



W3050035

WHEN RECORDED MAIL TO:

Midland Square Owners Association, Inc.
533 West State Road, Suite 102
Pleasant Grove, Utah 84062-2111

E# 3050035 PG 1 OF 17
Leann H. Kilts, WEBER COUNTY RECORDER
24-Apr-20 0209 PM FEE \$44.00 DEP TN
REC FOR: BACKMAN OREM
ELECTRONICALLY RECORDED

(Space Above for Recorder's Use)

**THIRD AMENDMENT
OF THE DECLARATION OF PROTECTIVE EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL**

THIS THIRD AMENDMENT OF THE DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS OF MIDLAND SQUARE COMMERCIAL (this "**Third Amendment**") is executed to be effective as of the date this Third Amendment is recorded in the Office of the Recorder of Weber County, Utah (the "**Effective Date**") by ALL AMERICAN INVESTMENTS VI, LLC, a Utah limited liability company, and SBH MIDLAND MARKET PLACE, LC, a Utah limited liability company (collectively referred to herein as "**Declarant**"), by MIDLAND SQUARE OWNERS ASSOCIATION, INC., a Utah nonprofit corporation (the "**Association**"), and by HSW HOLDINGS 1 LLC, a Utah limited liability company, DOUGLAS JOHN HAMMOND, JR. AND JULIE A. HAMMOND, HUSBAND AND WIFE, AND KIMBALL C. SHILL AND AMBER SHILL, HUSBAND AND WIFE (collectively referred to herein as the "**Lots 13 and 14 Property Owner**").

RECITALS

A. The Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Original Declaration**"), dated July 14, 2009, was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah, on July 22, 2009, as Entry No. 2425489.

B. The Corrected Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Corrected Declaration**"), dated April 30, 2010, was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah, on May 13, 2010, as Entry No. 2472352.

A. The Amendment and Correction of the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**First Amendment**"), dated January 3, 2011, was executed by the Association and was recorded in the Office of the Recorder of Weber County, Utah, on January 4, 2011, as Entry No. 2509837.

B. The Second Amendment of the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial (the "**Second Amendment**"), dated

August 24, 2011, was executed by the Association and was recorded in the Office of the Recorder of Weber County, Utah on August 24, 2011, as Entry No. 2538565.

C. The Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment and by the Second Amendment, pertains to and affects that certain real property that is defined in the Declaration as the "**Property**" located in Weber County, Utah, which Property is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

D. The Midland Square Commercial Plat "A" (the "**Original Plat**") was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on July 22, 2009 as Entry No. 2425488.

E. The Midland Square Commercial Plat "A" 1st Amendment (the "**First Amended Plat**") was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on December 23, 2010 as Entry No. 2508344.

F. The Midland Square Commercial Plat "A" Second Amended (the "**Second Amended Plat**") was executed by the Declarant and was recorded in the Office of the Recorder of Weber County, Utah on August 10, 2011 as Entry No. 2537050.

G. The Original Plat provided for the creation of eight (8) Lots within the Development identified as Lots 1 through 8, inclusive. The First Amended Plat caused the elimination of Lot 4 and the replacement of Lot 4 with two new Lots identified as Lot 9 and Lot 10. The Second Amended Plat caused the elimination of Lot 1 and the replacement of Lot 1 with two new Lots identified as Lot 11 and Lot 12. Following the recording of the Second Amended Plat, the total number of Lots within the Development was ten (10).

H. Capitalized terms that are defined in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment and by the Second Amendment, shall have the same meaning when used in this Third Amendment, unless otherwise expressly provided herein. This Third Amendment was approved by the Declarant and by a vote of the Owners within the Development who collectively hold at least sixty percent (60%) of the thirty (30) outstanding votes of the Association, as evidenced by the written consent of such Owners pursuant to Section 12.02 and Section 12.03 of the Declaration.

I. Contemporaneously with the recording of this Third Amendment, the Midland Square Commercial Plat "A" Third Amended (the "**Third Amended Plat**") is being recorded in the Office of the Recorder of Weber County, Utah for the purpose of annexing and adding to the Development that certain real property located in Weber County, Utah that is more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference, which real property for all purposes is referred to herein as the "**Lots 13 and 14 Property**" and for the purpose of creating two (2) new Lots on the Lots 13 and 14 Property within the Development, which two (2) new Lots are identified on the Third Amended Plat as Lot 13 and Lot 14.

J. The purpose of this Third Amendment is to authorize and approve: (1) the increase in the size of the Development by annexing and adding to the Development the Lots 13

and 14 Property, and (2) the creation of two (2) new Lots within the Development that are identified on the Third Amended Plat as Lot 13 and Lot 14.

AMENDMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, Declarant, the Association and the Lots 13 and 14 Property Owner hereby execute this Third Amendment and hereby covenant and agree as follows:

1. Recitals and Exhibits. The Recitals set forth above and the Exhibits attached to this Third Amendment are each incorporated into the body of this Third Amendment as if set forth in full herein.

2. Third Amendment to the Declaration. This Third Amendment constitutes an amendment to the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment and by the Second Amendment. In the event of any conflict or inconsistency between the terms of this Third Amendment and the terms of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment and by the Second Amendment, then the terms of this Third Amendment shall govern and control.

3. Amendment to the Plat. Declarant, the Association, on behalf of all of the Owners of the Association, and the Lots 13 and 14 Property Owner hereby consent to and approve the Third Amended Plat for the Development, which is entitled Midland Square Commercial Plat "A" Third Amended, and which is being recorded contemporaneously with this Third Amendment for the purpose of annexing and adding to the Development for all purposes the Lots 13 and 14 Property and for the purpose of creating on the Lots 13 and 14 Property two (2) new Lots identified as Lot 13 and Lot 14, which Lot 13 and Lot 14 shall be a part of the Development for all purposes. Effective as of the recording of this Third Amendment, the term "**Plat**" as used in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment, shall mean the Original Plat, as subsequently amended by the First Amended Plat, by the Second Amended Plat and by the Third Amended Plat, which Third Amended Plat is being recorded contemporaneously with this Third Amendment in the Office of the Recorder of Weber County, Utah.

4. Submission of the Lots 13 and 14 Property to the Original Declaration. Declarant, the Association and the Lots 13 and 14 Property Owner hereby covenant and declare that the Lots 13 and 14 Property and Lot 13 and Lot 14 shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment. Commencing on the Effective Date of this Third Amendment, the term "**Property**," as used in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment, is hereby amended to mean and to consist of the real property described in Exhibit "C" attached hereto and incorporated herein by this reference, and the owner of Lot 13 and the owner of Lot 14 shall for all purposes be deemed to be an "**Owner**" and a "**Member**" of the Association,

as such terms are defined in the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment.

5. Amendment to Section 3.04. Section 3.04 of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, and by the Second Amendment, is hereby amended and restated in its entirety to read as follows:

3.04 Division Into Lots. The Development is hereby divided into twelve (12) Lots as set forth and described on the Plat, along with any amended Plat, with each Lot having appurtenant and proportionate rights and easements of use and enjoyment in and to the Common Maintenance Areas, as well as appurtenant and proportionate obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

6. Amendment to Section 7.04. Section 7.04 of the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, and by the Second Amendment, is hereby amended and restated in its entirety to read as follows:

7.04 Votes. The number of votes appurtenant to each respective Lot shall be established according to the following principles. Each Lot will have one (1) vote, plus one (1) additional vote for each acre, or fraction thereof, contained in the Lot. Based on the foregoing principles, each Lot will have the following votes:

Lot 2	3 votes
Lot 3	2 votes
Lot 5	3 votes
Lot 6	2 votes
Lot 7	8 votes
Lot 8	4 votes
Lot 9	2 votes
Lot 10	2 votes
Lot 11	2 votes
Lot 12	2 votes
Lot 13	3 votes
Lot 14	3 votes

7. No Other Changes. Except as expressly set forth herein, the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment, shall remain in all other respects unmodified and in full force and effect. Commencing as of the Effective Date of this Third Amendment, the Original Declaration, as corrected and amended by the Corrected Declaration, by the First Amendment, by the Second Amendment and by this Third Amendment, shall be defined and referred to as the "Declaration."

8. Certification of Owner Approval of this Third Amendment. The Association hereby represents and certifies that the execution and recording of this Third Amendment have been approved by the Owners of the Development who collectively hold 73.33% of the total outstanding votes in the Association, as evidenced by the written consent of such Owners, which written consents are located and maintained in the records of the Association.

IN WITNESS WHEREOF, Declarant, the Association, and the Lots 13 and 14 Property Owner have caused this Third Amendment to be executed by persons duly authorized to execute the same as of the Effective Date.

ALL AMERICAN INVESTMENTS VI, LLC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Date: _____

SBH MIDLAND MARKET PLACE, LC,
a Utah limited liability company

By: Eldon V. Hawke
Name: Eldon V. Hawke
Title: Managing Member
Date: 3/21/2020

MIDLAND SQUARE OWNERS ASSOCIATION,
INC., a Utah non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____

8. Certification of Owner Approval of this Third Amendment. The Association hereby represents and certifies that the execution and recording of this Third Amendment have been approved by the Owners of the Development who collectively hold 73.33% of the total outstanding votes in the Association, as evidenced by the written consent of such Owners, which written consents are located and maintained in the records of the Association.

IN WITNESS WHEREOF, Declarant, the Association, and the Lots 13 and 14 Property Owner have caused this Third Amendment to be executed by persons duly authorized to execute the same as of the Effective Date.

ALL AMERICAN INVESTMENTS VI, LLC,
a Utah limited liability company

By: 
 Name: Reed S. Swenson
 Title: Manager
 Date: 04/01/2020

SBH MIDLAND MARKET PLACE, LC,
a Utah limited liability company

By: _____
 Name: _____
 Title: _____
 Date: _____

MIDLAND SQUARE OWNERS ASSOCIATION,
INC., a Utah non-profit corporation

By: 
 Name: Reed S. Swenson
 Title: Manager
 Date: 04/01/2020

HSW HOLDINGS I LLC,
a Utah limited liability company

By: Julie A. Hamm
Name: KIMBALL C. SHILL
Title: MEMBER
Date: 2/11/20

DOUGLAS JOHN HAMMOND, JR.

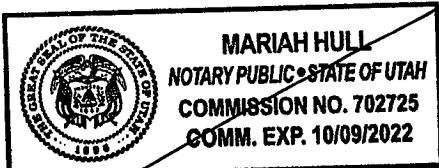
Julie A. Hamm
JULIE A. HAMMOND

Kimball C. Shill
KIMBALL C. SHILL

Amber Shill
AMBER SHILL

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE) *MH*

2020 The foregoing instrument was acknowledged before me this 11 day of FEBRUARY,
2019, by DOUGLAS JOHN HAMMOND JR., JULIE A. HAMMOND, KIMBALL C. SHILL, AMBER SHILL in such person's
capacity as the ASSOCIATION MEMBERS of All American Investments VI, LLC, a Utah
limited liability company.



Notary Public

HSW HOLDINGS I LLC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Date: _____

DOUGLAS JOHN HAMMOND, JR.

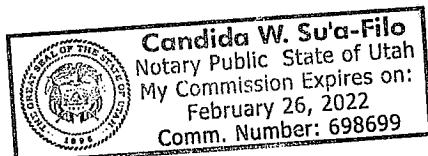
JULIE A. HAMMOND

KIMBALL C. SHILL

AMBER SHILL

STATE OF UTAH)
COUNTY OF Utah) : ss.

The foregoing instrument was acknowledged before me this 1st day of April,
2019, by Reed S. Swenson in such person's
capacity as the Manager of All American Investments VI, LLC, a Utah
limited liability company.



Candida W. Su'a-Filo
NOTARY PUBLIC

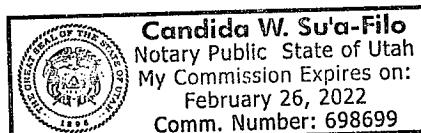
STATE OF UTAH)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by _____ in such person's capacity as the _____ of SBH Midland Market Place, LC, a Utah limited liability company.

NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 1st day of April, 2019, by Reed S. Swineur in such person's capacity as the Manager of Midland Square Owners Association, Inc., a Utah non-profit corporation.

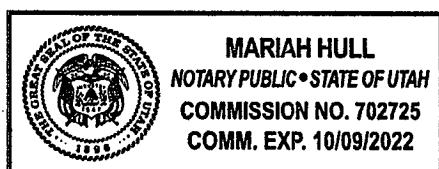


Candida W. Su'a-Filo

NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 11 day of FEBRUARY, 2019, by Douglas John Hammond JR, Julie A. Hammond, Kimball C. Hull, Amber Hull in such person's capacity as the ASSOCIATION MEMBERS of HSW Holdings 1 LLC, a Utah limited liability company.

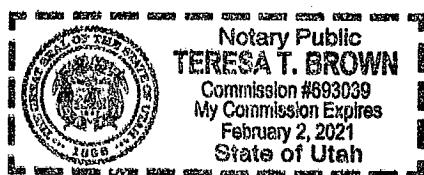


Mariah Hull

NOTARY PUBLIC

STATE OF UTAH)
COUNTY OF Sevier) : ss.

3/2020 The foregoing instrument was acknowledged before me this 2 day of March,
2019, by Eldon V. Heacock in such person's
capacity as the Managing Member of SBH Midland Market Place, LC, a Utah
limited liability company.



Eldon V. Heacock
NOTARY PUBLIC

STATE OF UTAH)
COUNTY OF _____) : ss.

The foregoing instrument was acknowledged before me this _____ day of _____,
2019, by _____ in such person's
capacity as the _____ of Midland Square Owners Association, Inc.,
a Utah non-profit corporation.

NOTARY PUBLIC

STATE OF UTAH)
COUNTY OF _____) : ss.

The foregoing instrument was acknowledged before me this _____ day of _____,
2019, by _____ in such person's
capacity as the _____ of HSW Holdings 1 LLC, a Utah limited
liability company.

NOTARY PUBLIC

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Douglas John Hammond, Jr.

NOTARY PUBLIC

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Julie A. Hammond.

NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Kimball C. Shill.

NOTARY PUBLIC

STATE OF UTAH)
: SS.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Amber Shill.

NOTARY PUBLIC

EXHIBIT "A"
TO
THIRD AMENDMENT
OF THE
DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL

Legal Description of the Real Property that is Subject to the Original Declaration as
Corrected and Amended by the Corrected Declaration,
by the First Amendment and by the Second Amendment

Lots 2, 3, 5, 6, 7 and 8 as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2425488, Book 70, Page 22 contained within **Plat "A" of Midland Square Commercial**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425489, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-511-0002, 08-511-0009, 08-511-0005, 08-511-0006,
08-511-0007, 08-511-0008

Lots 9 and 10, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2508344, Book 71, Page 86, contained within **Midland Square Commercial Plat "A" – 1st Amendment**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-519-0001, 08-519-0002

Lots 11 and 12, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2537050, Book 72, Page 25, contained within **Midland Square Commercial Plat "A" Second Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Part of Parcel Nos.: 08-511-0008, 08-511-0015, 08-511-0016, 08-511-0017

EXHIBIT "B"
TO
THIRD AMENDMENT
OF THE
DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL

Legal Description of the Lots 13 and 14 Property

Beginning at a point along the Southeasterly right of way line of Midland Drive (SR-108), said point being North 89 deg. 25'05" West along the section line 1378.23 feet and South 742.49 feet from the Northeast corner of Section 10, Township 5 North, Range 2 West, Salt Lake Base and Meridian, and running thence South 89 deg. 25'05" East 487.64 feet; thence South 00 deg. 34'32" West 319.12 feet; thence North 88 deg. 43'05" West 356.92 feet; thence North 01 deg. 19'25" East 8.54 feet; thence North 89 deg. 25'05" West 14.78 feet; thence North 00 deg. 34'55" East 115.0 feet; thence North 88 deg. 58'05" West 264.35 feet to the Southeasterly right of way line of Midland Drive (SR-108); thence along said right of way the following two courses: 1) along the arc of a 10110.00 foot radius curve to the right a distance of 76.54 feet (curve having a central angle of 00 deg. 26'02" and a long chord bears North 38 deg. 48'56" East 76.54 feet) and 2) North 38 deg. 35'55" East 163.77 feet to the point of beginning.

(Said description being the plat of Midland Square Commercial Plat "A" Third Amendment)

Parcel Nos.: 08-623-0001 and 08-623-0002

EXHIBIT "C"
TO
THIRD AMENDMENT
OF THE
DECLARATION OF PROTECTIVE EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS
OF MIDLAND SQUARE COMMERCIAL

Legal Description of the Real Property that is Subject to the
Original Declaration, as Corrected and Amended by the Corrected Declaration,
by the First Amendment, by the Second Amendment and by this Third Amendment

Lots 1, 2, 3, 5, 6, 7 and 8 as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2425488, Book 70, Page 22 contained within **Plat "A" of Midland Square Commercial**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425489, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-511-0001, 08-511-0002, 08-511-0009, 08-511-0005, 08-511-0006,
08-511-0007, 08-511-0008

Lots 9 and 10, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2508344, Book 71, Page 86, contained within **Midland Square Commercial Plat "A" – 1st Amendment**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-519-0001, 08-519-0002

Lots 11 and 12, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No. 2537050, Book 72, Page 25, contained within **Midland Square Commercial Plat "A" Second Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Parcel Nos.: 08-524-0001, 08-524-0002

Lots 13 and 14, as identified in the Plat recorded in the Office of the Weber County Recorder as Entry No 3001962, Book 86, Page 25, contained within **Midland Square Commercial Plat "A" Third Amended**, Weber County, Utah.

Subject to the Declaration of Protective Easements, Covenants, Conditions and Restrictions of Midland Square Commercial, recorded in the Office of the Weber County Recorder as Entry No. 2425289, (as said Declaration may have heretofore been amended or supplemented).

Together with a right and easement of use and enjoyment in and to the Common Maintenance Areas described, and as provided for, in said Declaration of Protective Easements, Covenants, Conditions and Restrictions (as said Declaration may have heretofore been amended or supplemented).

Plat of Parcel Numbers 08-511-0008, 08-511-0015, 08-511-0016, 08-511-0017
Parcel No.: 08-623-0001 and 08-623-0002

5
S.R.