

ACKNOWLEDGMENT AND CLARIFICATION
of
Annexation Amendment to Declaration of
Conditions, Covenants, Restrictions and Easements
for University Park
(Apartment Site at University Park)

THIS Acknowledgment and Clarification of Annexation Amendment to Declaration of Conditions, Covenants, Restrictions and Easements for University Park (Apartment Site at University Park) (the "Acknowledgment and Clarification") is made effective as of April 4, 2005, by and between **Pulpit Rock Investments, LLC**, a Colorado limited liability company ("Declarant"), and **Western University Park Partners L.P.**, a California limited partnership ("Owner"), as the owner of the Annexed Property defined herein.

WITNESSETH:

WHEREAS, a Declaration of Conditions, Covenants, Restrictions and Easements for University Park was recorded on January 15, 1998 at Reception No. 98005438 of the real property records of El Paso County, Colorado, as amended (collectively, the "Declaration");

WHEREAS, an Annexation Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for University Park (Apartment Site at University Park) was recorded on May 30, 2001 at Reception No. 201072047 of the real property records of El Paso County, Colorado (the "Annexation Amendment");

WHEREAS, the legal description of the Annexed Property was mistakenly omitted from the Annexation Amendment;

WHEREAS, the Annexed Property in the Annexation Amendment was intended to be:

Lot 112, University Bluffs Filing No. 4, City of Colorado Springs, County of El Paso, State of Colorado (the "Annexed Property");

WHEREAS, Declarant and Owner (as the current owner of the Annexed Property) desire to record this Acknowledgment and Clarification, and to re-record the Annexation Amendment, to include the legal description of the Annexed Property within the Annexation Amendment.

NOW, THEREFORE, Declarant and Owner hereby acknowledge and clarify the Annexation Amendment as follows:

1. **Annexed Property.** The Annexation Amendment encumbers and refers to the Annexed Property described herein.
2. **Re-Recordation of the Annexation Amendment.** Declarant and Owner hereby execute and record this Acknowledgment and Consent, and re-record a copy of the Annexation Amendment (attached hereto as **Exhibit A** and incorporated herein by reference), to ratify the inclusion of the Annexed Property within the Annexation Amendment as of May 30, 2001.
3. **Counterparts.** This Acknowledgment and Clarification may be executed in any number of counterparts, which together shall constitute one and the same instrument.



IN WITNESS WHEREOF, Declarant and Owner have executed this Acknowledgment and Clarification as of the date first written above.

DECLARANT:

Pulpit Rock Investments, LLC,
a Colorado limited liability company

By: **Elite Properties of America, Inc.,**
a Colorado corporation, Manager

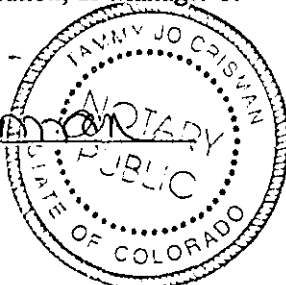
By: _____
Title: CEO

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

This document was acknowledged before me on April 4, 2005 by Douglas Stimpde as CEO of **Elite Properties of America, Inc.,** a Colorado corporation, as Manager of **Pulpit Rock Investments, LLC,** a Colorado limited liability company.

Witness my hand and official seal.
My commission expires August 13, 2008.
(SEAL)

Tammie Jo Crisman
Notary Public



OWNER:

Western University Park Partners L.P.,
a California limited partnership

By: **Western National Equities,**
a California corporation, General Partner

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

This document was acknowledged before me on April __, 2005 by _____ as _____ of **Western National Equities,** a California corporation, as General Partner of **Western University Park Partners L.P.,** a California limited partnership.

Witness my hand and official seal.
My commission expires: _____
(SEAL)

Notary Public

IN WITNESS WHEREOF, Declarant and Owner have executed this Acknowledgment and Clarification as of the date first written above.

DECLARANT:

Pulpit Rock Investments, LLC,
a Colorado limited liability company

By: **Elite Properties of America, Inc.,**
a Colorado corporation, Manager

By: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

This document was acknowledged before me on April __, 2005 by _____ as
_____ of **Elite Properties of America, Inc.,** a Colorado corporation, as Manager of
Pulpit Rock Investments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____
(SEAL)

Notary Public

OWNER:

Western University Park Partners L.P.,
a California limited partnership

By: **Western National Equities,**
a California corporation, General Partner

By: _____
Title: PRESIDENT

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

This document was acknowledged before me on April __, 2005 by _____
as _____ of **Western National Equities,** a California corporation, as General
Partner of **Western University Park Partners L.P.,** a California limited partnership.

Witness my hand and official seal.

My commission expires: _____
(SEAL)

Notary Public

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On April 4, 2005, before me, Shelly A. Jayne, Notary Public,
personally appeared Rex F. DeLong

_____ personally
known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose
name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~
executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s)
on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed
the instrument.

Witness my hand and official seal.



Shelly A. Jayne
Notary Public

[SEAL]

EXHIBIT A
to
ACKNOWLEDGMENT AND CLARIFICATION

Copy of Annexation Amendment

(See attached)

**ANNEXATION AMENDMENT TO
DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
UNIVERSITY PARK
a planned community
EL PASO COUNTY, COLORADO
(Apartment Site at University Park)**

This Annexation Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for University Park is made as of May 30, 2001 by **Pulpit Rock Investments, LLC**, a Colorado limited liability company ("Declarant"), as the owner of the Annexed Property (as defined herein).

WHEREAS, a Declaration of Covenants, Conditions, Restrictions and Easements for University Park was recorded on January 15, 1998 at Reception No. 98005438 of the real property records of El Paso County, Colorado, and subsequently amended (collectively, the "Declaration");

WHEREAS, pursuant to Section 8.8 of the Declaration, the Declarant has the right to annex additional property within the property which is subject to the Declaration without the consent of the individual homeowners;

WHEREAS, the real property described on Exhibit A attached hereto and incorporated herein by this reference (hereinafter called the "Annexed Property") is a portion of the real property described on Exhibit "B" of the Declaration as the Expansion Property;

WHEREAS, Declarant, as the Declarant under the Declaration, and the owner of the Annexed Property, desires to submit the Annexed Property to the terms and conditions of the Declaration;

NOW THEREFORE, Declarant, as the Declarant under the Declaration and the owner of the Annexed Property; hereby declares that the Annexed Property shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated and conveyed subject to the easements, restrictions, covenants, provisions and conditions of the Declaration, as the same may hereafter be amended, all of which are for the purpose of enhancing and protecting the desirability and attractiveness of the Annexed Property and the Community Area (as such term is defined in the Declaration) and all of which shall run with the land and be binding upon all parties having any right, title or interest in the Annexed Property or any part thereof, their heirs, successor and assigns, and which shall inure to the benefit of each such Owner thereof.

Based upon the rights reserved to Declarant in Section 5.4 of the Declaration, Declarant hereby allocates to the Owner of the Annexed Property the number of votes determined by dividing the total number of Dwelling Units (as defined in Section 2.11 of the Declaration) constructed on the Annexed Property (including each apartment unit) by three (3). The resulting quotient, rounded to the nearest whole number, shall be the number of votes allocated to the Owner of Annexed Property under the Declaration. Similarly, the assessments provided in Section 9.6 of the Declaration and the working capital requirements contained in Section 9.18 of the Declaration to be paid by the Owner of the Annexed Property shall be based upon the number of votes allocated to such Owner as provided above, such that each Dwelling Unit constructed within the Annexed Property shall be assessed one third (1/3) of the assessment attributable to a single family detached residential Lot. The Owner of the Annexed Property shall be obligated to pay all assessments attributable to the Annexed Property.

Declarant hereby acknowledges and declares that no Association Properties are contained within the Annexed Property and that no portions of the Annexed Property, or any easements thereover, will be conveyed to the Association or reserved by the Declarant.

Declarant further acknowledges and declares that at all times during which the Annexed Property is used as an apartment site, certain provisions contained within the Declaration require modification with respect to their application to the Annexed Property. Therefore, the Declaration, as it applies solely to the Annexed Property during such period of time as the Annexed Property is used as an apartment site (the "Apartment Period"), is modified as follows:

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1. Construction Completion. Notwithstanding the requirements of Section 3.14 of the Declaration, the exterior of all Improvements within the Annexed Property during the Apartment Period must be completed within twenty-four (24) months after the commencement of construction rather than the nine (9) months provided in the Declaration. All other provisions contained within Section 3.14 shall be applicable to the Annexed Property during the Apartment Period without modification.

2. Animals. The provisions of Section 4.8 of the Declaration which limit the total number of dogs and cats which can be kept to four within a Lot is hereby modified to restrict the total number of domesticated dogs and domesticated cats which may be maintained as pets within each Dwelling Unit within the Annexed Property to two. The other restrictions contained in Section 4.8 of the Declaration shall be applicable to the Annexed Property without modification.

3. Association Easement. Due to the lack of any Association Property within the Annexed Property, neither the Association, the Declarant nor any Owner shall have any easement rights with respect to the Annexed Property or any other right to enter upon or use any portion of the Annexed Property and Sections 11.2 and 11.3 shall not apply to the Annexed Property.

4. Resale. Article 12 of the Declaration shall automatically terminate and be of no further force or effect as to the Annexed Property upon the recordation of a construction loan deed of trust upon the Annexed Property and, as of such date, the Declarant waives and releases its rights under Article 12 and shall have no further right to repurchase the Annexed Property.

5. Lien Rights. The Association is granted certain lien rights with respect to Lots within the Community Area under the circumstances set forth in Article 13 of the Declaration. Declarant hereby declares that with respect to the Annexed Property, any lien established or obtained under Article 13 of the Declaration, or otherwise permitted or granted under the Declaration shall be subject and subordinate to the lien of any First Mortgage with respect to the Annexed Property and to the rights of any First Mortgagee. Any First Mortgagee who obtains title to the Annexed Property pursuant to foreclosure or transfer in lieu of foreclosure, or any purchaser at any foreclosure sale of the Annexed Property under a First Mortgage, together with their respective successors, shall take title to the Annexed Property free and clear of any lien established under Article 13 or otherwise under the Declaration.

Declarant, as the Declarant under the Declaration and the owner of the Annexed Property, hereby further declares that, except as expressly provided above, the definitions, easements, restrictions, covenants, provisions and conditions of the Declaration, as the same has been amended, shall apply equally and alike to the Owners, whether of the Annexed Property or the real property originally submitted by the Declaration. For example, "Community Area," as that term is defined in Section 2.7 of the Declaration, shall hereafter include the Annexed Property annexed into the Declaration pursuant to the terms of this Annexation Amendment, as well as the Community Area originally encumbered by the Declaration. It is hereby acknowledged that any area within the Annexed Property which is identified by the Owner of the Annexed Property and not by the Declarant, as common area solely for use by the owners or occupants of the Annexed Property, shall not constitute Association Property as defined in Section 2.5 of the Declaration.

This Annexation Amendment shall be effective upon the execution and recording hereof and the terms and conditions hereof shall be binding upon any subsequent Owner of the Annexed Property.

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