



2013007896

MACON CO, NC FEE \$26.00
PRESENTED & RECORDED:

10-31-2013 03:22:25 PM

TODD RABY
REGISTER OF DEEDS
BY: JESSE R BIRCHARD
ASSISTANT

BK: CRP Y-35

PG: 300-304

Prepared by and Return to:
Annika M. Brock
McGuire, Wood & Bissette, PA
PO Box 3180
Asheville, NC 28802

FIFTH AMENDMENT TO
RESTRICTIVE COVENANTS FOR SHELBY PLACE

This Fifth Amendment to Restrictive Covenants for Shelby Place ("Fifth Amendment") is made this 23 day of May, 2013 by Shelby Place, Ltd, a North Carolina corporation ("Declarant"), Shelby Place Association, Inc., a North Carolina non-profit corporation, also known as Shelby Place Homeowners Association (the "Association").

WITNESSETH:

WHEREAS, Shelby Place, Ltd is the developer of Shelby Place Subdivision, located in Macon County, North Carolina; and

WHEREAS, Shelby Place, Ltd. caused to be recorded that Declaration of Restrictive Covenants for Shelby Place in Book O-14, Page 10, Macon County Registry ("Initial Declarations");

WHEREAS, Shelby Place, Ltd. caused to be recorded an Amendment to Declaration of Restrictive Covenants for Shelby Place in Book V-16, Page 69, Macon County Registry ("First Amendment"); and

WHEREAS, Shelby Place Association, Inc. caused to be recorded an Extension of the Declaration of Restrictive Covenants Shelby Place in Book L-31, Page 2552, Macon County Registry ("Second Amendment"); and

WHEREAS, Shelby Place Association, Inc. caused to be recorded an Agreement Concerning the Rights of Certain Lots and Owners Thereof Lots 60, 61, 62, 63 and 64 Located in Shelby Place, Highlands, North Carolina in Book Y-33, Page 713, Macon County Registry ("Third Amendment"); and

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WHEREAS, Shelby Place, Ltd and Shelby Place Association, Inc. caused to be recorded an Amendment to the Declaration of Restrictive Covenants for Shelby Place in Book H-34, Page 1727, Macon County Registry ("Fourth Amendment"). The Initial Declaration, the First Amendment, Second Amendment, Third Amendment and Fourth Amendment shall hereinafter be referred as the "Declarations"; and

WHEREAS, Section XII of the Initial Declaration provides that "[t]his Declaration may be amended by the Declarant's (sic) at any time until such time as the Declarant's (sic) have sold all the lots within the subdivision identified as 'Shelby Place' as recorded in Plat Cabinet #1, Slide 201, Page 5 of the Macon County Registry. After all the lots have been sold by Declarant's (sic) this Declaration may be amended by the affirmative vote of a majority of the Owners of all lots in the Development entitled to vote and by the subsequent recordation of an amendment to this Declaration duly executed by (a) the requisite number of such Owners required to effect such amendment, or, (b) by the Association, in which latter case such amendment shall have attached to it a copy of the resolution of the Board attesting to the affirmative action of the requisite number of such Owners to effect such amendment, certified by the Secretary of the association;" and

WHEREAS, as of the date of the execution of this Fifth Amendment, Declarant, Shelby Place, Ltd. owns no less than Twenty-Four (24) lots in Shelby Place Subdivision and may amend the Declarations; and

WHEREAS, Section VI of the Initial Declaration states that "[p]ursuant to the powers granted to it in its Bylaws, the Association is hereby expressly authorized and empowered to levy annual assessments against all lots in the Development;" and

WHEREAS, it is ordinary and customary for a Declarant to be charged dues and assessments for one lot in a subdivision until the last lot owned by the Declarant, or its successor in interest, is sold; and

WHEREAS, the Declarant, the Association and the Owners wish to amend the Declarations to provide that the Declarant, or its successor in interest, Sky Lake Holdings, LLC, shall be charged dues and assessments for one lot only until the last lot owned by the Declarant is sold.

NOW THEREFORE, in consideration of the premises and pursuant to the provisions of the Declarations, the Declarant, the Association and the Owners (as evidenced by the Certificate of the Secretary of the Association attached hereto reciting that the requisite number of owners have voted affirmatively to amend the Declaration as set forth herein) to hereby amend said Declaration to provide that the Declarant, Shelby Place, Ltd and/or its successor, Sky Lake Holdings, LLC, will be charged dues and assessments for one unimproved lot until such time that the last lot owned by Shelby Place, Ltd , or its successor in interest, Sky Lake Holdings, LLC, is sold, at which time Declarant, Shelby Place, Ltd and/or Sky Lake Holdings, LLC will be relieved of the obligation to pay dues and assessments, provided that, in the event that Declarant, Shelby Place, Ltd and/or Sky Lake Holdings, LLC, improves any lot or lots with a single family dwelling, then in addition to the dues and assessments equal to one unimproved lot as provided above, the Declarant, Shelby Place, Ltd and/or Sky Lake Holdings, LLC, shall be assessed for such improved lot or lots in accordance with the dues and assessments of other similar parcels.


At such time as any of Declarant's lots are conveyed to a third party, other than Declarant's successor, Sky Lake Holdings, LLC, such third party shall pay to the Association an amount equal to the dues and assessments by the Association against a single unimproved lot, or multiple lots such as the case may be, until such time as the third party improves the lot or lots, at which time the third party will pay to the Association dues and assessment as paid by owners of improved lots as set forth in said Declaration and Bylaws.

Any amendment by Association to Declaration or the Bylaws by way of alteration of this provision, other than to relieve Declarant, Shelby Place, Ltd and/or its successor, Sky Lake Holdings, LLC, of all responsibility for dues and assessments, shall require the consent of Shelby Place, Ltd and /or its successor, Sky Lake Holdings, LLC. The provisions contained in this Fifth Amendment to Restrictive Covenants for Shelby Place shall not be amended without the joinder of the Declarant, Shelby Place, Ltd, or its successor in interest, Sky Lake Holdings, LLC.

IN WITNESS WHEREOF, Declarant has caused this instrument to be signed and sealed as of the date and year first above written.

SUBMITTED BY DECLARANT:

SHELBY PLACE, Ltd,
a North Carolina corporation


By: 
Crawford Crews, President

STATE OF TEXAS
COUNTY OF HARRIS

I, a notary public of the state and county aforesaid, do hereby certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document for the purposes therein expressed: Crawford Crews, President of Shelby Place, Ltd

This the 23 day of May, 2012.


Notary Public

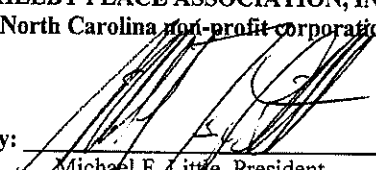
SEAL 

ASSOCIATION SIGNATURE AND NOTARY ON NEXT PAGE

IN WITNESS WHEREOF, the Association has caused this instrument to be signed and sealed as of the date and year first above written.

SUBMITTED BY THE ASSOCIATION:

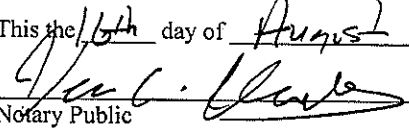
SHELBY PLACE ASSOCIATION, INC.
a North Carolina non-profit corporation

By: 
Michael F. Little, President

STATE OF NC
COUNTY OF Jackson

I, a notary public of the state and county aforesaid, do hereby certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document for the purposes therein expressed: Michael F. Little, President

This the 16th day of August 2013.


Notary Public

SEAL




SHELBY PLACE ASSOCIATION, INC.
PO BOX 1707
HIGHLANDS, NC 28741

CERTIFICATE

I, Tina Gamble, the undersigned Secretary of Shelby Place Association, Inc., do hereby certify that a vote of the owners in Shelby Place in regard to the adoption of a Fifth Amendment to Restrictive Covenants for Shelby Place was held by mail beginning June 10, 2013 and ending July 24, 2013, that a copy of the proposed Fifth Amendment was enclosed with the notice of the vote, and that affirmative votes of more than sixty-seven (67%) percent of the owners as required by Section 2-1,17(a) of the North Carolina Planned Community Act, have been received.

Montgomery, Alabama, this the 12th day of August, 2013.


Tina Gamble, Secretary
Shelby Place Association, Inc.