

Upon recording, return to:

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\_\_\_\_\_  
\_\_\_\_\_

Cross-Reference to Amended and Restated Declaration recorded in  
Book 6548, Page 4331, Official Records of Volusia County, Florida.

\_\_\_\_\_  
THIS SPACE FOR RECORDER'S USE  
\_\_\_\_\_

**FIRST AMENDMENT  
TO  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
VICTORIA GARDENS**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VICTORIA GARDENS is made this 12 day of NOVEMBER, 2013, by OK Victoria Gardens LLLP, a Delaware limited liability partnership ("**Declarant**").

WHEREAS, that certain Declaration of Covenants, Conditions, and Restrictions for Victoria Gardens, was recorded in Deed Book 4653, Page 4343, *et seq.*, of the Official Records of Volusia County, Florida (as amended and supplemented, the "**Original Declaration**"); and

WHEREAS, the Original Declaration was amended, restated, replaced, and superseded in its entirety by that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Victoria Gardens, recorded on December 23, 2010, as Instrument # 2010-230704 in Deed Book 6548, Page 4331, *et seq.*, of the Official Records of Volusia County, Florida (as amended and supplemented, the "**Declaration**"); and

WHEREAS, pursuant to the terms of Section 19.1, of the Declaration, Declarant may unilaterally amend the Declaration for any purpose during the Class "B" Control Period (as defined in the Declaration); and

WHEREAS, the Class "B" Control Period has not yet terminated; and

WHEREAS, Declarant desires to amend Section 8.13 of the Declaration in the manner provided herein;

NOW, THEREFORE, Section 8.13 of the Declaration is hereby amended by deleting such Section in its entirety and substituting the following therefor:

8.13. Association Capitalization.

As an additional funding source, the Board may establish, at any time, and collect a capitalization fee upon each transfer of title to a Lot. The fee shall be charged to the Lot purchaser/transferee (*i.e.*, Person acquiring title to the Lot) and shall be payable to the Association at the closing of the transfer. If not paid at closing, the amount due shall be secured by the Association's lien for assessments under Section 8.9 against the transferred Lot. The transferring Owner shall notify the Association's Secretary, or designee, at least seven days prior to the scheduled closing and provide the name of the purchaser/transferee, the date of title transfer, and other information the Board may reasonably require.

The Board has the sole discretion to determine the amount of the capitalization fee under this Section; provided, the fee may not exceed an amount equal to one-quarter of the annual Regular Assessment per Lot for that year. This fee shall be in addition to, not in lieu of, the annual Regular Assessment and any Neighborhood Assessment levied on the Lot and shall not be considered an advance payment of such assessments. The Association may use funds collected pursuant to this Section to cover operating and other expenses that the Association incurs pursuant to the Governing Documents.

Notwithstanding the above, no fee shall be levied under this Section 8.13 upon transfer of title to any Lot: (a) by a co-owner to any Person who was a co-owner of the Lot immediately prior to such transfer; (b) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner; (c) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the fee shall become due; (d) to an institutional lender pursuant to a mortgage or upon foreclosure of a mortgage; (e) to Declarant or any Affiliate of Declarant; (f) by Declarant or an Affiliate of Declarant to a Builder; (g) included within a bulk Lot transfer between Builders; or (h) under circumstances which the Board, in the exercise of business judgment, deems to warrant classification as an exempt transfer (*e.g.*, a transfer made solely for estate planning purposes may, but is not required to be, deemed exempt from payment of fee).

[Signature page follows]

IN WITNESS WHEREOF, the undersigned Declarant has executed this First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Victoria Gardens, the date and year first written above.

**DECLARANT:** OK VICTORIA GARDENS LLLP,  
a Delaware limited liability limited partnership

By: OK JV1 GP LLC, its general partner

By: MM  
Name: MARK BINES  
Title: AUTHORIZED SIGNOR

Witnessed By:

By: [Signature]  
Print Name: DAVID C GRUVER

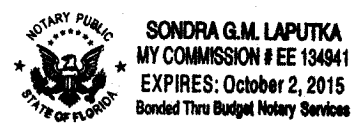
By: [Signature]  
Print Name: DEBRA MC DONOUGH

State of Florida )  
                                  ) ss  
County of Volusia)

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of November, 2013, by MARK BINES Authorized Signor of OK JV1 GP LLC, the General Partner of OK Victoria Gardens LLLP, on behalf of the company and the partnership. Said person (check one)  is personally known to me,  has produced a driver's license (issued by a state of the United States within the last five years) as identification,  produced other identification, to wit: \_\_\_\_\_.

By: [Signature]  
Name: Sandra G.M. Laputka  
Title: Notary Public [NOTARIAL SEAL]

Serial Number, if any: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



Instrument# 2013-223229 # 3  
Book : 6930  
Page : 4677  
Diane M. Matousek  
Volusia County, Clerk of Court