions, assessments, or the actions

and resolutions of its officers, directors, agents, or the Whittier Heights Architectural Control Committee.

Except as specifically set forth herein above, the Declaration is unchanged and shall remain in full force and effect and shall govern the Addition.

It is expressly provided that this Correction Sixth Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights is executed, delivered, and accepted to correct that certain Sixth Amendment to Declaration of Covenants, Conditions and Restrictions for Whittier Heights dated May 4, 2009 and recorded May 5, 2009 as Instrument D209118950 in the Real Property Records of Tarrant County, Texas (the "Original Sixth Amendment"). This correction is filed to correct a portion of the filing information and other parts of the "WHEREAS" preamble of the Original Sixth Amendment; to correct the erroneous reference in Article VII. B. to Article V.G, which was intended to, and herein does, refer to Article VI.G instead; to insert references to members and former members of the Committee, which were inadvertently left out; and to correct various minor typographical errors.

Executed this 15th day of June, 2009.

DECLARANT:

BROADLAND LIMITED PARTNERSHIP

By: The David Bagwell Company,
Its general partner

By: *[Signature]*
David S. Bagwell, President

STATE OF TEXAS §
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COUNTY OF TARRANT §

This instrument was acknowledged before me on the 15th day of June, 2009, by David S. Bagwell, in his capacity as the President of The David Bagwell Company, a Texas Corporation, on behalf of said corporation in its capacity as general partner of Broadland Limited Partnership, a Texas limited partnership, on behalf of such partnership.

[Signature]
Notary Public, State of Texas

(Notary Seal)

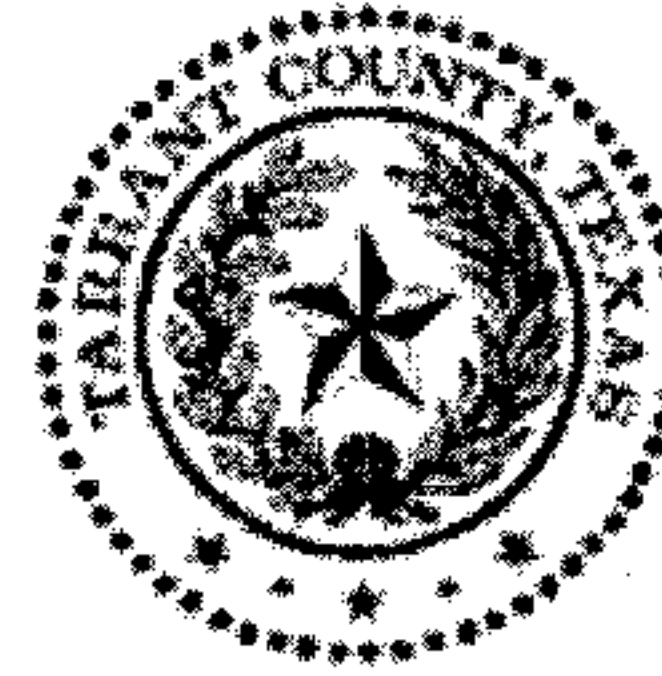


Return to:
Broadland L.P.
P.O. Box 1672
Colleyville, TX 76034

BROADLAND LP
P O BOX 1672

COLLEYVILLE TX 76034

Submitter: BROADLAND LP



SUZANNE HENDERSON
TARRANT COUNTY CLERK
TARRANT COUNTY COURTHOUSE
100 WEST WEATHERFORD
FORT WORTH, TX 76196-0401

DO NOT DESTROY

WARNING - THIS IS PART OF THE OFFICIAL RECORD.

Filed For Registration: 06/15/2009 10:15 AM
Instrument #: D209158088
OPR 6 PGS \$32.00

By:  _____



D209158088

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR
RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

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