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Buncombe County, NC
Drew Reisinger Register of Deeds
BK **5640** PG **1042-1048**

**FIFTH AMENDMENT TO DECLARATION OF VILLAGE PARK
DEVELOPMENT PLANNED COMMUNITY**

This Document Prepared By and Return to: Mark C. Martin - Patla, Straus, Robinson & Moore, Box 35

This Fifth Amendment to Declaration of Village Park Development Planned Community (hereinafter "Fifth Amendment") is made as of this ____ day of February, 2018, by and between Village Park Development, LLC, a North Carolina limited liability company (hereinafter called "Developer"), and the Village Park Development Association, Inc., a North Carolina non-profit corporation (hereinafter "Association"), on behalf of the Majority of Owners of Residential Units, as defined in the Declaration of Village Park Development Planned Community recorded in Buncombe County Book 4152 at Page 1980 (hereinafter called "Declaration"), and Raymond McClinton and Susan H. McClinton (hereinafter "McClinton").

Whereas, the First Amendment to the Declaration is recorded in Buncombe County Book 4176 at Page 1553, the Second Amendment to the Declaration is recorded in Buncombe County Book 4588 at Page 1021, the Third Amendment to the Declaration is recorded in Buncombe County Book 4771 at Page 1656, and the Fourth Amendment to the Declaration is recorded in Buncombe County Book 5292 at Page 511, said Declaration, First Amendment, Second Amendment, Third Amendment, and Fourth Amendment, collectively are hereinafter called the "Original Declaration"; and

Whereas, Developer, together with McClinton, executed and recorded the Original Declaration; and

Whereas, Developer, Association, and McClinton further desire to amend the Original Declaration as set forth herein; and

Whereas, Developer, Association, and McClinton wish to amend the Original Declaration for the purpose of further clarifying the Twinplex expense elements, the responsibility for same, and specifically that each Owner of a Twinplex Unit is responsible for repairs and replacement of their individual roof that benefits that specific Twinplex Unit, which clarification will not disturb the basic scheme of development; and

Whereas, Developer, McClinton, and the Association, after a vote of sixty seven percent (67%) of Owners of Residential Units to approve the terms and provisions contained in this Fifth Amendment, are authorized to amend the Original Declaration as set forth herein.

Now, therefore, in consideration of the foregoing, it is agreed as follows:

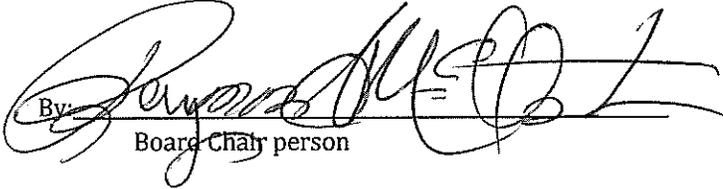
1. The Original Declaration, as amended hereby, constitutes the "Declaration" except as otherwise set forth herein. All provisions of the Original Declaration remain in full force and effect without modification.
2. Section 1, Paragraph aa is deleted in its entirety and the following substituted in lieu thereof:

“aa. ‘Expense elements’ - Those portions of the Common elements which require, from time to time, expenditures to be made pursuant hereto. The Expense elements include (i) the Development's Entrance, (ii) the Development's green areas and parks and improvements or structures located on land portions of the Common elements, which are intended to be of general benefit and usage by all Owners, (iii) the entrance road and any other roads within the Development that are intended to be of general benefit and usage by all Owners, (iv) the portion of the roads serving and intended to benefit only Residential Units, (v) the park areas within the Development serving and intended to benefit only Residential Units, (vi) the green areas (lawns, shrubs, parks and yards) of the Residential Units, other than those of the Subdivision Lot Owners who have elected to not have their green areas maintained by the Association, (vii) any improvements or structures owned by the Association serving and intended to benefit only the Twinplex Units, as defined in Section 1, Paragraph ccc, (viii) the structural members and exterior portions of the Twinplex Units, as defined in Section 1, Paragraph ccc, including but not limited to, siding, exterior surfaces of windows and skylights (including framing and screening but excluding glass breakage and routine cleaning, all of which the Twinplex Owner is responsible for), exterior surfaces of the front door and garage door (including framing), garage soffit lighting and fixtures and bulbs, porches (including deck railing and flooring not within the drip line), crawl spaces vents and access doors, downspouts, gutters, etc., (ix) the portion of the roads in the Development serving and intended to benefit only the Commercial Units, (x) the green areas (lawns, shrubs, parks and yards) of the Commercial Units, other than the Entrance, (xi) the parking areas serving and intended to generally serve and benefit all the Commercial Units and (xii) the portion of the roads and any park areas serving and intended to benefit only Subdivision Lots.”

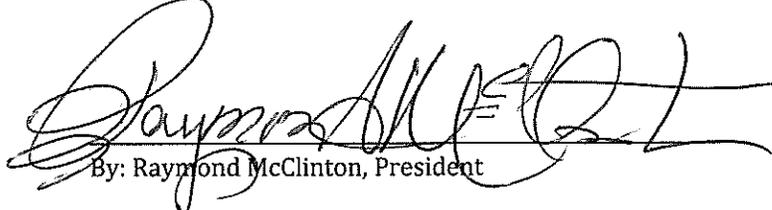
For clarification, all maintenance and repair of the roof of a Twinplex Unit shall not be an Expense element and the responsibility for the maintenance and repair of such roofs, and the costs associated therewith, shall be the responsibility of each owner of a Twinplex Unit for whom that particular roof benefits.

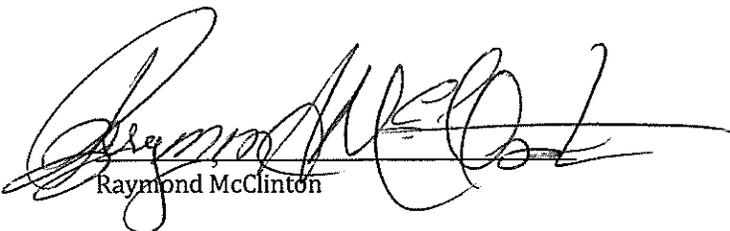
In Witness Whereof, McClinton, Developer, and the Association, executed the foregoing in the ordinary course of business, and Developer and the Association caused the due execution of the foregoing by its duly authorized corporate officers, as of the day and year above written.

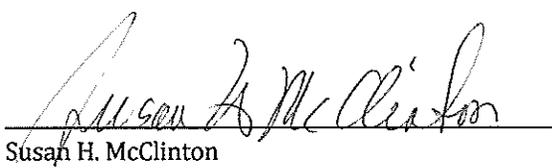
Village Park Development Association, Inc.

By: 
Board Chair person

Village Park Development, LLC
By: McClinton Development, Inc., Member/Manager


By: Raymond McClinton, President


Raymond McClinton


Susan H. McClinton

STATE OF NORTH CAROLINA - COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, certify that _____ personally appeared before me on this ____ day of February, 2018, and personally acknowledged his/her due execution of the foregoing instrument as the Chair person of the Board of Directors of Village Park Homeowners association, Inc., a North Carolina non-profit corporation,, on behalf of said corporation, by authority duly vested.

My Commission Expires: _____

Notary Public
Print Name: _____

** See Attached All-purpose Acknowledgement **

(affix notary seal)

STATE OF _____ - COUNTY OF _____

I, a Notary Public of said County and State, certify that Raymond McClinton and Susan H. McClinton, personally appeared before me this ____ day of February, 2018 and acknowledged the due execution of the foregoing instrument.

My Commission Expires: _____

Notary Public
Print name: _____

** See Attached All-purpose Acknowledgement **

(affix notary seal)

STATE OF _____ - COUNTY OF _____

I, _____, a Notary Public of said State and County hereby certify that Raymond McClinton personally came before me this ____ day of February, 2018, and acknowledged the execution of the foregoing instrument in his capacity as President of McClinton Development, Inc., a North Carolina corporation, in its capacity as Member/Manager of Village Park Development, LLC, a North Carolina limited

liability company, as the act and deed of said limited liability company.

My Commission Expires: _____

Notary Public
Print Name: _____

(affix notary seal)

** see Attached All-purpose Acknowledgment **





All-purpose Acknowledgment California only

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

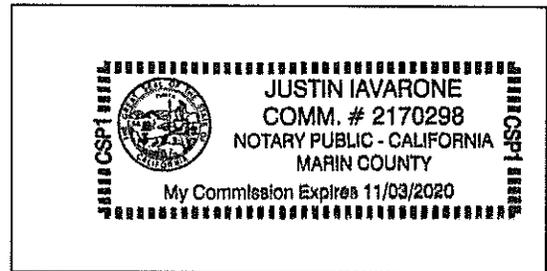
State of California

County of Marin

On 2/20/18 before me, Justin Iavarone, Notary Public (here insert name and title of the officer),

personally appeared Raymond McClinton, Chair Person of the Board of Directors of Village Park Homeowners Association, Inc.

who 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.



Notary Seal

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

For Bank Purposes Only

Description of Attached Document _____

Type or Title of Document _____

Document Date _____ Number of Pages _____

Signer(s) Other Than Named Above _____



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All-purpose Acknowledgment California only

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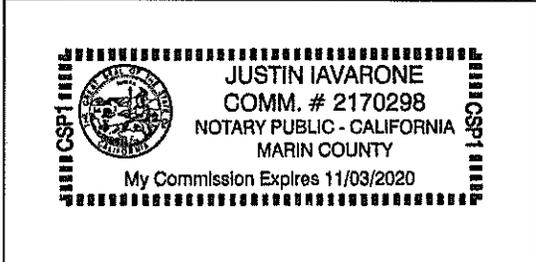
State of California

County of Marin

On 2/20/18 before me, Justin Iavarone, Notary Public (here insert name and title of the officer),

personally appeared Raymond McClinton & Susan H. McClinton

who 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.



Notary Seal

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature]

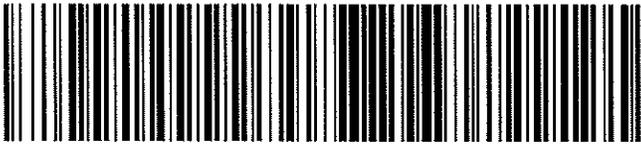
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All-purpose Acknowledgment California only

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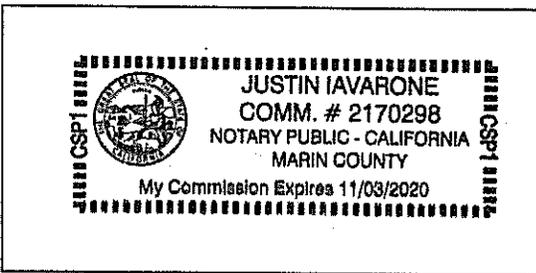
State of California

County of Marin

On 2/20/12 before me, Justin Iavarone, Notary Public (here insert name and title of the officer),

personally appeared Raymond McClinton, President of McClinton Development, Inc.

who 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.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Seal

WITNESS my hand and official seal.

Signature

For Bank Purposes Only

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