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Rhonda Francis Summit County Recorder

03/06/2019 02:21:01 PM Fee \$113.00

By US TITLE INSURANCE AGENCY

Electronically Recorded

WHEN RECORDED, MAIL TO:  
THE OAKS AT DEER VALLEY  
3311 SUN RIDGE DRIVE  
PARK CITY, UT 84060

*Recorder's Use Only*

**FIFTH AMENDMENT TO THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE OAKS AT DEER VALLEY**

This Fifth Amendment to the Declaration of Covenants, Conditions, and Restrictions for Oaks at Deer Valley, is made and entered as of the 26th day of September, 2018, by the Oaks at Deer Valley Homeowners Association, Inc., a Utah nonprofit corporation (the "Association"), by and through its Board of Trustees, based upon the appropriate affirmative votes cast by the Members of the Association.

RECITALS

A. The Oaks at Deer Valley Homeowners Association, Inc. (the "Association") is a Utah nonprofit corporation formed under the auspices of the Utah Revised Nonprofit Corporation Act, Utah Code Ann. Section 57-8a-101, et. seq., as amended, and the Utah Community Association Act, Utah Code Ann. Section 57-8a-101, et. seq., as amended.

B. The Property subject to the Declaration, as amended, includes all Lots and Common Areas within the Oaks at Deer Valley Subdivision, as amended, according to the Official Plat of the Oaks at Deer Valley Subdivision. The individual Lots subject to the Declaration and the Bylaws of the Association are more specifically described as:

*See Exhibit A* attached hereto and incorporated by reference.

C. The Declaration of Covenants, Conditions, and Restrictions of The Oaks at Deer Valley (the "Declaration") was recorded in the Office of the Summit County Recorder, State of Utah, on August 7, 1989, Entity No. 311419, at Book 531 and Pages 63-105.

D. The Declaration was amended by that certain First Amendment to Declaration when recorded with the Summit County Recorder on July 18, 1990 as Entry No. 326967 at Book 571 and Page 226 (the "First Amendment to the Declaration"), that certain Second Amendment to Declaration recorded with the Summit County Recorder on August 11, 1992, as Entry No. 363729 at Book 677 and Page 053 (the "Second Amendment to the Declaration"), and that certain Third Amendment to the Declaration recorded with the Summit County Recorder on April 1, 1998, as Entry No. 503271 at Book 1132 and Pages 679-681 (the "Third Amendment to the Declaration") and that certain Fourth Amendment to the Declaration recorded with the Summit County Recorder on September 22, 2017, as Entry No. 1078108 at Book 2429 and starting at Page 521 (the "Fourth Amendment to the Declaration").

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E. The Declaration, the First Amendment to the Declaration, the Second Amendment to the Declaration, the Third Amendment to the Declaration and the Fourth Amendment of the Declaration may be referred to individually or in the aggregate herein as the "Declaration."

F. Pursuant to Article VII, Section 5 of the Declaration entitled "Amendment, repeal or revocation," as amended in the Fourth Amendment to the Declaration, an affirmative vote of fifty-one percent (51%) of the Owners of Lots subject to the Declaration is required to amend the Declaration.

G. Per the Declaration, the Owner(s) who hold(s) title to a Lot is/are entitled to one (1) vote per Lot as Member(s) of the Association.

H. On or about August 2, 2018, a Notice explaining the proposed amendments (the "Notice") was mailed to the membership of the Association consistent with the notice provisions of the Declaration and the Bylaws for the purpose of proposing amendments to Article III, Section 3 (No Business Uses), Article VII, Section 10 (Notices) and Article VI, Section 8 of the Declaration by the creation of subsection (a) entitled "Reinvestment Fee," as herein discussed.

I. In the Notice, the Board of Trustees proposed that, based upon feedback and discussion from the Members at the preceding 2017 Annual Meeting of the Association:

a. Article III, Section 3 of the Declaration be amended to allow any Owner or its duly authorized agent to rent or lease said Owner's residential building, subject to the Homeowner Rental Rules and Regulations;

b. Article VII, Section 10 of the Declaration be amended to include email and text for official communication by the Association; and

c. Article VI, Section 8(a) of the Declaration be amended to allow payment of a Reinvestment Fee to the Association at the time of closing or settlement of the sale of a Lot.

J. Written ballots were mailed with the Notice to members. Members casting ballots were instructed to complete and return ballots to the Association by September 7, 2018 (the "Ballot Deadline"). All ballots were to be received by the Ballot Deadline to determine whether fifty-one percent (51%) of the Owners of Lots had submitted ballots to establish a quorum.

K. Once the Ballot Deadline had passed, ballots representing eighty-six percent (86%) of the Members were counted, confirming a quorum had been established.

L. Once the Ballot Deadline had passed and all ballots cast had been counted, the Association confirmed that eighty-one percent (81%) of the Members voted to amend Article III, Section 3 of the Declaration, ninety-five percent (95%) of the Members voted to amend Article VII, Section 10 of the Declaration and seventy-three percent (73%) of the Members voted to add Article VI, Section 8(a) to the Declaration.

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, the foregoing recitals are incorporated into and made a part of this Amendment, and agree that the Declaration is hereby amended as follows:

1. Defined Terms. Except as otherwise specifically provided in this Amendment, all capitalized terms used in this Amendment shall have the meaning assigned to such terms in the Declaration.

2. Additional Definitions. Article I, Definitions, shall be amended to include the following definitions:

Section 22. Reinvestment Fee or Reinvestment Fee Covenant shall mean a maintenance fee, charge or expense charged by the Association to be paid by either a buyer purchasing or an Owner selling a Lot in the Property, upon and as a result of a transfer of the Lot as described in Article VI, Section 8(a). The fee shall be dedicated to benefitting the burdened property, including payment for, but not limited to, common planning, facilities, and infrastructure; obligations arising from an environmental covenant; community programming; resort facilities; open space; recreation amenities; charitable purposes; Association Expenses; and/or any other purpose identified in Utah Code Annotated section 57-1-46(1)(i)

Section 23. Burdened Property shall mean a Lot that is subject to the Reinvestment Fee Covenant described herein at Article VI, Section 8(a) and for which the Reinvestment Fee shall be dedicated to benefit.

3. Survival of Terms. Except as provided or amended below, all of the terms of the Declaration are hereby restated to the same extent, and for all intents and purposes, as though made and given as of the date of this Amendment, except where any term specifically relates to documents, events, or conditions of an earlier date or period. In the event of any inconsistency between the provisions of the Declaration and the provisions of this Amendment, the provisions of this Amendment shall control.

4. Article III, Section 3 of the Declaration, No Business Uses, is amended by deleting all of the wording contained in subsection (b) and replacing and superseding that wording with the following:

(b) any Owner or his duly authorized agent from renting or leasing said Owner's residential Building. All rentals are subject to and governed by the Association's Rental Rules and Regulations, which may be amended by the Board of Trustees from time to time as needed to be responsive to the community.

5. Article VII, Section 10 of the Declaration, Notices, is deleted in its entirety and replaced with the following:

Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, at the mailing address of such person, as listed on the tax rolls or other office Summit County records or on file with the Association. If notice is delivered personally, such notice may

be (1) handed to the Member at his residence in the Subdivision; (2) sent by email to the Member's email address on file with the Association, or (3) by text message to the Member's mobile number on file with the Association if the Member has authorized notice by this method and accepted responsibility for any related carrier charges. Notice sent by email or text shall be deemed delivered, unless the message is returned as undeliverable within 48 hours of being sent, at which time notice shall be mailed and considered timely despite the delay. If the Association maintains a website, the Association shall provide a link to the notice in every method of notice utilized. A Member may require notice be given by first class mail.

6. Article VI of the Declaration is amended, by adding subsection (a) to Section 8, Reinvestment Fee Covenant, with the following language:

8(a). Reinvestment Fee Covenant. At the time of closing or settlement of the sale of a Lot, a Reinvestment Fee shall be paid as a Special Assessment, by a buyer who is purchasing or an Owner who is selling, conveying or transferring a Lot, to the Association. This fee shall be set initially at \$500 in the Association's Rules and Regulations, however the Board of Trustees shall have authority to amend the rule and increase the fee in the future not to exceed .02% of the sale price of the seller's Burdened Property. This covenant is intended to run with the land and to bind successors in interest to Lots and their assigns thereof, and shall extend for the duration of this Declaration. The existence of this covenant precludes the imposition of any additional Reinvestment Fee or Reinvestment Fee Covenant on the Burdened Property.

7. Ratification. The Association, by and through its Board of Trustees, expressly acknowledge and agree that, except as expressly set forth herein, this Amendment shall not alter, amend, modify or otherwise affect the terms, provisions, and conditions of the Declaration, and all of same are hereby renewed, extended, carried forward, ratified and confirmed and shall be deemed for all purposes in full force and effect.

8. Binding Effect. This Amendment shall be binding upon and inure to the benefit of all current and future Members, Mortgagees and their respective heirs, personal representatives, successors, and assigns.

9. Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction or court shall, as to such jurisdiction or court, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction or court shall not invalidate or render unenforceable such provision in any other jurisdiction or court.

10. Entire Agreement. This Amendment, as signed by the parties, represent the entire agreement of the parties with respect to the subject matter hereof, and there are no promises, undertakings, representations, or warranties by any party relative to subject matter hereof not expressly set forth or referred to herein or therein.

11. Further Amendment. Neither this Amendment nor any terms hereof may be amended, supplemented, or modified except by a written instrument executed by the parties pursuant to Article VII, Section 5 of the Declaration.

12. Authority. The undersigned represents that such representative has full power, authority, and legal right to execute and deliver this Amendment and that the same constitutes a valid and binding obligation of such party.

IN WITNESS WHEREOF, this Fifth Amendment to the Declaration is hereby executed by the President of the Association to be effective as of the day, month and year first above written.

THE OAKS AT DEER VALLEY HOMEOWNERS ASSOCIATION

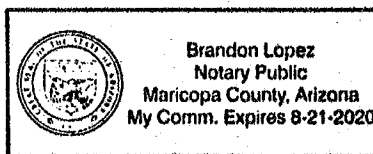
*Wesley Richards*

By: Wesley Richards  
Its: President

STATE OF Az )  
COUNTY OF Maricopa ) : ss.

I hereby certify that on the 27<sup>th</sup> day of February, 2019, personally appeared before me Wesley Richards, who, being by me first duly sworn, declared that he is the authorized person who signed the foregoing document and that the statements therein contained are true.

  
NOTARY PUBLIC



**EXHIBIT A**

**OAKS AT DEER VALLEY SUBDIVISION**

**LEGAL DESCRIPTION**

ALL OF LOTS 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29, 30,31,32,33,34,35,36,37,38,39,40,41,42,43,44,45,46,47,48,49,50,51,52,53,54,55,56,59,60,61, 62,63,64,65,66,67,68,69,70,71,72,73,74,75,76,77,78,79,80,81,82,84,85,86A,88,89,90,91,92,93, 94,95,96, and 97, OAKS AT DEER VALLEY SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT, SUMMIT COUNTY RECORDER.

ALL OF LOT 57, PATTERSON REPLAT, LOT LINE ADJUSTMENT, ACCORDING TO THE OFFICIAL PLAT, SUMMIT COUNTY RECORDER.

**SUMMIT COUNTY TAX PARCEL NOS.**

OAKS-1	OAKS-2	OAKS-3	OAKS-4
OAKS-5	OAKS-6	OAKS-7	OAKS-8
OAKS-9	OAKS-10	OAKS-11	OAKS-12
OAKS-13	OAKS-14	OAKS-15	OAKS-16
OAKS-17	OAKS-19	OAKS-20	OAKS-21
OAKS-22	OAKS-23	OAKS-24	OAKS-25
OAKS-26	OAKS-27	OAKS-28	OAKS-29
OAKS-30	OAKS-31	OAKS-32	OAKS-33
OAKS-34	OAKS-35	OAKS-36	OAKS-37
OAKS-38	OAKS-39	OAKS-40	OAKS-41
OAKS-42	OAKS-43	OAKS-44	OAKS-45
OAKS-46	OAKS-47	OAKS-48	OAKS-49
OAKS-50	OAKS-51	OAKS-52	OAKS-53
OAKS-54	OAKS-55	OAKS-56	PATT-57
OAKS-59	OAKS-60	OAKS-61	OAKS-62-63
OAKS-63-AM	OAKS-64-AM	OAKS-65	OAKS-66
OAKS-67	OAKS-68	OAKS-69	OAKS-70
OAKS-71	OAKS-72	OAKS-73	OAKS-74
OAKS-75	OAKS-76	OAKS-77	OAKS-78
OAKS-79	OAKS-80	OAKS-81	OAKS-82
OAKS-83	OAKS-84	OAKS-85	OAKS-86A
OAKS-88	OAKS-89	OAKS-90	OAKS-91
OAKS-92	OAKS-93	OAKS-94	OAKS-95
OAKS-96	OAKS-97		

(TOTAL LOTS: 94)