

09-2024



AFTER RECORDING RETURN TO:

Joshua D. Bernstein, Esq.
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701

**FIFTH AMENDMENT TO
DECLARATION OF
THE WATERS AT HORSHOE BAY RESORT CONDOMINIUM**

A Residential Condominium Community Located in Llano County, Texas

DECLARANT: MDR WATERS, LP, a Texas limited partnership

Cross Reference to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 314-412 of the Official Public Records of Llano County, Texas, as amended by that certain First Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 446-476 of the Official Public Records of Llano County, Texas, that certain Second Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 560-562 of the Official Public Records of Llano County, Texas, that certain Third Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 650-693 of the Official Public Records of Llano County, Texas, that certain Fourth Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 694-708 of the Official Public Records of Llano County, Texas, that certain First Supplement to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 524-539 of the Official Public Records of Llano County, Texas, and that certain Second Supplement to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 607-626 of the Official Public Records of Llano County, Texas.

**FIFTH AMENDMENT TO DECLARATION OF
THE WATERS AT HORSHOE BAY RESORT CONDOMINIUM**

This Fifth Amendment to Declaration of Horseshoe Bay Resort Condominium (the "Amendment") is made by MDR WATERS, LP, a Texas limited partnership ("MDR Waters"), pursuant to the Texas Uniform Condominium Act, and is as follows:

RECITALS:

A. The Waters at Horseshoe Bay Resort Condominium, a condominium regime located in Llano County, Texas (the "Regime"), was established pursuant to that certain Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 314-412 of the Official Public Records of Llano County, Texas, as amended by that certain First Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 446-476 of the Official Public Records of Llano County, Texas, that certain Second Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 560-562 of the Official Public Records of Llano County, Texas, that certain Third Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 650-693 of the Official Public Records of Llano County, Texas, that certain Fourth Amendment to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 694-708 of the Official Public Records of Llano County, Texas, that certain First Supplement to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 524-539 of the Official Public Records of Llano County, Texas, and that certain Second Supplement to Declaration of The Waters at Horseshoe Bay Resort Condominium, recorded in Vol. 3, Pages 607-626 of the Official Public Records of Llano County, Texas (the "Declaration").

B. MDR Waters presently holds the rights of the "Declarant" under the Declaration.

C. Pursuant to *Section B.3.8.b. of Appendix B* to the Declaration, MDR Waters has the right during the "Development Period" (as defined in the Declaration) to amend the Declaration to meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.

D. The Development Period is a twenty (20) year period commencing on the date the Declaration was recorded in the Official Public Records of Llano County, Texas. The Declaration was recorded in the Official Public Records of Llano County, Texas on December 13, 2006; as such, the Development Period has not yet expired.

E. Declarant now desires to amend the Declaration to add certain provisions necessary to meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.

NOW THEREFORE, the Declaration is hereby amended as follows:

1. Restriction on Establishment of Condominium Hotel. Section B.3.3A is hereby added to Appendix B to the Declaration and provides as follows:

B.3.3A. Restriction on Establishment of Condominium Hotel. Neither Declarant nor any Owner or third-party shall be permitted to establish or operate a condominium

hotel within the Regime. For purposes of this restriction, prohibited activities include each of the following:

- a. mandatory rental pooling agreements or other agreements requiring Owners to either rent their Units or give a management firm control over the occupancy of the Unit;
- b. agreements that restrict the Owner's ability to occupy the Unit;
- c. the establishment of a central telephone or key system within the Regime; and
- d. the offering of centralized hotel-type services, including room service, registration services and daily cleaning services.

The foregoing notwithstanding, in no event shall this provision in any manner prohibit or restrict the operation of businesses within the Regime which are incidental to the residential community, including but not limited to a marina, restaurant, spa, or health club.

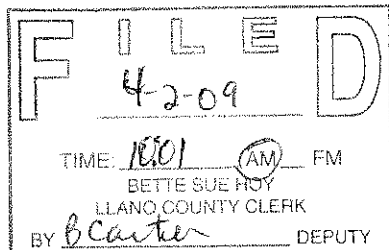
2. **Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

EXECUTED to be effective as of the 2ND day of April, 2009.

DECLARANT:

MDR WATERS, LP, a Texas limited partnership

By: MDR WATERS GP, LLC, a Texas limited liability company, its General Partner



By: [Signature]
Printed Name: Timothy B. Welsh
Title: V.P. of Development & Ops.

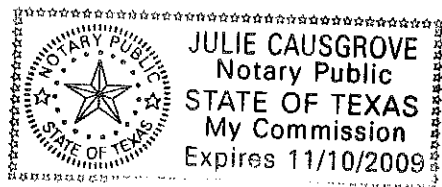
THE STATE OF TEXAS §

COUNTY OF Llano §

This instrument was acknowledged before me this 2 day of April, 2009 by Tim Welsh, V.P. Dev. + Ops. of MDR Waters GP, LLC, a Texas limited liability company, General Partner of MDR Waters, LP, a Texas limited partnership, on behalf of said limited liability company and limited partnership.

(SEAL)

[Signature]
Notary Public Signature



THE STATE OF TEXAS****COUNTY OF LLANO
I, HEREBY CERTIFY THAT THE INSTRUMENT WAS
FILED ON THE DATE AND TIME STAMPED HEREON BY
ME AND WAS DULY RECORDED IN VOL. 3
PAGE 889-892, OF THE CONDOMINIUM
RECORDS OF LLANO COUNTY, TEXAS ON THIS THE
2 DAY OF April, 20089



[Signature]

BETTE SUE HOY, COUNTY CLERK
LLANO COUNTY, TEXAS

Return to
The Waters
P.O. Box 4809
Horseshoe Bay, TX