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Fee Amt: $26 00 Page 1 of 8

Franklin County North Carolina
Brandi S Davis, Register of Deeds
BK **2199** PG **1349 - 1356 (8)**

Prepared by/mail to:
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STATE OF NORTH CAROLINA

COUNTY OF FRANKLIN

FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ENCLAVE AT HIDDEN LAKE

THIS FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE ENCLAVE AT HIDDEN LAKE (this "First Amendment") is made and entered into this 20th day of January, 2020, by **BABSON DEVELOPMENT CO., LLC,** a North Carolina Limited Liability Company ("Declarant").

WHEREAS, Declarant is the Declarant under that certain Declaration of Covenants, Conditions and Restrictions for the Enclave at Hidden Lake recorded in Book 2171 at Page 1852 of the Franklin County Public Registry, as amended and supplemented from time to time (the "Declaration"); and

WHEREAS, pursuant to Section 3 in Article XII of the Declaration, Declarant has the right to amend the Declaration;

WHEREAS, Declarant desires to amend the Declaration with regards to the duty and responsibility of the Association to provide grass cutting services for the Lots;

WHEREAS, Declarant desires to amend the Declaration to provide that the Annual Assessments shall be used to maintain the "Stormwater Control Facilities" as required by Section 6 in Article IV of the Declaration;

NOW, THEREFORE, Declarant, by this First Amendment, does hereby amend the Declaration as set forth herein.

Amendment I. Article IV of the Declaration entitled THE ASSOCIATION is amended by substituting in lieu of Section 6 thereof in its entirety the following new Section 6:

Section 6. Maintenance. The Roadways shall be maintained by the Association. Such maintenance shall include repair and reconstruction of the Roadways, when necessary, including, but not limited to the swales, medians, bridges and associated landscaping and related improvements along and within the Roadways. However, notwithstanding anything to the contrary set forth in this Declaration, each Owner shall maintain all areas within the Roadway right-of-ways between such Owner's Lot boundary adjoining such right-of-way to the edge of the Roadway pavement, to the extent not maintained by the Association, including without limitation keeping ditches and swales free from debris. Maintenance of the Roadways shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity.

The Association shall be responsible for providing grass cutting services for each Lot, both the front lawn and rear lawn, on a regular basis. In the event that an irrigation system has been installed on a Lot, the Owner shall be responsible for ensuring that the irrigation system does not interfere with the grass cutting services provided by the Association. The Association shall not be responsible for any damage to such irrigation system that occurs during the performance of the grass cutting services provided by the Association.

The Common Areas and the Maintenance Areas, together with all utilities, easements and amenities located therein and not otherwise maintained by public entities or utilities or any other party as provided herein, shall be maintained by the Association as more particularly described below:

(a) Maintenance of the entryways to the Project shall include maintenance, repair and reconstruction, when necessary, of the entrance monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the entrance monuments and signage located thereon.

(b) Maintenance of the Parking Area(s) (if any) shall include repair, maintenance and reconstruction, when necessary, of the pavement (if paved) and payment of the costs of lighting.

(c) Maintenance of the Gate(s) shall include repair, maintenance and

replacement, when necessary, of said Gates.

(d) The swales and medians and associated landscaping and related improvements along and within the Roadways sha11 be maintained so as to facilitate proper drainage of water through such swales, and providing such landscaping maintenance as the Board deems in its discretion necessary so as to maintain an appearance in keeping with the remainder of the Project.

(e) The Common Areas and Maintenance Areas, including, without limitation, the Amenity Area and Open Areas, shall be clean and free from debris and maintained in a safe and orderly condition, together with the landscaping thereon (if any), in accordance with the highest standards for first-class residential developments located in the Raleigh, North Carolina, metropolitan area, including any removal and replacement of any landscaping, utilities, or improvements located thereon.

(f) Maintenance of any improvement within the Amenity Area shall include, but not be limited to, any and all interior and exterior maintenance (including, where necessary, repair and/or reconstruction), landscaping and payment of all utility charges related to any such improvement.

(g) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof except for the lawn cutting service to be provided by the Association. The Owners of such Lots shall be solely responsible for same.

(h) Maintenance of the Stormwater Control Facilities shall include the operation, maintenance, repair, and if necessary, reconstruction of the facilities. Maintenance of the facilities shall be at least in accordance with instructions for the specific type of Best Management Practices for the facility as described in Stormwater Best Management Practices ("Manual") , NC Department of Environment and Natural Resources (NCDENR), Division of Water Quality, Water Quality Section, 1999, including any and all subsequent revisions, and in accordance with the provisions of the agreement by and between Franklin County and the Declarant dated January 31, 2019 entitled the "Stormwater Facility/BMP Operation and Maintenance Agreement."

(i) The Drainage Easements and associated landscaping and related improvements sha11 be maintained so as to facilitate proper drainage of water through such easements, and providing such landscaping maintenance as the Board deems in its discretion necessary so as to maintain an appearance in keeping with the remainder of the Project.

Amendment II. Article V of the Declaration entitled COVENANTS FOR ANNUAL ASSESSMENTS, SPECIAL ASSESSMENTS AND INITIAL CONTRIBUTION TO CAPITAL is amended by substituting in lieu of Section 2 thereof in its entirety the following new Section 2:

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association ("Annual Assessments") shall be used as follows:

(a) to repair, operate, maintain, reconstruct (when necessary) and keep clean and free from debris the Common Areas, the Community Pressure System, and the Maintenance Areas and any improvements located thereon and to maintain the landscaping in accordance with the highest standards for first-class residential developments located in the Raleigh, North Carolina, metropolitan area, including any necessary removal or replacement of landscaping;

(b) to maintain and repair the Roadways to the standards of the maintenance (if one is ascertainable) for residential streets in developments similar to the Project prevailing in the Raleigh, North Carolina, metropolitan area;

(c) to maintain, operate, repair and reconstruct, when necessary, the entryways to the Project, including the entrance monuments, signage, irrigation, planters, landscaping and lighting located thereon;

(d) to maintain and repair the swales and medians, and landscaping and related improvements along and within the Roadways;

(e) to pay all costs associated with the operation of any up lighting and landscape lighting initially installed by Declarant, including utility costs;

(f) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;

(g) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

(h) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;

(j) to carry out all other purposes and duties of the Association, the Board of Directors and the Architectural Control Committee as stated in the Articles, the Bylaws and in this Declaration;

(k) to maintain contingency reserves for the purposes set forth in Article IV hereof in amounts as determined by the Board of Directors;

(l) to pay the salary of and all other costs associated with the employment of any Caretaker, and any other persons who may be employed by the Association;

(m) to pay all costs incurred with respect to any resource manager or other consultant engaged to assist with the preservation of flora and fauna within the Property;

(n) to maintain, operate, repair and replace, when necessary, the Gates;

(o) to provide for the grass cutting services required by Section 6 of Article IV of the Declaration; and,

(p) to maintain, operate, repair and reconstruct the "Stormwater Control Facilities" in accordance with the Stormwater Best Management Practices established by the North Carolina Department of Environment and Natural Resources (NCDENR).

The expenses of the Association for the foregoing are sometimes referred to herein as "common expenses."

Amendment III: Article X of the Declaration entitled EASEMENTS AND OTHER RIGHTS is amended by substituting in lieu of Section 11 thereof in its entirety the following new Section 11:

Section 11. Easement Reserved for the Association and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article X and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder, including, without limitation, the right of the Association and Declarant to enter upon any Lot or portion of the Property to provide the lawn cutting services as set forth in Section 6 of Article IV of this Declaration; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be.

Amendment IV: Article XII of the Declaration entitled GENERAL PROVISIONS is amended by substituting in lieu of Section 1 thereof in its entirety the following new Section 1:

Section 1. Duty of Maintenance. Except for those portions, if any, of a Lot which the Association has elected or may hereafter elect to maintain or repair hereunder, the Owner of any Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, in accordance with the provisions of the Guidelines, and in a well- maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots, shall include, but shall not be limited to, the following:

(a) Prompt removal of all litter, trash, refuseand waste;

(b) Keeping land well maintained and free of trash, uncut grass and weeds;

(c) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and

(d) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improve Lots, shall include, but shall not be limited to, the following:

(1) *(Intentionally Omitted)*

(2) Tree and shrub pruning;

(3) Watering by means of a lawn sprinkler system and/or hand watering as needed;

(4) Keeping exterior lighting and mechanical facilities in working order;

(5) Keeping lawn and garden areas alive;

(6) Removing and replacing any dead plant material;

(7) Maintenance of natural areas and landscaping in accordance with the Guidelines;

(8) Keeping parking areas and driveways in good repair; Repainting of Improvements: and

(9) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Control Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the Lot to its condition existing prior to the construction of such Improvements.

In addition to the foregoing, each Owner must maintain, in accordance with the terms hereof, any Common Area and/or Maintenance Area located within the boundaries of its Lot, to the extent such Common Area and/or Maintenance Area is not maintained by the Association as provided in this Declaration.

Notwithstanding anything contained herein to the contrary, the above-described maintenance responsibilities as to any Lot shall commence only upon a Plat showing such Lot being recorded in the Office of the Register of Deeds of Franklin County and upon the conveyance of such Lot by Declarant. If an Owner of any Lot has failed in any of the duties or responsibilities of such Owner as set forth herein, then the Board and Declarant, either jointly or severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described herein. Provided, however, this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, either jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Owner of the Lot on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder, and such Owner shall reimburse the Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Owner.

Amendment V. All capitalized terms not otherwise defined in this First Amendment to the Declaration shall have the same meaning as in the Declaration. Except as expressly amended or modified hereby, all covenants, conditions, restrictions, and easements established by and contained in the Declaration shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Declarant has caused this First Amendment to be executed the day, month and year first above written.

BABSON DEVELOPMENT CO, LLC

By: _____

Name: Robert B. Lafater

Title: General Manager

STATE OF NORTH CAROLINA

COUNTY OF Wake

I certify that Robert B. Lafater personally appeared before me this day and acknowledged to me that he executed the foregoing document in his official capacity as General Manager of Babson Development Company, LLC.

This 28 day of January, 2020.

Barbara Chaapel
Notary Public

Barbara Chaapel
Printed name of Notary Public

My Commission expires: April 7 2023

(NOTARY SEAL)

BARBARA CHAAPEL
NOTARY PUBLIC
WAKE COUNTY, NC