

WHEN RECORDED, RETURN TO:  
Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111-2218  
Attn: Kerry L. Owens

ENT 81581:2006 PG 1 of 6  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2006 Jun 28 3:41 pm FEE 42.00 BY SS  
RECORDED FOR SUMMIT DEVELOPMENT & MANAGE

**FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
HARBOR BAY SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARBOR BAY SUBDIVISION ("First Amendment"), dated as of the 28 day of June, 2006, by SUMMIT DEVELOPMENT & MANAGEMENT, LLC, a Utah limited liability company ("Declarant"), amends that certain Declaration of Covenants, Conditions and Restrictions for Harbor Bay Subdivision dated January 12, 2006, and recorded January 17, 2006 in the office of the Recorder of Utah County, Utah, as Entry No. 5326:2006 ("Original Declaration"). The Original Declaration, as amended and supplemented pursuant to this First Amendment, is collectively referred to herein as the "Declaration," which term, shall for all purposes thereof or of any related document, mean and refer to the Declaration as so amended, supplemented, or otherwise modified. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Declaration.

A. Declarant subjected certain real property located in Utah County, Utah to the Declaration.

B. The Declaration provides that Declarant shall have the right and option, from time to time, to amend the provisions of the Declaration and to subject all or portions of the Additional Land to the Declaration by the recordation of a supplemental declaration, which shall be effective upon filing for recordation, unless otherwise provided therein.

C. Pursuant to the provisions of Article 17 and Section 19.6(b) of the Declaration, Declarant desires to subject a portion of the Additional Land located in Utah County, Utah ("Subject Property") more particularly described on Exhibit A attached hereto and made a part hereof to the provisions of the Declaration, and desires to amend certain the provisions of the Original Declaration.

D. Declarant is executing and delivering this First Amendment for the purpose of subjecting the Subject Property to the provisions of the Declaration and for the purpose of amending certain provisions of the Original Declaration.

NOW, THEREFORE, in consideration of the foregoing premises, Declarant hereby declares and states as follows:

1. Subject Property. Pursuant to Article 17, the Subject Property is hereby subjected to the Declaration and made a part of the Harbor Bay Subdivision. The Subject Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens of the Declaration, which provisions are hereby ratified, approved and

confirmed, with the same force and effect as if fully set forth herein and made again as of the date hereof.

2. Amendments to Declaration. Pursuant to Section 19.6(b), Declarant hereby amends the Declaration as follows:

(a) The last sentence of Section 1.13 of the Declaration is hereby deleted and replaced in its entirety with the following:

“A copy of the Design Guidelines shall be maintained by Declarant during Declarant’s period of control and thereafter the Association shall maintain a copy of the Design Guidelines.”

(b) Section 1.24 of the Declaration is hereby supplemented as follows:

“The term “Plat” shall include that certain subdivision plat known as Harbor Bay - Phase 2, as recorded on May 17, 2006, in the office of the County Recorder of Utah County, State of Utah, as Entry No. 60994:2006.”

(c) The fourth sentence of Section 3.1 of the Declaration is modified as follows:

“At the sole and exclusive option of Declarant, the Declarant, during Declarant’s period of control,”

(d) The following is added to the beginning of the first sentence in Section 3.6 of the Declaration:

“Subject to the approval of the Board,”

(e) The following is added to the end of the first sentence in Section 3.7 of the Declaration:

“with such rules and regulations being subject to the Board’s approval.”

(f) The last sentence of Section 3.7 of the Declaration is hereby deleted and replaced in its entirety with the following:

“All final decisions of the Design Review Committee are appealable to the Board. An Owner desiring to appeal the Design Review Committee’s final decision shall provide written notice to the Board stating the final decision rendered by the Design Review Committee and the Owner’s grounds for appeal. Unless otherwise agreed to by the Board, a hearing for such appeal shall be scheduled at the next regularly scheduled meeting of the Board, but in no event later than thirty (30) days after the Board receives written notice of the appeal.”

(g) The following provisions are added to the end of Section 3.7 of the Declaration:

“The rules and procedures set forth in the Design Guidelines shall, at a minimum, contain the following:

3.7.1 The Design Review Committee shall, within thirty (30) days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may: (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Design Review Committee may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted pursuant to this Declaration by the Design Review Committee.

3.7.2 In the event that the Design Review Committee fails to respond within the thirty (30) day period, disapproval of the application shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

(h) The following is added to the end of the first sentence of Section 3.9 of the Declaration:

“with any such inspection being done at a reasonable time and with prior reasonable notice to the Owner of such inspection.”

(i) The first two sentences of Section 4.3.1 of the Declaration are hereby deleted in their entirety and replaced with the following:

“The affairs of the Association shall be conducted by the Board consisting of three (3) to five (5) directors and also by such officers as the Board may elect or appoint in accordance with the Articles of Incorporation and the Bylaws as the same may be amended from time to time. The initial Board shall be comprised of three (3) directors appointed by the Declarant with the permanent board being comprised of three (3) to five (5) directors being elected by the Owners in accordance with the Bylaws.”

(j) The first part of the first sentence of Section 6.2.1(i) of the Declaration is deleted in its entirety and replaced with the following:

“Annual Budget. On or before the 1<sup>st</sup> day of October of each year, the Association shall prepare, or cause to be prepared, an operating budget setting forth an itemized statement of the anticipated receipts and disbursements for the coming calendar year and taking into account the general condition of the Harbor

Bay Subdivision. Each such budget, together with a written statement from the Association outlining a plan of operation for the year in question and justifying in every important particular the estimates made, shall be submitted to the Owners on or before the 15th day of October of each year. Such budget, with any changes therein, shall be adopted by the Owners at each annual meeting of the Owners. Said operating budget shall serve as the basis for the schedule of proposed monthly assessments for the annual period for which it is prepared. Said budget shall also constitute a major guideline under which the Association shall operate during such annual period.”

(k) The first sentence of Section 6.3 of the Declaration is deleted in its entirety and replaced with the following

“In addition to the regular assessments, the Association may levy, at any time and from time to time, special assessments, payable over such periods of time as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Association Areas or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration.”

3. The provisions of the Declaration shall run with the Subject Property and shall be binding upon all parties having any right, title, or interest in the Subject Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

4. This First Amendment shall be effective as of the date of its recordation in the office of the Recorder of Utah County, Utah.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Declarant has executed and delivered this First Amendment as of the date and year first above written.

SUMMIT DEVELOPMENT & MANAGEMENT, LLC, a Utah limited liability company

By: [Signature]  
Heath Johnston, as Member

STATE OF UTAH )  
: ss.  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this 27 day of June, 2006, by Heath Johnston, as Member of SUMMIT DEVELOPMENT & MANAGEMENT, LLC, a Utah limited liability company.

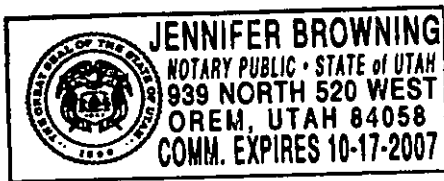
[Signature]  
NOTARY PUBLIC

My Commission Expires:

10-17-2007

Residing at:

Orem, UT



**EXHIBIT A  
TO  
FIRST AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
HARBOR BAY SUBDIVISION**

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(Description of Subject Property)

The real property referred to in this First Amendment as the Subject Property is located in Utah County, Utah and is more particularly described as:

All of Lots 201 to 223, inclusive, and Parcel C of the Harbor Bay – Phase 2 subdivision as shown on the Official Plat recorded on May 17, 2006, as Entry No. 60994:2006 in the Official Records of Utah County, Utah.

Tax Serial Nos. 41:633:0201:000

41:633:0202:000

41:633:0203:000

41:633:0204:000

41:633:0205:000

41:633:0206:000

41:633:0207:000

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