

**AMENDMENT TO DECLARATION OF COVENANTS FOR
LA TIERRA ESCONDIDA SUBDIVISION (PHASE II)**

Pursuant to Article 8.01 of the Declaration of Protective Covenants for La Tierra Escondida Subdivision, Phase II, recorded on November 9, 2006, in the office of the Doña Ana County Clerk, in Book 762, at Pages 447-495 (hereinafter the "Declaration"), by a vote of the Owners, as verified by the Secretary of the La Tierra Community Association, Inc. below, the Declaration is hereby amended as specifically provided for herein, by substituting the identified paragraphs or subparagraphs for those in the original Declaration. All provisions of the Declaration not specifically superceded or otherwise amended herein remain in full force and effect.

The Covenants as amended and in force at the time of an application for approval of proposed Improvements to a Lot shall apply to review of the application. However, an Owner's reasonable expectation at the time of purchase of the Lot that a particular Improvement was allowed that is not allowed under the Covenants as amended may be considered as one factor in support of a variance.

Section 4.01. Membership and Authority. As long as Grantor is an Owner of any Lot or any other interest in the Subdivision, the Architectural Review Committee shall be composed of members appointed in writing by Grantor. Members of the Committee shall serve without compensation, and shall be subject to removal by Grantor with or without cause. Grantor may appoint different members to different Committees for certain Lots or phases of the Subdivision, and each and every such Committee shall have the full authority of the Committee as provided herein. The Committee shall have the authority to designate an individual or group of individuals

on the Committee to act on behalf of the Committee. Except as otherwise provided in this Article, the Design Guidelines, and written supplements issued by the Committee, no Improvements shall be erected, placed, remodeled, resurfaced or in any way altered on any Lot until construction plans and specifications showing the location, materials, and all other details of the planned Improvements required by the Committee have been approved by the Committee. Upon the written request of any Owner or potential Owner (as further described below), the Committee shall have discretion to grant a variance to any Design Guideline, or to the application of any other provision in these Declarations where such authority is explicitly granted herein, if the Committee determines that granting the requested variance will not have a detrimental impact on La Tierra Escondida.

Upon written notice to the Association from the Grantor that the Grantor no longer owns any Lot or has any other interest in the Subdivision, the Association shall have the authority to appoint the Committee and govern its procedures and practices.

Section 4.03. Review and Approval Procedures. Prior to beginning construction of any Improvement on any Lot, or to altering any existing Improvement in any way, the Owner (or the Owner's agent) shall submit a written request for approval to the Committee, together with all documentation reasonably necessary for the Committee to act on the request. The Committee may request additional information should the same be deemed necessary. See the Design Guidelines in Exhibit B to this Declaration for detailed procedures and requirements.

A potential Owner that has entered into a contract to purchase a Lot, contingent in whole or part upon obtaining approval for planned Improvements, shall

have the right to submit a written request for approval to the Committee (including a request for a variance), for a portion or all of the potential Owner's proposed Improvements, with all required documentation appropriate to the request, and to have the Improvements reviewed and approved or rejected, subject to all of the same requirements and rights as for an Owner, but any approval shall expire ninety (90) days after the date of approval by the Committee if the applicant has not become an Owner.

Before digging, excavating, or moving dirt on any Lot, the Owner or Owner's agent shall contact "New Mexico One Call" at 1-800-321-2537, or through nmonecall.org.

Section 6.02. Application of Assessments to Mortgagees. The liens created under this Declaration upon any Lot shall be subject and subordinate to, and shall not affect the rights of a first Mortgagee under any recorded first Mortgage upon a Lot made in good faith and for value, but shall be enforceable as a second mortgage on the property. After foreclosure sale by a first Mortgagee or the date the Mortgagee obtains possession of the property, whichever is later, the Lot so acquired shall become exempt from liability for payment of assessments and shall remain exempt for so long as the dwelling unit on the Lot remains unoccupied, or until the first Mortgagee conveys the Lot to a new Owner.

The Board shall have the authority to consent to judgment in favor of a first Mortgagee in a foreclosure, to file or forego filing a Proof of Claim in a bankruptcy proceeding, and to otherwise use its discretion in collecting or releasing liens in judicial proceedings or under circumstances that could involve the Association in

