

JO CO KS BK:201706 PG:010271  
20170628-0010271 6/28/2017  
Pages: 5 F: \$74.00 2:26 PM  
Register of Deeds T20170036092

---

Space above reserved for Register of Deeds

**FOURTH AMENDMENT TO  
AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS AND  
HOMES ASSOCIATION DECLARATION  
(CANYON CREEK)**

**THIS FOURTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND HOMES ASSOCIATION DECLARATION (CANYON CREEK)** is made as of the 28<sup>th</sup> day of June, 2017, by **CANYON CREEK REAL PROPERTY HOLDINGS, LLC**, a Kansas limited liability company (the "**Developer**"), whose address is 13626 West 87<sup>th</sup> Street Parkway, Lenexa, Kansas 66215-4509.

**RECITALS:**

A. **CANYON CREEK DEVELOPMENT, L.L.C.**, a Kansas limited liability company as the Developer ("Original Developer") executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "**CANYON CREEK BY THE PARK**," which such plat includes the following described lots and tracts:

Lots 1 through 35, and Tracts A through D, inclusive, **CANYON CREEK BY THE PARK, FIRST PLAT**, a subdivision in the City of Lenexa, Johnson County, Kansas

B. The Original Developer executed and filed the following Declaration of Restrictions which affected Canyon Creek by the Park:

Canyon Creek by the Park Declaration of Restrictions, recorded with the Register of Deeds of Johnson County, Kansas on March 9, 2006, in Book 200602 at Page 002975 (the "**Original Declaration of Restrictions for Canyon Creek by the Park**");

C. The Original Developer also executed and filed the following Homes Association Declaration which affected Canyon Creek by the Park:

Canyon Creek Area Homes Association Declaration, recorded with the Register of Deeds of Johnson County, Kansas on March 9, 2006, in Book 200602 at Page 002975 (the "**Original Homes Association Declaration**");

D. The Original Developer executed and filed with the Register of Deeds of Johnson County, Kansas, a plat of the subdivision known as "**CANYON CREEK BY THE LAKE**," which such plat includes the following described lots and tracts:

Lots 1 through 18, and Lots 20 through 50, Tracts A and C through E, inclusive, CANYON CREEK BY THE LAKE, FIRST PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas

E. The Original Developer executed and filed the following Declaration of Restrictions which affected Canyon Creek by the Lake:

Canyon Creek by the Lake Declaration of Restrictions, recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2007, in Book 200706 at Page 010291 (the "**Original Declaration of Restrictions for Canyon Creek by the Lake**").

F. The Original Developer amended the Original Homes Association Declaration by a First Amendment Canyon Creek Area Homes Association Declaration (the "**First Amendment**") recorded with the Register of Deeds of Johnson County, Kansas June 28, 2007, in Book 200706 at Page 010289 which added the following described tracts and lots to the Original Homes Association Declaration:

Lots 36 through 77, and Tracts E through F, inclusive, CANYON CREEK BY THE PARK, SECOND PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas; and

Lots 1 through 18, and Lots 20 through 50, Tracts A and C through E, inclusive, CANYON CREEK BY THE LAKE, FIRST PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas

G. The Original Declaration and the First Amendment were amended and restated in their entirety by the Original Developer pursuant to an Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) (the "**Declaration**") dated as of the 21<sup>st</sup> day of June, 2012, and recorded with the Register of Deeds of Johnson County, Kansas on June 25, 2012, in Book 201206 at Page 0008341;

H. The Original Developer assigned all of its rights, benefits, powers, reservations, privileges, duties and responsibilities reserved or granted to it as the Original Developer under the Declaration to **CANYON CREEK REAL PROPERTY HOLDINGS, L.L.C.**, a Kansas limited liability company, the Developer named herein, pursuant to the right to do so under the Declaration, by virtue of an Assignment of Developer's Rights dated the 21<sup>st</sup> day of June, 2012,

recorded with the Register of Deeds of Johnson County, Kansas on June 28, 2012, in Book 201206 at Page 010251;

I. The Declaration was amended pursuant to a First Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 9th day of January, 2014, and recorded with the Register of Deeds of Johnson County, Kansas on January 13, 2014, in Book 201401 at Page 002685 (the "**First Amendment to Restated Declaration**");

J. The purpose of the First Amendment to Restated Declaration was to add additional land to the Neighborhood, create a landscape easement and add additional tracts to the Open Spaces and Common Facilities ("First Amendment Additional Land"), all of which was owned by Developer, and described as;

Lot 19 and 51 through 72, and Tracts A and B, inclusive, CANYON CREEK BY THE LAKE, SECOND PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 6, 2013, in Book 201311 at Page 001400; and

Lots 73 through 90, inclusive, and Tract E, CANYON CREEK BY THE LAKE, THIRD PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 22, 2013, in Book 201311 at Page 006281.

K. The Declaration was further amended pursuant to a Second Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 30<sup>th</sup> day of June, 2014, and recorded with the Register of Deeds of Johnson County, Kansas on July 1, 2014, in Book 201407 at Page 000328 (the "Second Amendment");

L. The purpose of the Second Amendment was to make certain amendments as provided therein and to add additional land to the Neighborhood ("Second Amendment Additional Land"), all of which was owned by Developer, and described as:

Lot 91 through 129, inclusive, and Tracts D and F, CANYON CREEK BY THE LAKE FOURTH PLAT, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on June 6, 2014, in Book 201406 at Page 006865.

M. The Declaration was further amended pursuant to a Third Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) dated as of the 12th day of January, 2016, and recorded with the Register of Deeds of Johnson County, Kansas on January 14, 2016, in Book 201601 at Page 002678 (the "Third Amendment"), which added additional land, Open Spaces and Common Facilities to the Neighborhood, and replaced the Building Standards and Requirements; and the additional land which was the subject of the Third Amendment is described as:

Lot 1 through 13, inclusive, and Tracts A, B and C, FINAL PLAT OF CANYON CREEK SHORES, a subdivision in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on January 8, 2016, in Book 201601 at Page 001280.

N. Lots 49 and 50 of CANYON CREEK BY THE PARK, SECOND PLAT, were consolidated into a single Lot 49 by virtue of the FINAL PLAT OF CANYON CREEK BY THE PARK, THIRD PLAT, A Replat of Lots 49 and 50, "CANYON CREEK BY THE PARK, SECOND PLAT" in the City of Lenexa, Johnson County, Kansas, recorded with the Register of Deeds of Johnson County, Kansas on November 17, 2016, in Book 201611 at Page 006585.

O. Section 13.2 of the Declaration as revised provides that the Developer, prior to the Turnover Date (as defined in the Declaration) shall have the sole and exclusive right, power and authority to amend, modify, revise or add to any of the terms of this Declaration (as from time to time amended, modified, revised or supplemented) without the approval of the Board or members of the Association or the approval of any Builder, other Owner or other party, by a written instrument setting forth the entire amendment, which shall become effective upon its recording with the Register of Deeds;

P. The Turnover Date has not occurred;

Q. The Developer desires to amend the Declaration to provide a limited license for owners of residences and their invitees in Canyon Creek Point, First Plat and Canyon Creek, Second Plat (hereafter the "Canyon Creek Point Residents"); and

R. In order to accomplish the foregoing, Developer desires to amend the Declaration, as set forth herein.

NOW, THEREFORE, Developer hereby declares that the Declaration as amended is supplemented and amended as set forth herein.

1. The Canyon Creek Point Residents are hereby granted an irrevocable license for use of the pool and appurtenant recreational facilities in the Neighborhood, including the restrooms, parking lot, playground, basketball court and play field (the pool and appurtenant recreational facilities are collectively referred to hereafter as the "Facilities"), subject to the terms and conditions stated herein. In order for a Canyon Creek Point Resident to utilize such license, such Canyon Creek Point Resident must pay an annual fee of \$250.00 per year for the household (consisting of members of the household, full time students of the household and their invitees) to the Association. Canyon Creek Point Residents may elect annually to utilize the license. The annual fee may be increased to reflect actual increases in costs of maintaining and operating the Facilities, provided that the annual fee shall in no event be increased by more than five percent (5%) from one year to the next. The Association may impose reasonable rules and regulations for the users of the Facilities that apply without discrimination to both the Owners of Canyon Creek and the Canyon Creek Point Residents. The Association may also impose reasonable procedures to collect the annual fee and to administer the conditions stated herein.

2. In all other respects, the Declaration is hereby ratified, confirmed and approved.




IN WITNESS WHEREOF, Developer has executed this Third Amendment to Amended and Restated Declaration of Restrictions and Homes Association Declaration (Canyon Creek) as of the date first above written.

DEVELOPER:

**CANYON CREEK REAL PROPERTY  
HOLDINGS, LLC**

BY ITS MANAGER  
CLAY BLAIR SERVICES CORPORATION

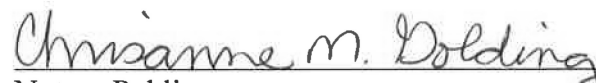
By:   
Clay C. Blair, III, President

STATE OF KANSAS

COUNTY OF JOHNSON     )

ON THIS 28 day of June, 2017, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Clay C. Blair, III, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me duly sworn, acknowledged that he is the President of Clay Blair Services Corporation, a Kansas corporation, the Manager of CANYON CREEK REAL PROPERTY HOLDINGS, LLC, a Kansas limited liability company, and that he executed such instrument on behalf of said corporation and said company by his authority as President of the Manager, and said person acknowledged the execution of said instrument to be the act and deed of said corporation for said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

  
Notary Public  
Printed Name: Chrisanne M. Golding

My Commission Expires:

8/27/2018

