SFC CLERK RECORDED 08/23/2016

FIRST AMENDMENT RESOLUTION TO THE AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS FOR LAS DOS SUBDIVISION, PHASE I

This First Amendment Resolution to the Amended and Restated Declaration of Restrictive Covenants for Las Dos Subdivision, Phase I (the "Amendment"), is made on the following terms and conditions.

RECITALS

A. On September 25, 1979, those certain Las Dos Subdivision (Phase I) Restrictive Covenants (the "Covenants") duly recorded in the records of the Clerk of Santa Fe County, New Mexico on September 26, 1979 in Book 387, Pages 884-893 were imposed on the real estate described therein and known as the Las Dos Subdivision, Phase I (the "Subdivision").

B. The Covenants were thereafter amended by the then Owners of all Lots within the Subdivision by documents duly recorded in the records of the Clerk of Santa Fe County, New Mexico in Book 412, Pages 179-183, Book 414, Page 677 and Book 705, Pages 735-772.

C. The Covenants were thereafter amended by the then Owners of all Lots within the Subdivision on December 23, 2002, by documents duly recorded in the records of the Clerk of Santa Fe County, New Mexico in Book 2296, Pages 904-956 (the "Amended and Restated Declaration").

D. Pursuant to Article 2 of the Amended and Restated Declaration, the Covenants may be amended if an amendment resolution is adopted by the Owners of not less than thirty (30) Lots in the Subdivision.

E. The undersigned, being the Owners of not less than thirty (30) Lots in the Subdivision, have approved and hereby adopt this Amendment on June 15, 2016. All changes to the paragraphs of the Amended and Restated Declaration set forth below shall appear in bold lettering.

F. To the extent provided herein, this Amendment shall supersede the Amended and Restated Declaration.

NOW, THEREFORE, the undersigned hereby resolve and declare as follows:

1. The following shall be added to Article IV as paragraph 4.42:

> **"4.42 <u>Conflict with County Regulations.</u> In the event of a conflict between these Covenants and the Santa Fe County Land Development Code, the minimum requirement contained in these Covenants shall conform to the minimum requirement in the Code."**

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2. Paragraph 4.8 contained in Article IV shall be deleted in its entirety and replaced with the following:

> "The native live growth of the Subdivision, including cacti, pinon and juniper trees, shall not be destroyed or removed from the subdivision or any Lot, except such native growth as it may be necessary for the construction and maintenance of Driveways, residences, outbuildings, gardens and patios. Such removal shall occur only in conjunction with and concurrent with construction, reconstruction or alteration approved by the Architectural Control Committee. Cutting and filling is to be kept to a minimum and may not, in any event, exceed four (4) feet of filling or cutting for any purpose **except as provided in Paragraph 4.9.8** or six (6) feet of cutting to situate a primary residence at any point if such cutting an filling would be visually prominent or visually offensive when viewed from other lots and roads of the subdivision. Existing major vegetation, topographic features and drainage patterns are to be maintained. During construction, the Owner is responsible for insuring that the builder and all other parties to the construction project refrain from damaging or removing trees and other vegetation or altering the natural grade and landscape, except as may be reasonably necessary and unavoidable for clearance of a building site and construction of Driveways and parking areas. The Architectural Control committee may direct and require the installation and maintenance of vegetation and landscaping features such as terracing, retaining walls or grading as a condition for approval of the construction, exterior modification of or addition to any Structure if, in the judgment of the Architectural Control Committee, such vegetation would reduce or minimize the visual impact of the Structure in question. With the exception of a thirty-five (35) foot garden area directly adjacent to the house contemplated in paragraph 4.10 below, vegetation planted by Owners on Lots shall be indigenous to the area."

3. The following shall be added to Article IV, paragraph 9 as paragraph 4.9.8:

> **"It is recognized that several lots may require the crossing of major drainage ways to access an Architectural Control Committee approved building site. If the Santa Fe County Land Use Department regulations require cut or fill amounts in excess of the four (4) foot limit as set out in Paragraph 4.8 , the limit may be altered, as required with added requirements for limiting visual impact to the degree possible."**

4. Paragraph 5.1 contained in Article V shall be deleted in its entirety and replaced with the following:

"5.1 Architectural Control Committee. There shall be appointed by the Board of the Homeowners Association to serve at the pleasure of the Board of Directors, upon receipt of a request for approval from a Lot Owner, an Architectural Control Committee for the subdivision, which shall consist of not less than three (3) persons, at least two (2) of whom must be Owners of a Lot within the Subdivision. **For those projects that require a permit by Santa Fe County or the State of New Mexico, the third member shall be an architect who has practiced substantially full-time as an architect within twenty-five (25) miles of the city of Santa Fe for not less than five years. For those projects that do not require a permit or the permitted projects deemed by the Homeowners' Board of Directors to be small and straight forward, the third member of the committee shall be an Owner of a Lot in the subdivision.**

No member of the committee shall sit in consideration of plans relating to a Lot owned by him or development of a Lot immediately adjacent to a Lot owned by him. When any member is not qualified to serve for any reason, the Board of Directors shall designate a member pro tem to serve in his or her place. The members of the Architectural Control Committee shall not be liable to any person for any damage to persons or property or other damages for any reason resulting from or relating to the exercise of the powers or performance of obligations required or authorized by the Declaration, and by acceptance of a deed for any Lot, every Owner on his own behalf and on behalf of his heirs, successor, assigns and agents, releases each Committee member from said liability; provided, however, that such release shall not apply to any such injury or damage resulting from willful misconduct of a committee member of the Architectural Control committee. The Architectural Control Committee is authorized to retain the services of consulting architects, landscape architects, engineers, inspectors, contractors and/or attorneys in order to advise and assist the Architectural Control Committee in performing its functions as set forth herein."

5. Paragraph 6.7 contained in Article VI shall be deleted in its entirety and replaced with the following:

"6.7 Access. The Lot Owner shall permit the Homeowners Association Board of Directors and Architectural Control Committee and their advisors to visit the Lot and construction site of an approved construction project at any time beginning on the date of application by the property Owner and continuing until completion. **The Homeowners' Association Board of Directors or the Architectural Control Committee shall notify the Owner**

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prior to an intended site visit except in those cases where a situation arises that requires immediate action. Such a situation requiring immediate action may include but not be limited to investigation of unapproved damage or change to the land or vegetation or non-compliance with the Covenants."

6. Paragraph 8.4 contained in Article VIII shall be deleted in its entirety and replaced with the following:

"8.4 <u>Cooling Systems.</u> Refrigerated air systems, evaporative coolers, heat-exchanged or heat pump air conditioning are permitted, if properly screened from view from Roads or other Lots in the Subdivision and if prior approval for such coolers is obtained from the Architectural Control Committee. Noise levels when in operation shall not exceed 50 dba at a lot Line"

This First Amendment Resolution to the Amended and Restated Declaration of Restrictive Covenants to Las Dos Subdivision, Phase I, is hereby certified as true and correct by the Secretary of the Association as duly approved by the members of the Association, consistent with Article II of the Amended and Restated Declaration and is executed by the President of the Association on this 12th day of August, 2016.

Las Dos Homeowners Association, Inc.

By: Leslie Ramsey
Leslie Ramsey, its Secretary

By: Thomas Blog
Thomas Blog, its President

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

FIRST AMENDMENT
PAGES: 5

I Hereby Certify That This Instrument Was Filed for Record On The 12TH Day Of August, 2016 at 01:41:55 PM
And Was Duly Recorded as Instrument # 1801345
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy Veronica Duran County Clerk, Santa Fe, NM

COUNTY CLERK
GERALDINE SALAZAR
SANTA FE COUNTY NEW MEXICO

SFC CLERK RECORDED 08/12/2016

SFC CLERK RECORDED 08/25/2016

ACKNOWLEDGMENTS

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 12TH day of AUGUST, 2016 by **Leslie Ramsey**, Secretary of Las Dos Homeowners Association, Inc..

OFFICIAL SEAL
Merrell A. Cantu
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 9-11-2018

Merrell A. Cantu
Notary Public
My Commission Expires: 9-11-2018

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this 12TH day of AUGUST, 2016 by **Thomas Blog**, President of Las Dos Homeowners Association, Inc..

OFFICIAL SEAL
Merrell A. Cantu
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires: 9-11-2018

Merrell A. Cantu
Notary Public
My Commission Expires: 9-11-2018