

THIS INSTRUMENT PREPARED BY
AND TO BE RETURNED TO:
Benjamin E. Wilson, Esq.
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**FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS, RESERVATIONS AND RESTRICTIONS
FOR
TRASONA EAST NEIGHBORHOOD AREA**

THIS FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, RESERVATIONS AND RESTRICTIONS FOR TRASONA EAST NEIGHBORHOOD AREA (this “**Amendment**”) is dated as of December 4, 2020 by THE VIERA COMPANY, a Florida corporation (“**Neighborhood Declarant**”) and TRASONA EAST NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation (the “**Neighborhood Association**”). The effective date of this Amendment shall be the date that this Amendment is recorded in the Public Records of Brevard County, Florida (the “**Effective Date**”).

RECITALS:

WHEREAS, Neighborhood Declarant is the “Neighborhood Declarant” under that certain Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona East Neighborhood Area recorded on December 9, 2015 in Official Records Book 7509, Page 1, of the Public Records of Brevard County, Florida, as amended by that certain First Amendment to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona East Neighborhood Area recorded on May 16, 2016 in Official Records Book 7616, Page 1827, of the Public Records of Brevard County, Florida, as further amended by that certain Second Amendment to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona East Neighborhood Area recorded on May 3, 2017 in Official Records Book 7881, Page 232, of the Public Records of Brevard County, Florida, as further amended by that certain Third Amendment to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona East Neighborhood Area recorded on April 3, 2018 in Official Records Book 8130, Page 59, of the Public Records of Brevard County, Florida, and as further amended by that certain Fourth Amendment to the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions for Trasona East Neighborhood Area recorded on March 28, 2019 in Official Records Book 8400, Page 781, of the Public Records of Brevard County, Florida (collectively, the “**Neighborhood Declaration**”);

WHEREAS, under Article XI of the Neighborhood Declaration, Neighborhood Declarant has the unilateral right to amend the Neighborhood Declaration during the Class B Control Period, and, as of the date of this Amendment, the Class B Control Period remains in effect;

WHEREAS, under Article XI of the Neighborhood Declaration and Article VIII, Section 5 of the Bylaws, the Neighborhood Declaration and the Bylaws may each be respectively amended

by a majority of the Board of Directors of the Neighborhood Association adopting a resolution setting forth the proposed amendment, if such proposed amendment is approved by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of a majority of the total votes of the Neighborhood Association (including the votes the Neighborhood Declarant is entitled to cast during the Class B Control Period), and, as of the date of this Amendment, such approvals has been duly received by the Board of Directors of the Neighborhood Association and the total votes of the Neighborhood Association for this Amendment at a duly called meeting of the Board of Directors and the members of the Neighborhood Association;

WHEREAS, pursuant to Article XI of the Neighborhood Declaration and Article VIII, Section 5 of the Bylaws, Neighborhood Declarant and the Neighborhood Association desire to amend the Neighborhood Declaration and the Bylaws as more particularly provided in this Amendment; and

WHEREAS, The Viera Company, a Florida corporation, as the “Community Declarant” under the Neighborhood Declaration (the “**Community Declarant**”), is joining in the execution of this Amendment to evidence its consent to the provisions of this Amendment.

NOW, THEREFORE, Neighborhood Declarant and the Neighborhood Association hereby amend the Neighborhood Declaration and the Bylaws as set forth below pursuant to Article XI of the Neighborhood Declaration and Article VIII, Section 5 of the Bylaws:

1. RECITALS: The above recitals are true and correct, and are incorporated into this Amendment by this reference.

2. DEFINED TERMS: Any capitalized term not otherwise defined in the above recitals or elsewhere in this Amendment shall have the meaning ascribed to such term in the Neighborhood Declaration.

3. AMENDMENTS: The Neighborhood Declaration is hereby amended as follows as of the Effective Date:

(a) NEIGHBORHOOD DECLARATION- VOTING RIGHTS: The following paragraph is added to the end of Article III, Section 5 of the Neighborhood Declaration:

The votes of members of the Neighborhood Association shall be cast by the respective designated voting representative for each Unit, as provided in Article II, Section 9 of the Bylaws. Votes of the members of the Association may be cast by the applicable designated voting representatives (i) in person or by mail (either in person or by proxy) and by secret ballot, non-secret ballot or non-secret oral or hand raise vote, (ii) by electronic voting as set forth in Section 720.317, Florida Statutes at the time such vote is to be cast, or (iii) by any other method of voting permitted under Chapter 617 or Chapter 720, Florida Statutes at the time such vote is to be cast.

(b) BYLAWS – SPECIAL MEETING OF THE MEMBERSHIP: Article II, Section 4 of the Bylaws is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Neighborhood Association if so directed by resolution of a majority of a quorum of the Board of Directors. In addition, after the Class “B” Control Period has terminated, it shall be the duty of the President to call a special meeting of the Neighborhood Association if a petition is signed by members representing at least ~~ten percent (10%)~~ five percent (5%) of the total votes of the Neighborhood Association requesting a special meeting. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(c) BYLAWS – ADJOURNMENT OF MEETINGS: The last paragraph of Article II, Section 7 of the Bylaws is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, provided that members or their proxies representing at least ~~fifteen percent (15%)~~ two and one-half percent (2.5%) of the total votes of the Neighborhood Association remain in attendance, and provided further that any action taken is approved by members or their proxies representing at least a majority of the number of votes for the Neighborhood Association required to constitute a quorum.

(d) BYLAWS- VOTING: The following paragraph is added to the end of Article II, Section 8 of the Bylaws:

The votes of members of the Neighborhood Association shall be cast by the respective designated voting representative for each Unit, as provided in Article II, Section 9 below. Votes of the members of the Association may be cast by the applicable designated voting representatives (i) in person or by mail (either in person or by proxy) and by secret ballot, non-secret ballot or non-secret oral or hand raise vote, (ii) by electronic voting as set forth in Section 720.317, Florida Statutes at the time such vote is to be cast, or (iii) by any other method of voting permitted under Chapter 617 or Chapter 720, Florida Statutes at the time such vote is to be cast.

(e) BYLAWS - QUORUM: Article II, Section 14 of the Bylaws is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

Section 14. Quorum. Except as otherwise provided in these Bylaws, or in the Neighborhood Declaration, the presence in person or by proxy of the

members representing ~~thirty percent (30%)~~ five percent (5%) of the total votes in the Neighborhood Association shall constitute a quorum at all meetings of the Neighborhood Association. Any provision in the Neighborhood Declaration concerning quorums is specifically incorporated herein.

(f) BYLAWS – NOMINATION OF DIRECTORS: Article III, Section 4 of the Bylaws is hereby deleted, amended, and restated in its entirety to read as follows to remove the concept of a “Nominating Committee” for members of the Board of Directors. Due to the voluminous nature of this modification, pursuant to Section 720.306, *Florida* Statutes, for clarification, this restated section is provided below without ~~stricken~~ or double-underlined text. Article II, Section 14 of the Bylaws shall now provide as follows:

Section 4: Nomination of Directors: Except with respect to directors entitled to be selected by the Neighborhood Declarant as provided in Section 3 of this Article, nominations for election of directors to the Board of Directors shall be made in any manner permitted under Chapter 720, Florida Statutes at the time of such nomination.

(g) BYLAWS – ELECTION AND TERM OF OFFICE: Article III, Section 5 of the Bylaws is hereby amended as follows, with deleted language in ~~stricken~~ text and added language in double-underlined text:

Section 5. Election and Term of Office. Within thirty (30) days after termination of the Class “B” Control Period, the Neighborhood Association shall call a special meeting at which the members shall elect all directors of the Board of Directors; provided, however, only replacements for the directors appointed by the Neighborhood Declarant shall be elected at such special meeting and any directors previously elected by the members shall remain as directors until one (1) year after the date of such meeting. Directors elected to replace the directors previously appointed by the Neighborhood Declarant shall serve a term of two (2) years. Upon the expiration of the initial term of office of each director, a successor shall be elected to serve a term of two (2) years. Thereafter, all directors shall be elected to serve two (2) year terms.

At any election of directors by members, each member shall be entitled to cast with respect to each vacancy to be filled on the Board of Directors, as many votes as it is entitled to vote under the terms of the Neighborhood Declaration. There shall be no cumulative voting. The candidates receiving the largest number of votes shall be elected to fill the positions for which the election is held. Directors elected by the members shall hold office until their respective successors have been elected. Directors may be elected to serve any number of consecutive terms.

4. JOINDER: The Community Declarant joins in the execution of this Amendment to evidence its consent to the granting of the Easement and the provisions of this Amendment.

5. FULL FORCE AND EFFECT: The terms, provisions and conditions set forth in the Neighborhood Declaration and the Bylaws that are not modified in this Amendment remain unmodified and in full force and effect. In the event of a discrepancy between the terms and conditions of the Neighborhood Declaration or the Bylaws and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall prevail.

6. COUNTERPARTS: This Amendment may be executed in counterparts.

(SIGNATURES ARE ON THE FOLLOWING PAGES.)

IN WITNESS WHEREOF, Neighborhood Declarant has executed this Amendment as of the date set forth above.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R. Spangler

NEIGHBORHOOD DECLARANT:

THE VIERA COMPANY,
a Florida corporation

By: [Signature]
Name: Todd J. Pokrywa
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me by ✓ personal appearance or online notarization on the 4th day of December 2020 by Todd J. Pokrywa, the President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.



Charlene R. Spangler
Print Name: Charlene R. Spangler
Notary Public: Florida
Commission No.: GG 341423
My Commission Expires: 6/3/2023

(THE NEIGHBORHOOD ASSOCIATION'S SIGNATURE IS ON THE FOLLOWING PAGE.)

IN WITNESS WHEREOF, the Neighborhood Association has executed this Amendment as of the date set forth above.

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R. Spangler

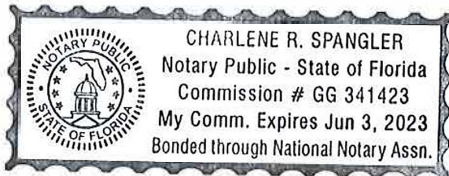
NEIGHBORHOOD ASSOCIATION:

TRASONA EAST NEIGHBORHOOD ASSOCIATION, INC.,
a Florida not-for-profit corporation

By: Eva M. Rey
Name: Eva M. Rey
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me by ✓ personal appearance or online notarization on the 4th day of December 2020 by Eva M. Rey, the President of Trasona East Neighborhood Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, who is ✓ personally known to me or provided a Florida Driver's License as proof of identification.



Charlene R. Spangler
Print Name: Charlene R. Spangler
Notary Public: Florida
Commission No.: GG-341423
My Commission Expires: 6/3/2023

JOINER

(COMMUNITY DECLARANT)

The Community Declarant hereby joins in the execution of this Amendment for the purpose of consenting to the terms and conditions of this Amendment

WITNESSES:

Benjamin E. Wilson
Print Name: Benjamin E. Wilson

Charlene R. Spangler
Print Name: Charlene R. Spangler

COMMUNITY DECLARANT:

THE VIERA COMPANY,
a Florida corporation

By: [Signature]
Name: Todd J. Pokrywa
Title: President

STATE OF FLORIDA)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me by ✓ personal appearance or online notarization on the 4th day of December 2020 by Todd J. Pokrywa, the President of The Viera Company, a Florida corporation, on behalf of the corporation, who is personally known to me.



Charlene R. Spangler
Print Name: Charlene R. Spangler
Notary Public: Florida
Commission No.: GG-341423
My Commission Expires: 6/3/2023