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AUDITOR, Pierce County, WASHINGTON

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AFTER RECORDING. RETURN TO:

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Rafel Law Group PLLC  
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Seattle, WA 98101

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR RESIDENTIAL PROPERTIES AT CASCADIA EMPLOYMENT-BASED PLANNED COMMUNITY**

WHEREAS, The Cascadia Project LLC, a Washington limited liability company, executed a certain Declaration for Residential Properties at Cascadia Employment Based Planned Community ("the Declaration") dated May 30, 2008, and recorded under Recording No. 200805300389 in the records of Pierce County, State of Washington; and as amended by a First Amendment thereto filed under Pierce County Recording No. 201206120588 on June 12, 2012, and

WHEREAS, NASH Cascadia Verde, LLC, a Delaware limited liability ("Declarant"), is the successor declarant to The Cascadia Project LLC for the Declaration for Residential Properties at Cascadia Employment Based Planned Community; and

WHEREAS, pursuant to Article 8.1 of the Declaration, prior to the conveyance of the first unit to a person other than a builder, the Declarant may unilaterally amend the Declaration for any purpose;

NOW, THEREFORE, Declarant certifies the Declaration to have been amended in the following particulars:

A. The following new Section 2.39 is added to the Declaration:

2.39 "Age-Restricted Unit" means a Unit that is subject to recorded covenants, conditions and restrictions creating a community within Tehaleh intended for occupancy by persons fifty-five (55) years of age or older in accordance with The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601 et seq.), which

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exempts "housing for older persons" from the prohibitions against discrimination based on familial status.

B. The following new Section 3.15 is added to the Declaration:

**3.15 Rights of Builders.** Notwithstanding any other provision of this Declaration to the contrary, (a) a Builder shall have the right to maintain model homes and sales offices on Lots owned or leased by the Builder and to construct and maintain parking areas for the purpose of accommodating persons visiting such model homes and sales offices provided the plans, specifications and location for the model homes and sales offices and the location and design of the parking areas incidental to such model homes and sales offices have been approved in writing by the Declarant during the Development Period and by the Board thereafter, and (b) a Builder may store supplies of brick, block, lumber and other building materials on a Lot owned or leased by a Builder during the course of construction of Improvements on Lots or Common Areas provided such materials are kept in areas approved in writing by the Declarant during the Development Period and by the Board thereafter. Normal construction activities of a Builder in connection with the construction of Improvements shall not be considered a nuisance or otherwise prohibited by this Declaration. No approval or consent by the Declarant or the Board under this Section 3.15 shall be unreasonably withheld or delayed and any request for approval by a Builder in writing that is not denied within thirty days following submission shall be deemed approved.

A Builder shall have the right and an easement on and over (a) Common Areas for construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, as long as such activities have the prior written consent of the Declarant during the Development Period and by the Board thereafter, and (b) Lots conveyed by the Builder to an Owner for the purpose of performing warranty work.

A Builder shall have the right to effect boundary line adjustments between Lots owned by the Builder. A Builder shall also have the right to seek variances and/or use permits from the applicable governmental authorities with respect to such Lots, without the consent of the Association or any Owner so long as any such adjustment, variance or use permit has the prior written consent of the Declarant during the Development Period and the Board thereafter and does not adversely affect the rights of any Owner or the Association.

C. Section 3.8.6 is deleted in its entirety and replaced by the following amended Section 3.8.6:

**3.8.6 Alienation; Leasing.** No Use Rule shall require consent of the Association or board for the conveyance of any Unit. The Rental of a Unit shall be governed by the provisions of the Declaration, including, without limitation, this Article, provided that Sections 3.8.6(b), 3.8.6(c), 3.8.6(f), 3.8.6(g), 3.8.6(h) and 3.8.6(j) shall not apply to Age-Restricted Units located within the real property described on Exhibit D hereto.

D. Section 3.8.6(e) is deleted in its entirety and replaced by the following amended Section 3.8.6(e):

**3.8.6(e) Lease Approval.** Prior to the Rental of a Unit to a Tenant, and prior to the renewal of any previously approved lease, a Unit Owner shall submit to the Association a valid and binding lease, executed by both the owner and the proposed Tenant, and contingent only on the approval of the Association, together with a request for the written consent of the Association. The Association shall, as expeditiously as practical, grant its consent to the Owner if the requested Rental would not cause the aggregate number of all non-Owner occupied Units in the Association to exceed the Rental-Ceiling specified in Section 3.8.6(f) below, and is otherwise in accordance with this Section 3.8.6. Notwithstanding the foregoing, the number of Units used for the purpose of determining the Rental Ceiling shall not include any Age-Restricted Units located within the real property described on Exhibit D hereto, and Age-Restricted Units located within the real property described on Exhibit D hereto shall not be subject to the Rental Ceiling.

E. Section 4.9 is deleted in its entirety and replaced by the following amended Section 4.9:

**4.9 ASSUMPTION OF RISK AND LIMITATION OF LIABILITY.** EACH OWNER AND ANY OTHER PERSON USING THE COMMON AREAS ASSUMES THE RISK OF PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RELATED TO OR ARISING OUT OF THE USE OF THE COMMON AREAS, AND EACH OWNER AND ANY OTHER PERSON USING THE COMMON AREAS AGREES THAT THE DECLARANT, BUILDERS, THE ASSOCIATION, MEMBERS OF THE ASSOCIATION'S BOARD OF DIRECTORS, AND THE ASSOCIATION'S OFFICERS AND COMMITTEE MEMBERS SHALL HAVE NO LIABILITY TO ANY OWNER OR ANY OTHER PERSON CLAIMING ANY LOSS OR DAMAGE, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE ARISING FROM PERSONAL INJURY, DEATH, DESTRUCTION OF PROPERTY, OR ANY OTHER ALLEGED LOSS OR DAMAGE THAT IS BASED UPON, DUE TO, ARISING FROM, OR OTHERWISE RELATED TO THE USE OR CONDITION OF THE COMMON AREAS, INCLUDING WITHOUT LIMITATION, ANY CLAIM ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE DECLARANT, BUILDERS, THE ASSOCIATION, MEMBERS OF THE ASSOCIATION'S BOARD OF DIRECTORS, AND/OR THE ASSOCIATION'S OFFICERS AND COMMITTEE MEMBERS. EACH OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE DECLARANT, BUILDERS, THE ASSOCIATION, MEMBERS OF THE ASSOCIATION'S BOARD OF DIRECTORS, AND THE ASSOCIATION'S OFFICERS AND COMMITTEE MEMBERS AGAINST ANY AND ALL SUCH CLAIMS BY OWNERS, TENANTS, INVITEES, LICENSEES OR GUESTS.

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F. The following new Section 4.10 is added to the Declaration:

**4.10 Walls and Fences Separating Lots from Common Areas.**

**4.10.1 Retaining Walls.** The Association shall maintain and perform necessary repairs on any retaining wall installed on the boundary line between a Lot and Common Area. Declarant hereby establishes a perpetual, non-exclusive easement appurtenant in, on and over each portion of the Lots on which retaining walls are located and the areas adjacent thereto as is reasonably necessary for the Association to effect repairs to, maintenance of or reconstruction of the retaining walls as provided herein.

**4.10.2 Other Walls and Fences.** Except for retaining walls described in Section 4.10.1, any wall or fence that is installed on the boundary line between a Lot and Common Area shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the surface of the wall or fence that faces the Common Area. Declarant hereby establishes a perpetual, non-exclusive easement appurtenant in, on and over each portion of the Lots and Common Areas on which such walls and fences are located and the areas adjacent thereto as is reasonably necessary for the Owners and the Association to effect repairs to, maintenance of or reconstruction of the walls and fences as provided herein. This section 4.10.2 does not apply to any walls of buildings or Units that are located on the boundary line between a Lot and Common Area. The maintenance and repair of building walls or Unit walls that are located on the boundary line between a Lot and Common Area shall be the responsibility of the Owner of the Lot.

G. The following new Section 4.11 is added to the Declaration:

**4.11 Easement for Unintended Encroachments.** To the extent that any Improvement upon a Unit or Common Area encroaches on any other Unit or Common Area as a result of the original construction shifting or settling, or resulting from any alteration or restoration authorized by this Declaration, a valid easement for the encroachment, and for the maintenance thereof, exists.

H. Section 6.1 is deleted in its entirety and replaced by the following amended Section 6.1:

**6.1 Budgeting and Allocating Common Expenses.** The Board shall prepare annual financial statements of the Association consistent with RCW 64.38.045(3), as amended. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 6.3. The budget shall also reflect sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments, Specific Assessments and Special Assessments against the Units, as authorized in Section 6.6.

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The Association is hereby authorized to levy Base Assessments against all Units subject to assessment under Section 6.6 to fund the Common Expenses. The amount of the Base Assessment shall be the same for each Unit other than Age-Restricted Units located within the real property described on Exhibit D hereto. Pursuant to that certain Maintenance and Easement Agreement between the Association and Whitman Community Association (the "Maintenance and Easement Agreement"), the sub-association for the Age-Restricted Units located within the real property described on Exhibit D hereto, is obligated to maintain at its cost and expense certain Common Areas that are available for use by all Owners in Tehaleh. In consideration of the covenants, terms and conditions of the Maintenance and Easement Agreement, the amount of the Base Assessment for Age-Restricted Units located within the real property described on Exhibit D hereto shall be an amount equal to 37% of the Base Assessment levied against Units other than the Age-Restricted Units located within the real property described on Exhibit D hereto. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 6.7.2), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 14 but not more than 60 days prior to the effective date of such budget. Within 30 days after the Board adopts a budget, the Board shall set a date for a meeting of the Owners to consider ratification of the budget. Such date shall be not more than 30 days after the mailing of a summary of the budget adopted by the Board. Notice shall comply with Chapter 64.38, RCW, as amended. The budget shall automatically become effective unless disapproved at the meeting by Members representing at least 75% of the Association (regardless of whether a quorum exists) or by the Declarant for any budget adopted during the Development Period.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined. The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to notice requirements and the Members' right to disapprove the revised budget as set forth above.

I. Section 6.4 is deleted in its entirety and replaced by the following amended Section 6.4:

**6.4 Special Assessments.** In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership or

against any directly affected Units if the unbudgeted or excess expenses relate to less than all Units, provided that such Special Assessment levied against Age-Restricted Units located within the real property described on Exhibit D hereto shall be in an amount equal to 37% of the Special Assessment levied against Units other than Age-Restricted Units located within the real property described on Exhibit D hereto. The Board shall send a notice of the proposed Special Assessment to each Owner at least 14 but not more than 60 days prior to the date on which such proposed Special Assessment would be payable. The Board shall set a date for a meeting of the Members to consider the proposed Special Assessment. Such date shall be not less than 14 nor more than 30 days after the Board's mailing of a summary of the proposed Special Assessment. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the consent of the Declarant if the Special Assessment will be payable at any time during the Development Period. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

J. Exhibit B to the Declaration is deleted in its entirety and replaced by the following new Exhibit B:

### EXHIBIT B

#### **Land Subject to Expansion of Declaration**

Parcels 2, 5, 6, 9, 10, 11, 13, 14, 16, 18, 22 and 24 of that Record of Survey recorded under Recording Number 200712135006, Records of Pierce County, WA; said parcels being portions of Sections 22, 23 and 27, Township 19 North, Range 05 East, W.M.

Parcels D1, I, J and M2 of that Record of Survey recorded under Recording Number 200612045011, Records of Pierce County, WA; said parcels being portions of Sections 16 and 21, Township 19 North, Range 05 East, W.M.

Parcels N, M3, M4, I1, D, E, E1, X4 and X5 of that Record of Survey recorded under Recording Number 200603175011, Records of Pierce County, WA; said parcels being portions of Sections 16 and 21, Township 19 North, Range 05 East, W.M.

Parcels G, H1, H2 and H3 of that Record of Survey recorded under Recording Number 200502085001, Records of Pierce County, WA; said parcels being portions of Sections 16, 17, 20 and 21, Township 19 North, Range 05 East, W.M.

Parcel T1 of that Record of Survey recorded under Recording Number 200502085001, Records of Pierce County, WA; said parcel being a portion of Section 21, Township 19 North, Range 05 East, W.M.

Parcel T2 of that Record of Survey recorded under Recording Number 200502085001, Records of Pierce County, WA: said parcel being a portion of Sections 20 and 21, Township 19 North, Range 05 East, W.M.

K. The following new Exhibit D is added to the Declaration:

**EXHIBIT D**

Lots 1 through 125, inclusive, of the Plat of **WHITMAN AT CASCADIA**, according to the plat recorded July 30, 2008, under Recording No. 200807305006, Records of Pierce County Auditor, **situate in the County of Pierce, State of Washington.**

Parcels T1 and T2, as shown on that Record of Survey entitled "Cascadia Phase One Resegregation" as recorded under Pierce County Recording No. 200502085001;

TOGETHER WITH Parcels M3 and M4 as shown on that Record of Survey entitled "Cascadia Phase One Resegregation" as recorded under Pierce County Recording No. 200603175011;

ALSO TOGETHER WITH Parcel M2 as shown on that Record of Survey entitled "Cascadia Phase One Resegregation" as recorded under Pierce County Recording No. 200612045011;

EXCEPT the northerly 50 feet of said Parcels T1 and T2;

AND EXCEPT the northwesterly 50 feet of said Parcel M4;

Situate in Sections 16, 20 and 21, Township 19 North, Range 5 East, W.M., Pierce County, Washington.

IN WITNESS WHEREOF, this Second Amendment to the Declaration has been executed as of August 6, 2012 and shall be effective upon recording.

NASH CASCADIA VERDE, LLC, a Delaware limited liability company

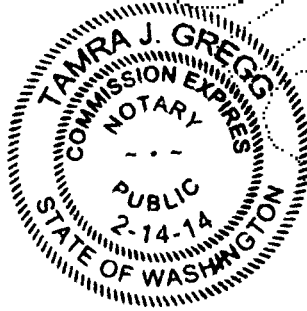
By Scott Jones  
Its AUTHORIZED SIGNATORY

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF PIERCE )

I certify that I know or have satisfactory evidence that SCOTT JONES is the person who appeared before me and that said person acknowledged that he/she signed this instrument and on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Authorized Signatory of NASH Cascadia Verde, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED under my hand and official seal this 6<sup>th</sup> day of August, 2012.



Tamra J. Gregg  
Notary Signature  
TAMRA J GREGG  
Print or type name  
Notary Public in and for the State of Washington  
Residing at Buckley  
My commission expires 2.14.2014

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