

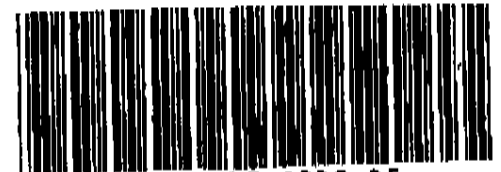
Hold

LAWYERS TITLE OF ARIZONA, INC.

When recorded, return to:

Gordon E. Hunt, Esq.
Biskind, Hunt & Taylor, P.L.C.
11201 North Tatum Blvd., Suite 330
Phoenix, Arizona 85028

RLC



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2004-0247776A 03/10/04 15:10

HENBLE 1

**AMENDED AND RESTATED
SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DC RANCH PARCEL 2.7**

This Amended and Restated Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 2.7 ("Amended Supplemental Declaration") is made effective this 9th day of March, 2004, by DC RANCH L.L.C., an Arizona limited liability company ("Declarant").

A. Declarant is the developer of the master planned community located in the City of Scottsdale, Maricopa County, Arizona, commonly known as DC Ranch (the "Development"); and

B. High Desert Village Investors LLC, an Arizona limited liability company ("Owner") is the owner of the real property described in Exhibit "A" attached hereto (the "Tract"); and

C. Declarant executed the DC Ranch Community Council Amended and Restated Declaration of Covenants and Easements and recorded said document in the official records of Maricopa County, Arizona on July 16, 1999, as Document No. 99-0673268 (the "Council Declaration"); and

D. Declarant executed the Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Ranch and recorded said document in the official records of Maricopa County, Arizona on July 16, 1999, as Document No. 99-0673267 (the "Ranch Declaration"); and

E. The Council Declaration and the Ranch Declaration each contemplates that supplemental declarations for parcels located within the Development will be executed and Recorded periodically as the development of the Development proceeds; and

F. Declarant executed the Supplemental Declaration of Covenants, Conditions and Restrictions for DC Ranch Parcel 2.7 and recorded said document in the official records of Maricopa County, Arizona August 18, 1999 as Document No. 99-0781418 (the "Original Supplemental Declaration"), thereby causing the Tract to become subject to the Council Declaration, and to be developed in accordance with certain supplemental covenants, conditions and restrictions as set forth in the Original Supplemental Declaration; and

G. At the request of Owner, Declarant executed an Irrevocable Disclaimer of Right to Annex relating to the Tract and recorded such document in the official records of Maricopa County, Arizona on August 18, 1999, as Document No. 99-0781420 (the "Waiver"), by which Declarant waived its right to cause the Tract to become subject to the Ranch Declaration; and

H. Declarant wishes by this instrument (i) to rescind the Waiver, and (ii) to amend and restate the Original Supplemental Declaration in its entirety, such that the Original Supplemental Declaration is superseded in its entirety by this Amended Supplemental Declaration, thereby causing the Tract to become subject to the Ranch Declaration as well as the Council Declaration, and to cause the Tract to be subject certain other supplemental covenants, conditions and restrictions as set forth herein, and Owner desires to consent to and join in this instrument for such purposes; and

I. Concurrently with the recording of this Amended Supplemental Declaration, Owner is recording The Condominium Declaration for The Village at Market Street (the "Condominium Declaration"), thereby causing the Tract to become subject to certain other supplemental covenants, conditions and restrictions as set forth therein.

NOW, THEREFORE, Declarant hereby declares that the Tract shall be held, sold and conveyed subject to the following restrictions, covenants, conditions, terms and provisions:

1. **Amendment and Restatement.** This Amended Supplemental Declaration amends and restates the Original Supplemental Declaration in its entirety, such that the Original Supplemental Declaration is superseded in its entirety by this Amended Supplemental Declaration.

2. **Rescission of Waiver.** Declarant hereby rescinds the Waiver, and Owner hereby consents to and approves of such rescission, which is evidenced by Owner's execution of the Consent to and Joinder in Amended and Restated Supplemental Declaration attached hereto.

3. **Annexation.** Pursuant to Section 15.2 of the Council Declaration and Section 9.1 of the Ranch Declaration, Declarant hereby declares that the Tract is and shall be subject to the terms and provisions of the Council Declaration and the Ranch Declaration.

4. **Land Classification.** The Land Classification (as such term is used in Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration) for the real property within the Tract shall be single-family residential, and construction on such real property shall be limited to single-family residential condominium units and related common elements and limited common elements. Notwithstanding the foregoing, however, Owner shall have the right to use one or more of the Units (as defined in Paragraph 5 below) as a model unit in connection with the sale of residential condominium units within the Tract.

5. **Calculation of Units.** The Tract has been subdivided into one hundred twenty-nine (129) single-family residential condominium units (collectively, the "Units", and each, individually, a "Unit") pursuant to the condominium plat for the Tract recorded of even date herewith in the official records of Maricopa County, Arizona (the "Plat"). Accordingly, for

purposes of Exhibit "C" to the Council Declaration and Exhibit "D" to the Ranch Declaration, there shall be one hundred twenty-nine (129) Units in the Tract. If Owner amends the Plat (which requires the consent of Declarant, as set forth in the Council Declaration), such that the number of residential condominium units in the Tract is greater or less than one hundred twenty-nine (129), then Declarant may, without obtaining the consent of any owner of any such condominium unit or any portion of the Tract, amend this Amended Supplemental Declaration to correctly specify the total number of residential condominium units within, and Units attributable to, the Tract.

6. Voting Neighborhoods. Declarant reserves the right to separately designate all or any portion of the Tract as a Neighborhood or as part of a larger Neighborhood for purposes of electing Voting Members pursuant to Section 6.4 of the Ranch Declaration, and for all related purposes.

7. Commencement of Assessments. Without limiting the provisions of Paragraph 5, the Units (a) are subject to all assessments, fees and other charges duly imposed pursuant to the Council Declaration, and (b) are subject to all assessments, fees and other charges duly imposed pursuant to the Ranch Declaration. The obligation to pay assessments, fees and other charges under the Council Declaration and under the Ranch Declaration with respect to the Units pursuant to this Amended Supplemental Declaration shall commence as to all Units effective as of the first day of the first full calendar month after the recording of this Amended Supplemental Declaration in the official records of Maricopa County, Arizona (the "Commencement Date"); until the Commencement Date, such assessments, fees and other charges shall be payable as set forth in the Original Declaration, and the obligation of Owner under the Original Supplemental Declaration with respect to the payment of such assessments, fees and other charges for all periods before the Commencement Date shall survive the recording of this Amended Supplemental Declaration.

8. Construction and Maintenance Requirements. The construction of improvements within the Tract, and any and all modifications to any improvements within the Tract shall be subject to various approval requirements of the Covenant Commission, as set forth in The Covenant and in the Community Design Book and Design and Construction Manual adopted by the Covenant Commission with respect to residential construction. The Association (as defined in the Condominium Declaration) shall maintain all Common Elements and Limited Common Elements (as defined in the Condominium Declaration) in accordance with the Community-Wide Standard applicable to the Development and all other requirements of the Governance Documents, and (except to the extent that the Condominium Declaration dictates that portions of the Units are to be maintained by the Association as Common Elements) each Unit owner shall be responsible for maintenance of all improvements, landscaping and natural open space areas within its Unit in accordance with the Community-Wide Standard applicable to the Development and all other requirements of the Community Council Governing Documents and the Ranch Governing Documents, and all other standards imposed by applicable law; provided that Declarant hereby reserves to itself and to the Community Council and the Ranch Association (or the agent or contractor of any of them) the right (but not the obligation) to enter upon such Units, Common Elements and Limited Common Elements to perform such maintenance if the party responsible for such maintenance fails to do so.

9. **Lighting of Paths and Trails.** Declarant reserves to itself and its successors and assigns the right (but Declarant and its successors and assigns shall have no obligation) to install, maintain, replace and repair lighting fixtures, related electrical lines and other related facilities, within any portion of the Tract designated on any recorded instrument as a public or private path easement or public or private trail easement in favor of the Council, the Ranch Association or the City of Scottsdale, which fixtures, lines and facilities, if any, shall be for the purpose of facilitating pedestrian use of private paths and trails located within any such portion of the Tract. The design and location of all such fixtures, lines and related facilities (without regard to whether such fixtures, lines and related facilities are installed by Declarant, Owner or any other person or entity) shall be as determined by The Covenant Commission, consistent with the Community Design Book, and The Covenant Commission shall determine from time to time the days and hours of the day on which such lighting fixtures shall be operated.

10. **Enforcement.** The Community Council may recover from any Unit owner who fails to maintain its Unit or any portion thereof as required by Paragraph 8 above, or from the Association if it fails to maintain any Common Elements or Limited Common Elements, any and all costs incurred by the Community Council in performing such maintenance on behalf of such Unit owner or on behalf of the Association (as applicable) pursuant to Paragraph 8. In addition, without limiting any other rights or remedies available to the Community Council, the Community Council may impose a Specific Assessment under the Council Declaration against the applicable Unit owner's property within the Development (where the failure to maintain is the responsibility of a Unit owner) or against all of the Units (where the failure to maintain is the responsibility of the Association) in the amount of such costs, which Specific Assessment shall be immediately due and payable upon delivery of notice of such Specific Assessment to the applicable owner(s). All or any portion of the foregoing rights of the Community Council may be delegated to the Ranch Association (provided that any Specific Assessment levied by the Ranch Association in accordance with this paragraph shall be levied pursuant to the Ranch Declaration).

11. **Adjacent Land Use.** Declarant hereby gives notice that the Tract is located in the vicinity of (a) a private golf course to the north, across Thompson Peak Parkway, (b) a currently vacant parcel intended for commercial development, to the northwest, (c) a parcel currently being developed with residential condominium units, to the west, (d) a parcel that has been developed with retail and office uses, further to the west, (e) a parcel that has been developed with attached single-family residential units, to the southwest, (f) a parcel that has been developed with detached single-family residential units, to the south, and (g) a parcel that is currently being used as a sales center for the DC Ranch project, but which is intended for eventual development as a house of worship, to the east. Each Unit owner, by taking title to a Unit acknowledges that Declarant makes no warranties or representations whatsoever that any land now owned or hereafter acquired by Declarant is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, that such use will continue in effect, and that Declarant reserves the right to change the uses, densities and zoning of any property in the Development which Declarant owns without the consent of any Unit owner.

12. **Airport.** Each Unit owner, by taking title to a Unit, acknowledges (for such owner and such owner's family members, other occupants, successors and assigns) that: (a) the Tract is in close proximity to the Scottsdale Airport flight path and is located within 4 miles of the Scottsdale Airport (the "Airport"), which is currently located generally between Frank Lloyd Wright Boulevard on the north, Pima Road on the east, Thunderbird Road on the south and Scottsdale Road on the west; (b) as of the date hereof, the Airport is operated as a general aviation reliever/commercial service airport for Scottsdale and North Phoenix, used generally for single engine and twin engine airplanes, corporate jets, helicopters and scheduled service turbo prop and jet aircraft; (c) aircraft taking off from and landing at the Airport may fly over the Tract and adjacent properties at altitudes which will vary with meteorological conditions, aircraft type, aircraft performance and pilot proficiency; (d) at the date hereof, the majority of aircraft takeoffs and landings occur daily between 6:00 a.m. and 11:00 p.m., but the Airport is open twenty-four (24) hours each day, so takeoffs and landings may occur at any hour of the day or night; (e) at the date hereof, the number of takeoffs and landings at the Airport average approximately 850 each day, but that number will vary and may increase with time if the number of its operations increases; (f) flights over the Tract or adjacent properties by aircraft taking off from or landing at the Airport may generate noise, the volume, pitch, amount and frequency of occurrence of which will vary depending on a number of factors, including without limitation the altitudes at which the aircraft fly, wind direction and other meteorological conditions and aircraft number and type, and may be affected by future changes in Airport activity; (g) as of the date hereof, management of the Airport has policies in place intended to help reduce or minimize aircraft noise and its influence on owners and occupants of properties in the vicinity of the Airport, but those policies may change over time and in addition other aspects of such policies (including, without limitation, those intended to promote safety) may be given preference over policies relating to limiting noise; and (h) such Unit owner (for such Unit owner and such Unit owner's family members, other occupants, successors and assigns) hereby accepts and assumes any and all risks, burdens and inconvenience caused by or associated with the Airport and its operations (including, without limitation, noise cause by or associated with aircraft flying over the subdivision and adjacent properties), and agrees not to assert or make any claim against (i) the City of Scottsdale, its officials, directors, commissioners, representatives, agents, servants and employees, (ii) DC Ranch Association, Inc. or DC Ranch Community Council, Inc., (iii) DC Ranch L.L.C., its direct and indirect owners, and/or their respective directors, officers, partners, agents, employees, managers, trustees, and trust beneficiaries, and/or any successors or assigns of any of the foregoing, and/or (iv) High Desert Village Investors LLC, an Arizona limited liability company, its direct and indirect owners, and/or their respective directors, officers, partners, agents, employees, managers, trustees, and trust beneficiaries, and/or any successors or assigns of any of the foregoing.

13. **Interpretation.** This Amended Supplemental Declaration shall run with the land within the Tract, shall be binding on all parties having or acquiring any right, title or interest in the Tract or any part thereof, and their respective heirs, successors and assigns, and shall be enforceable in accordance with and as a part of each of the Council Declaration and the Ranch Declaration.

14. **Incorporation of Declarations.** The Council Declaration and the Ranch Declaration each is expressly incorporated herein and made a part hereof by this reference.

Unless otherwise defined herein, every capitalized term and expression used herein shall have the same meaning as set forth for such terms and expressions in the Council Declaration and the Ranch Declaration, as applicable. In the event of any conflict between the terms of the Council Declaration or the Ranch Declaration and the terms of this Amended Supplemental Declaration, the terms of the Council Declaration or the Ranch Declaration, as applicable, shall control.

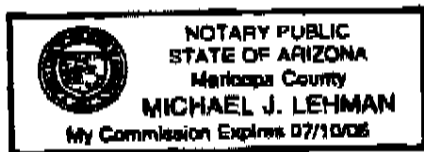
15. **Amendment.** This Amended Supplemental Declaration may be amended in the same manner as the Council Declaration may be amended in accordance with the provisions of the Council Declaration.

IN WITNESS WHEREOF, Declarant has executed the foregoing instrument as of the date first set forth above.

DC RANCH L.L.C., an Arizona limited liability company

By: DMB PROPERTY VENTURES LIMITED PARTNERSHIP, an Arizona limited partnership, Administrative Member

By: DMB GP, INC., an Arizona corporation, General Partner



By: [Signature]
Its: VP

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9th day of March, 2004, by Brenda Herzington, the VP of DMB GP, INC., an Arizona corporation, in its capacity as General Partner of DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, in its capacity as Administrative Member of DC RANCH L.L.C., an Arizona limited liability company, for and on behalf thereof.

[Signature]
Notary Public

My Commission Expires:

**CONSENT TO AND JOINDER IN
AMENDED SUPPLEMENTAL DECLARATION**

As evidenced by its signature below, HIGH DESERT VILLAGE INVESTORS LLC, an Arizona limited liability company, the Owner of the Tract, consents to and joins in the foregoing Amended Supplemental Declaration.

HIGH DESERT VILLAGE INVESTORS, LLC,
a Delaware limited liability company

By: High Desert Village Apartments, LLC,
an Arizona limited liability company

Its: Managing Member

By: P.B. Bell & Associates, Inc.,
an Arizona corporation

Its: Manager

By: R. Chapin Bell
R. Chapin Bell

Its: President

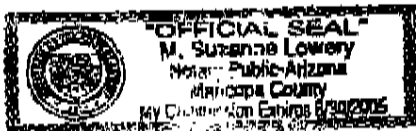
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9th day of March, 2004, by R. Chapin Bell, the President of P.B. Bell & Associates, Inc. an Arizona corporation, the Manager of High Desert Village Apartments, LLC, an Arizona limited liability company, the Managing Member of High Desert Village Investors, LLC, a Delaware limited liability company, on behalf of the company.

M. Suzanne Lowery
Notary Public

My Commission Expires:

8-30-2005



**ACKNOWLEDGEMENT OF
AMENDED SUPPLEMENTAL DECLARATION**

As evidenced by its signature below, DC RANCH ASSOCIATION, INC., an Arizona non-profit corporation, hereby acknowledges the foregoing Amended Supplemental Declaration as contemplated by Section 9.5 of the Ranch Declaration.

DC RANCH ASSOCIATION, INC., an
Arizona non-profit corporation

By: *[Signature]*
Its: VP

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 9th day of March, 2004, by Drew Harkington, the VP of DC RANCH ASSOCIATION, INC., an Arizona non-profit corporation, for and on behalf thereof.

[Signature]
Notary Public

My Commission Expires:

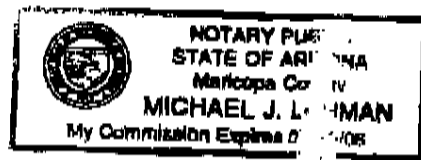
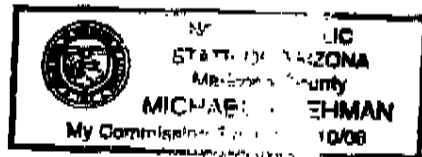
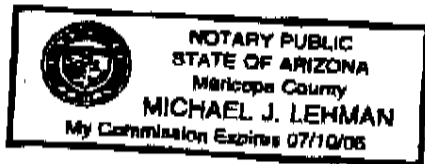


Exhibit "A"
To
Amended and Restated Supplemental Declaration

LEGAL DESCRIPTION

Units 102, 103, 105 through 108, inclusive; 110, 111, 114, 115, 120 through 127, inclusive; 129 through 132, inclusive; 134 through 137, inclusive; 139 through 142, inclusive; 144, 145, 148, 149, 152, 153, 155 through 166, inclusive; 169, 170, 172 through 175, inclusive and 201 through 275, inclusive, **THE VILLAGE AT MARKET STREET CONDOMINIUM**, according to the Condominium plat recorded in Book **674** of Maps, page **47** records of Maricopa County, Arizona.