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 MARTHA O. HAYNIE, COMPTROLLER  
 ORANGE COUNTY, FL  
 09/25/2006 09:11:45 AM  
 REC FEE 78.00

**PREPARED BY AND RETURN TO:**

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**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR LAKE SAWYER SOUTH**

INSTR 20060690954 OR BK 08924 PG 1957 PGS=8 RECD 10/19/2006 09:59:10 AM  
 MARTHA O. HAYNIE, COMPTROLLER, ORANGE COUNTY  
 REC FEE 78.00

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR LAKE SAWYER SOUTH (this "**Amendment**") is made by ASHTON ORLANDO RESIDENTIAL, L.L.C., a Nevada limited liability company ("**Ashton**") and joined by Lake Sawyer South Community Association, Inc., a Florida corporation not for profit (the "**Association**").

RECITALS

A. Declarant, by virtue of that certain Assignment of Declarant's Rights and Obligations under Declaration of Covenants, Conditions, Easements and Restrictions for Lake Sawyer South ("**Assignment**"), recorded in Official Records Book 8052, Page 4714, Public Records of Orange County, Florida, is the "**Declarant**" under that certain Declaration of Covenants, Conditions, Easements and Restrictions for Lake Sawyer South, dated June 30, 2004, and recorded July 1, 2004, in Official Records Book 7509, Page 4385, and as amended by that certain Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Lake Sawyer South, recorded November 24, 2004, in Official Records Book 7715, Page 4306, and as amended by that certain Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Lake Sawyer South RE: Enclave at Berkshire Park, recorded June 9, 2006, in Official Records Book 8690, Page 3275, each of the Public Records of Orange County, Florida (collectively, the "**Declaration**").

B. Article XVII, Section 3 of the Declaration provides that, prior to the Turnover meeting, Ashton, as Declarant, shall have the right to amend the Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. The Turnover meeting has not yet occurred.

C. Article XVII, Section 3 of the Declaration provides that, after the Turnover meeting, Ashton, as Declarant, shall continue to have the right to amend all or any portions of the Declaration necessary to comply with any obligations or requirements imposed on Declarant with the development of the Property, as that term is defined in the Declaration, by any applicable governmental authority. Orange County, an applicable governmental authority, has required certain provisions contained in this Amendment pursuant to the development of the Property.

This document is being re-recorded to include Exhibit "D" which was inadvertently omitted as an attachment at the time of original recording.

NOW THEREFORE, Ashton hereby declares that every portion of the Property is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

Words in the text which are lined through (—) indicate deletions from the present text; words in the text which are double-underlined indicate additions to the present text.

1. The foregoing Recitals are true and correct and are incorporated into and form a part of this Amendment.
2. In the event that there is a conflict between this Amendment and the Declaration, this Amendment shall control. Whenever possible, this Amendment and the Declaration shall be construed as a single document. Except as modified hereby, the Declaration shall remain in full force and effect.
3. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.
4. Article VI, Section 3 is hereby amended as follows:

Section 3. Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, as well as the maintenance obligations of the ~~e~~Owners set forth in Article X, Section 14, shall be exclusively responsible for the management, operation and control of the Common Property and all improvements thereon (including, without limitation, furnishings and equipment related thereto, ponds, recreational areas, parks, open spaces and common landscaped areas) and shall keep the Common Property in good, clean, attractive, and sanitary condition, order, repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard. The Association shall also be exclusively responsible for the maintenance of landscaping within any public rights-of-way located in the Property. Except as otherwise specifically provided for herein, the Association shall have no responsibility for the public rights-of-way including, without limitation, the maintenance, repair or replacement of same.

5. Article VII, Section 7 is hereby amended as follows:

Section 7. Stormwater Easements. There is hereby created, declared and reserved for the benefit of Declarant, the County, the Association and all Owners a non-exclusive easement for stormwater management, collection, retention, detention and drainage under, over, upon and within all portions of the Property included within the Surface Water Management System, including, but not limited to, all drainage easements, ponds and tracts shown on any plat of the Property, together with an easement and license in favor of the Declarant, the County, the

SFWMD and the Association only to enter upon such areas, and as necessary any other portions of the Property adjacent thereto, for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing any and all stormwater drainage systems, improvements and facilities including, but not necessarily limited to, pipes, culverts, structures, berms, swales and retaining walls, from time to time located therein or thereon consistent with the plans for the Surface Water Management System. Additionally, Declarant, for the benefit of itself, the County, the SFWMD, the Association and all Owners, hereby reserves easements over any and all other portions of the Property as may be reasonably required from time to time in order to provide stormwater drainage to all or any portions of the Property; provided, however, that any such additional drainage easements shall not unreasonably interfere with the use and enjoyment by any Owners of the particular Residential Property. The foregoing easements are sometimes hereinafter referred to as the "Stormwater Easements."

The Declarant intends to construct berms, pipes, culverts, structures and drainage swales within portions of the Stormwater Easements for the purpose of managing and containing the flow of surface water, if any. Each Owner, including builders, shall be responsible for the maintenance, operation and repair of the berms, pipes, culverts, structures and drainage swales on their respective Residential Property. Likewise, the Association shall be responsible for the maintenance, operation and repair of the berms, pipes, culverts, structures and drainage swales that are not located on Residential Property (e.g. within the Common Property). Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the berms, pipes, culverts, structures and drainage swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SFWMD. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the berms, pipes, culverts, structures and drainage swales is prohibited. No alteration of the berms, pipes, culverts, structures and drainage swales shall be authorized and any damage to any berms, pipes, culverts, structures and drainage swales, whether caused by natural or human-induced phenomena, shall be repaired and the berms, pipes, culverts, structures and drainage swales returned to their former condition as soon as possible by the party (i.e. Owner or the Association) having responsibility for the maintenance of the damaged berms, pipes, culverts, structures and drainage swales.

6. Article VII, Section 12 is hereby amended as follows:

Section 12. Sidewalk/Pedestrian Trail Easements. There is hereby created, declared and reserved for the benefit of the Declarant, the Association and all Owners an easement over, within and upon all sidewalk, bike path and/or pedestrian trail easement areas as shown on

any plat of the Property, for the purpose of constructing, installing, maintaining, repairing and replacing from time to time the sidewalk/bike path/pedestrian trail system for the Property. All such benefited parties shall have a non-exclusive easement for pedestrian ingress, egress and passage over and upon any sidewalks, bike paths or pedestrian trails from time to time located, constructed, installed and maintained within said easement areas. Furthermore, the bike path easement described herein shall include, without limitation, the area described and depicted on the drawing attached hereto as Exhibit "D".

7. Article VIII, Section 8 is hereby amended as follows:

Section 8. Working Capital. For Lots sold after the date this Declaration is recorded in the Public Records of Orange County, Florida, upon acquisition of record title to a Lot by the first purchaser thereof other than (i) the Declarant and (ii) an Owner who purchases solely for the purpose of constructing a dwelling thereon for resale, and in addition to any Assessment that may be due with respect to such Lots for such year, a contribution shall be made by or on behalf of such first purchaser to the working capital of the Association in an amount equal to the greater of: (i) ~~One Five Hundred Fifty~~ No/100 Dollars (\$150.00500.00), or (ii) two-twelfths (2/12) of the amount of the Annual Assessment per Lot for the calendar year in which such acquisition occurs, which contribution is not refundable, shall be in addition to, and not in lieu of, the Annual Assessment levied on the Lot and shall not be considered an advance payment of any portion of the Annual Assessment. This amount shall be paid to the Association and shall be used for operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

8. Article X, Section 6 is hereby amended as follows:

Section 6. Restriction Against Short Term Rentals. There shall be no "short term" rentals of any dwellings, or portions thereof, on any Lot. For purposes of this Declaration, a "short term" rental shall be defined as any rental for a period of less than six ~~twelve~~ (6)12 full calendar months.

9. Article X, Section 7 is hereby amended as follows:

Section 7. Minimum Square Footage. No building shall be erected, altered, placed, or permitted to remain on any Lot other than (i) with respect to Lots approved for development of detached, single-family residences, one (1) detached, single-family residence with air conditioned living area of not less than: 1700 square feet for 50' or smaller Lots, 2000 square feet for 60' Lots and 2400 square feet for 70' Lots; and in each case a private enclosed garage for not less than two (2) nor more than three (3) cars, and (ii) with respect to Lots approved for development of attached, single-family residences, one (1) attached single-family

residence with air conditioned living area of not less than ~~1,000~~1,400 square feet and a private enclosed garage for two (2) cars; provided, however, that the ARB shall have the authority to approve variances or modifications to the aforescribed air conditioned living area requirements when circumstances such as irregular lot shape or topography or natural obstructions prevent construction upon a Lot of a single-family residence in compliance with such air conditioned living area requirements. For purposes of this Declaration, the size of a Lot shall be measured based on the width of the Lot at its front yard building setback line. Unless approved by the ARB as to use, location and architectural design, no garage, tool or storage room or other auxiliary structures may be constructed separate and apart from the residence, nor can any of the aforementioned structures be constructed prior in time to the construction of the main residence. No guest house is to be constructed on any Lot unless the location, use and architectural design is approved by the ARB.

10. Article X, Section 14 A is hereby amended as follows:

A. Except as and to extent that maintenance obligations are specifically assigned to and performed by the Association, each Owner shall maintain its Residential Property, including all landscaping and improvements, in a manner consistent with this Declaration, the rules and regulations of the Association and the Community-Wide Standard, including, but not limited to, maintaining and irrigating lawns and landscaping lying between the boundary of such Owner's Residential Property and any public right-of-way or any wall or fence; provided, however, that no Owner shall remove any trees, shrubs or other vegetation from these areas outside such Owner's Residential Property without the prior written approval of the Association.

11. The following Article X, Section 40 is hereby added to Declaration:

Section 40. Porches, Screens and Enclosures. No Owner may enclose any porches, patios, balconies or other similar improvements constructed on the front of his or her single-family residence with screening, glass or any other materials which would serve to enclose such improvements. Any porches, patios, balconies or other similar improvements to be constructed on the front of any single-family residence may not be enclosed with screening, glass or any other materials which would serve to enclose such improvements.

12. Article XVII, Section 7 is hereby amended as follows:

Section 7. MSTUs/MSBUs. In order to perform the services contemplated by this Declaration, the Association or Declarant, in conjunction with Orange County, Florida, may seek the formation of MSTUs and/or MSBUs. The MSTUs/MSBUs will have responsibilities

established in their enabling resolutions which may include, but are not limited to, construction and maintenance of roadway information signs, traffic control signs, benches, trash receptacles and other street furniture, keeping all public roadways and roadside pedestrian easements clean of windblown trash and debris, mowing, payment of electrical charges, maintenance of drainage canals, ponds and structures, maintenance of designated landscape areas and parks, payment of energy charges for street and pedestrian lighting, and other services benefitting the Property; provided further, that Declarant, or in the absence of Declarant Association, shall attempt to form and establish an MSTU or MSBU to maintain any bike, pedestrian or other trails established pursuant to this Declaration for any such trails which exceed five (5) feet in width but are less than fourteen (14) feet in width. In the event such MSTUs/MSBUs are formed, the Property will be subject to assessment for the cost of services performed within the MSTUs/MSBUs. Personnel working for or under contract with Orange County shall have the right to enter upon lands within the Property to affect the services to affect the services contemplated. Each Owner, by acquiring lands within the Property, agrees to pay each and every MSTUs/MSBUs assessment imposed upon the Owner's land in a timely manner, failing which such assessments and special charges shall be a lien upon those lands. The Association retains the right to contract with Orange County to provide the services funded by the MSTUs/MSBUs.

13. The Declaration is amended by the addition of Exhibit "D" which is attached hereto and labeled as Schedule "1."
14. This Amendment shall be a covenant running with the land.

**[SIGNATURE AND ACKNOWLEDGEMENT APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the undersigned hereunto set its hand and seal as of this 13<sup>th</sup> day of Sept., 2006.

**WITNESSES:**

ASHTON ORLANDO RESIDENTIAL, L.L.C., a Nevada limited liability company

Bryan Potts  
Print Name: Bryan Potts

Nathan Gonzalez  
Print Name: Nathan Gonzalez

By: [Signature]  
Name: John Remy  
Title: DIVISION PRESIDENT

[Seal]

STATE OF FLORIDA )  
COUNTY OF Orange ) SS.:

The foregoing was acknowledged before me this 13<sup>th</sup> day of September, 2006 by John Remy as Division President of ASHTON ORLANDO RESIDENTIAL, L.L.C., a Nevada limited liability company, on behalf of the limited partnership, who is personally known to me or who has produced as identification.

[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print name: Hope Y. Ligon

My Commission Expires: \_\_\_\_\_



**JOINER**

**LAKE SAWYER SOUTH COMMUNITY ASSOCIATION, INC.**

LAKE SAWYER SOUTH COMMUNITY ASSOCIATION, INC. (the "**Association**") does hereby join in this Amendment to the Declaration of Covenants, Conditions, Easements and Restrictions for Lake Sawyer South (the "**Amendment**"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Amendment as Association has no right to approve the Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 13<sup>th</sup> day of Sept, 2006.

**WITNESSES:**

**LAKE SAWYER SOUTH COMMUNITY ASSOCIATION, INC.,**  
a Florida corporation not for profit

Bryan Potts  
Print Name: Bryan Potts

Nathan Gonzalez  
Print Name: Nathan Gonzalez

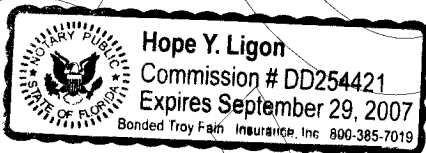
By: [Signature]  
Name: JOHN RENEY  
Title: DIVISION PRESIDENT

(CORPORATE SEAL)

STATE OF FLORIDA )  
                                  ) SS.:  
COUNTY OF Orange )

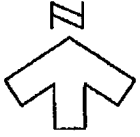
The foregoing was acknowledged before me this 13<sup>th</sup> day of September, 2006 by John Reney as Division President of LAKE SAWYER SOUTH COMMUNITY ASSOCIATION, INC., a Florida corporation not for profit, on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print name: Hope Y. Ligon  
My Commission Expires: \_\_\_\_\_



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Schedule "1"

Exhibit "D"

OVERSTREET ROAD

