

F. ANN RODRIGUEZ, RECORDER  
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SEQUENCE: 20160990383  
NO. PAGES: 4  
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AMOUNT PAID: \$21.00

**CERTIFICATE OF FIFTH AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR LOTS 1  
THROUGH 140 AND COMMON AREAS A THROUGH F OF RIVERWALK ("CC&Rs")**

THIS FIFTH AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Lots 1 through 140 and Common Areas A through F of Riverwalk (the "Declaration") is made by the owners (the "Owners") of that certain real property as described in the Declaration.

**RECITALS**

**WHEREAS**, the Declaration was recorded on January 6, 2006, in Sequence 20060040480, office of the Pima County Recorder; and

**WHEREAS**, the Declaration was amended by instruments recorded as follows: (A) First Amendment to the Declaration, recorded on March 2, 2006, in Sequence 20060410362, office of the Pima County Recorder; (B) Second Amendment to the Declaration, recorded on July 22, 2009, in Sequence 200914006663, office of the Pima County Recorder; (C) Third Amendment to the Declaration, recorded on June 2, 2010, in Sequence 20101050652, office of the Pima County Recorder; and (D) Fourth Amendment to the Declaration, recorded on July 6, 2011, in Sequence 20111870177, office of the Pima County Recorder;

**WHEREAS**, pursuant to Section 11.4 of the Declaration, the Owners desire to modify and amend the Declaration to reflect certain changes, as are more particularly set forth below.

**NOW, THEREFORE**, pursuant to Section 11.4 of the Declaration, the Declaration hereby is further amended as follows with the approval of Owners holding not less than 2/3rds of the total votes in the Association.

**I.**

**Re: Residences are subject to one Assessment and eligible to have one vote in Association matters, even if the Residence occupies one Lot and part of another Lot:**

1.1. **DELETE** Section 1.37, **definition of "Residence,"** and **replace with:** "Residence" means any building or portion of a building, whether situated upon one or more Lots, and designed and intended for independent ownership and for use and occupancy as a residence.

1.2. **AMEND** Section 4.11, **Further Subdivision, Property Restrictions, Rezoning and Timeshares,** to add the following first sentence: "If a Residence is built on a Lot and a portion of an adjacent Lot, the property occupied by the Residence will be treated as one Lot for

Assessment and voting purposes. Other than this, without the prior written approval of the Design Review Committee. . . . (the remainder of this Section remains unchanged).

1.3. DELETE SECTION 6.7, and replace with: 6.7 Membership and Voting Rights. Each member shall be entitled to one vote for each Lot owned (see Section 4.11 for treatment of a Residence that is built on a Lot and a portion of an adjacent Lot). If a Lot is owned by more than one Person, only one vote may be cast for such Lot.

## II.

**Re: All Residences pay uniform Assessments and Attached Residences pay an additional maintenance assessment to cover the additional services received from the Association:**

DELETE SECTION 7.2 Regular Assessments in its entirety, and replaced with:

### **7.2 Regular and Attached Residence Assessments.**

7.2.1. Annual Budget. At least thirty (30) days prior to the commencement of each Assessment Period, the Board shall prepare and adopt a budget of the estimated Common Expenses, excluding estimated expenses for maintenance and repair of Attached Residences as set forth in Section 8.1(B), and including any contribution to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such Common Expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments, and the amount to be generated through Regular and Special Assessments against the Lots.

7.2.2. Uniform Assessments. All Assessments, except Attached Residence Assessments, shall be charged equally against each Lot with the understanding that Detached Residences that occupy more than one Lot will still be treated as one Lot for Assessment purposes (see revised Section 4.11).

7.2.3. Attached Residence Assessments. At least thirty (30) days prior to the commencement of each Assessment Period defined in Section 7.4, the Board shall prepare and adopt a budget of the estimated expenses for Attached Residence maintenance that are expected to be incurred to meet the Association's responsibilities as set forth in Section 8.1(B) and including a reasonable contribution to a reserve fund for future Attached Residence maintenance. The Attached Residence Assessment for an Assessment Period cannot exceed 10% of the Attached Residence Assessment for the preceding Assessment Period.

7.2.4. Notice to Owners. At least thirty (30) days prior to the beginning of each Assessment Period, the Board shall give notice of the Regular

Assessment to each Owner and shall give notice of the Attached Residence Assessment to each Owner of an Attached Residence. The failure to give such notice shall not affect the validity of the Regular Assessment or Attached Residence Assessment established by the Board, nor relieve any Owner from his/her obligation to pay the Regular Assessment or Attached Residence Assessment. If the Board fails to adopt budget(s) for any Assessment Period, then until and unless such budget(s) are adopted and a Regular Assessment and Attached Resident Assessment are levied by the Board for such Assessment Period, the amount of the Regular Assessment and Attached Residence Assessment for the immediately preceding Assessment Period shall remain in effect.


7.2.5. Additional Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses or Attached Residence expenses for any reason, including, without limitation, nonpayment of Assessments by any of the Members, the Board may amend the budget and increase the Regular Assessment or Attached Residence Assessment for that Assessment Period and the revised Regular Assessment shall commence on the date designated by the Board.

III.

Re: **AMENDMENT OF CC&Rs.** DELETE the first Paragraph of Section 11.4 and replace with: "This Declaration may be amended at any time by the affirmative vote or written consent of Owners holding not less than fifty-one percent (51%) of the total votes in the Association."

IN WITNESS WHEREOF, the undersigned certify that the foregoing amendments to the Declaration were approved by Owners holding not less than 2/3rds of the total votes in the Association in an election that was finalized on July 31, 2015.

RIVERWALK TUCSON HOMEOWNERS ASSOCIATION,  
an Arizona non-profit corporation

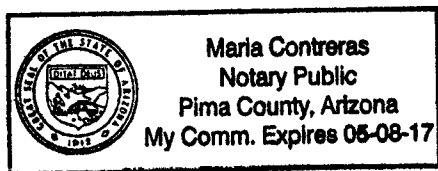
By:   
Its: President

ATTEST:

By: [Signature]  
Its: Secretary

STATE OF ARIZONA )  
: ss:  
County of Pima )

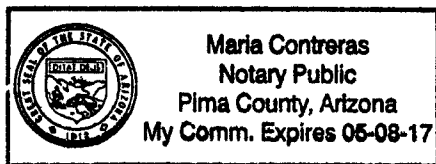
The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of August, 2015, by Ed Schwitzky, President, of RIVERWALK TUCSON ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.



[Signature]  
Notary Public

STATE OF ARIZONA )  
: ss:  
County of Pima )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of August, 2015, by Russell Varineau, Secretary, of RIVERWALK TUCSON ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.



[Signature]  
Notary Public