

**DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
POND VILLAGE SUBDIVISION
TAOS, NEW MEXICO**

This Declaration, made on the date hereinafter set forth by Taos Senior Living Partners, LP, a Texas Limited Partnership duly authorized to do business in New Mexico, referred to as "Declarant."

Declarant is the owner of certain real property in the Town of Taos, Taos County, State of New Mexico, which is more particularly described on Exhibit "A" attached hereto and hereby made a part hereof (the "Property" or "Pond Village Subdivision").

Declarant hereby declares that the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and which shall inure to the benefit of each Owner thereof, and which are intended to create mutual equitable servitudes and reciprocal rights amongst all of the Owners of the Property.

ARTICLE 1 - DEFINITIONS

- **Association:** Pond Village Subdivision Homeowners Association, a New Mexico Non-profit corporation, its successors and assigns.
- **Owner:** the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including Contract Purchasers, but excluding those having such interest merely as security for the performance of an obligation. Each Owner other than the Declarant shall be a Class A Member of the Association. The Declarant shall be a Class B Member of the Association as more particularly hereinafter set forth.
- **Property:** that certain real property legally described on Exhibit "A", and such additions thereto as may hereafter, pursuant to certain provisions hereinafter more particularly set forth, be brought within the jurisdiction of the Association.
- **Easements:** all real property interests owned by the Association for the common use and enjoyment of the Owners, including easements for access, ingress and egress, sidewalks, underground utilities, Fire Protection, drainage, and for acequia access,

TAOS ATTORNEY, LLC
SCOTT H. SANGER, ATTORNEY
ABBY G. SANGER, ATTORNEY
630 PASEO DEL PUEBLO SUR, SUITE 160
TAOS, NEW MEXICO 87571

maintenance and repair. The Easements owned by the Association at the time of the conveyance of the first Lot are those Easements indicated on the Subdivision Plat of Pond Village Subdivision and are subject to the terms and conditions hereinafter set forth.

- . **Subdivision Plat:** Plat of Pond Village Subdivision filed in Plat Cabinet _____ at Page _____, Records of Taos County, New Mexico.
- . **Lot:** any plot of land shown upon the recorded Subdivision Plat (and any amendment(s) thereto) of the Property with the exception of the Easements.
- . **Declarant:** Taos Senior Living Partners, LP, a Texas Limited Liability Partnership, duly authorized to do business in New Mexico, its successors and assigns, by Taos Senior Living Managers, LLC.
- . **Declaration:** This Declaration of Easements, Covenants, Conditions and Restrictions.
- . **Design Guidelines:** The Pond Village Subdivision Design Guidelines are attached hereto as Exhibit "B" and are hereby made a part hereof.

ARTICLE 2 - PROPERTY RIGHTS

Section 2.1 Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Easements, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions.

- . the right of the Association to suspend the voting rights and right to use of the Easements by an Owner for any period during which any assessment and/or fine for infraction of this Declaration and/or of the By-Laws of the Association and/or Rules and Regulations of the Association against his Lot remains unpaid and for a period to continue until any such infraction is cured.
- . the right of the Declarant and/or the Association to dedicate or transfer all or any part of the Easements to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by either the Declarant or by two-thirds (2/3rds) of the voting members of the

TAOS COUNTY
ANNA MARTINEZ, CLERK
000436597
Book 1015 Page 133
2 of 23
05/16/2019 03:30:50 PM
BY BLANCAL

Association agreeing to such dedication or transfer has been recorded, provided, however, that roadways may be dedicated upon the request of such public agency or authority only consistent with the provisions of Section 2.4 hereinafter. Any such dedication or transfer shall not negatively affect a Lot Owner's rights to ingress or egress. The right of the Association to mortgage or hypothecate all or any part of the Easements shall not be exercised except through an instrument signed by two-thirds (2/3rds) of the voting members of the Association.

Section 2.2 Delegation Of Use.

Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Easements to the members of his family, his tenants, or contract purchasers who reside on a Lot.

Section 2.3 Uses.

Lots 1, 2, 3, 4, 5 and 6 each have existing houses and no more separate structures may be added to them. The Owner of Lot 7 may add two (2) garages and an additional guest house, as may be permitted by applicable Town of Taos Ordinance. Each of Lots 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall be used for a single family residence and a garage.

No business or commercial activities shall be conducted upon a Lot, except professional activities performed by an Owner or tenant who is an occupant thereof, and then only upon compliance with applicable Laws and Ordinances. An Owner shall be allowed to rent out his dwelling structure(s), for residential (non-transient and non-commercial) usage without violating this restriction. An Owner or tenant may use his principal dwelling structure and/or permitted outbuildings in pursuit of artistic or literary activities without violating this restriction; provided, that such activities do not materially increase traffic.

No Lot may be further Subdivided, although Lot Line Adjustments between adjacent Lots are allowed.

No refuse, trash, garbage or other unsightly substance, including but not limited to, non-running vehicles, may be stored openly about the Property. No noxious, offensive or nuisance activities shall be conducted upon the Property, including but not limited to: loud noises, bright lights, dangerous nuisances, unsightly and malodorous nuisances. No horses, cattle, buffalo, llamas, sheep, goats, pigs, rabbits, poultry nor other livestock shall be kept nor maintained on the Property. Only household pets may be kept on the Property. There shall be no commercial pet breeding on the Property. No firearms may be discharged on the Property. No open fires shall be ignited on the Property. No trailers except during construction. No high (12' tall or higher), free-standing security lights may be installed on the Property. No lighting may be installed on any property which violates the New Mexico Night Sky Protection Act. No non-running vehicles may be stored on any Lot. Non-running shall

be determined by a Lot Owner's failure to use any such vehicle at least once monthly. No fuel storage tanks may be placed on the Property.

Any construction on a Lot must conform with the Pond Village Subdivision Design Guidelines, as amended from time to time, as determined from time to time by the Board of Directors of the Association. All construction must comply with all applicable Town of Taos Ordinances, Resolutions and Regulations.

No improvements of a permanent nature may be constructed on the Property at any time outside of the setbacks indicated on the Subdivision Plat. Only underground utilities, landscaping and driveways may be installed within setbacks.

No septic systems nor their leach fields may be constructed on the Property. Each home is to be connected to Town of Taos Sewer and Water service.

No recreational vehicles, trailers, boats, boat trailers, snowmobile trailers, horse trailers, tractors, farm implements, nor construction equipment may be stored on any Lot unless a garage as may be provided in the Pond Village Subdivision Design Guidelines attached hereto as Exhibit "B". No temporary house, temporary garage, temporary mobile home or outbuilding shall be placed or erected upon any part of any Lot, provided, however that during the actual construction of any improvement on any Lot, necessary temporary buildings for the storage of materials may be erected and maintained during such construction. The work of construction, altering or remodeling of any building or a part thereof shall be prosecuted diligently, provided, however, any construction project once commenced shall be completed within one (1) year from such date of commencement.

All signage must comply with applicable Town of Taos Ordinances, Rules and Regulations.

All debris from damages to buildings on a Lot due to fire or other casualty are to be removed within sixty (60) days, and/or if such building(s) are to be reconstructed, such reconstruction must be completed within one (1) year of that date of damage.

Section 2.4 Access Easements. Declarant hereby grants perpetual easements for access, ingress and egress to and through Pond Lane along with the Common Access Area where indicated on the Subdivision Plat, to each Lot Owner for the benefit of their respective Lot and to the Association. Any Dedication of Pond Lane to Town of Taos must be approved by all Lot Owners.

Section 2.5 Utility and Drainage Easements.

The utility and drainage easements indicated on the Subdivision Plat are hereby granted to the Association by the Declarant to be used as perpetual easements for the underground placement of utility services and for the maintenance and cleaning of culverts and other drainage structures for the benefit of each Lot in Pond Village Subdivision. Declarant hereby

grants sewer and water and utility easements to Town of Taos for each respective Lot's connection to Town of Taos Water and Sewer Lines.

Section 2.6 Party Walls

Lots 1 and 2 share a common wall ("Party Wall") between the existing structures and Lots 3 and 4 share a common wall between the structures. The respective Owners of both Lots 1 and 2 and the respective Owners of Lots 3 and 4 are hereby granted perpetual, exclusive easements by the Declarant for repair, maintenance and replacement of the Party Wall, the roofing thereover and the flooring underneath, for access to repair, maintain and replace, the expense related thereto to be equally borne by those parties sharing the Party Wall.

Section 2.7 Repair and Maintenance of Easements.

The costs of maintenance and repair of the easements created pursuant to Subsections 2.4 and 2.5 shall be allocated amongst the Lot Owners of Pond Village Subdivision, and billed and collected via the assessment process, as provided in Article 4 hereinafter.

Section 2.8 Open Space.

The Open Space indicated on the Subdivision Plat is to be granted by the Declarant to the Association.

ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Assessment.

Each Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 3.2 Classes of Voting Membership.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned by the Declarant. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals ninety (90%) percent of the total votes.

ARTICLE 4 - COVENANT FOR MAINTENANCE ASSESSMENT

Section 4.1 Creation Of The Lien And Personal Obligation Of Assessments.

Each Owner of any Lot (other than Declarant) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- annual assessments and charges, and
- special assessments for capital improvements, and fines for violation of any provision of this Declaration, the Association By-Laws and/or any Rules and Regulations of the Association, such assessments and fines to be established and collected as hereinafter provided.

The annual and special assessments and fines, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made until payment. Each such assessment and fine, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot(s) at the time when the assessment fell due. The personal obligation for delinquent assessment(s) shall not pass to his successors in title unless expressly assumed by them, and, in any such event, same shall be paid at the time of transfer of title of such Lot(s). The Declarant shall pay no assessments for lots by Declarant owned which do not have occupied completed dwellings.

Section 4.2 Purpose of Assessments.

The assessments levied by the Association shall be used exclusively for the improvement and maintenance of the Easements (including, but not limited to: the utility, drainage and road easements) casualty and liability insurance, legal fees, reasonable reserves, bookkeeping charges, accounting fees, and for administrative expenses of the Association, shall be for the benefit of the Lot Owners.

Section 4.3 Maximum Annual Assessment.

Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four-Hundred Twenty-five and no/100 Dollars (\$425.00) Dollars per Lot, except Lot 7 for which the maximum annual assessment shall be double the annual assessment for all of the other Lots.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of two-thirds (2/3) of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, without the consent of two-thirds of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4.4 Special Assessment for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an improvement within the Easements, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members of Pond Village Subdivision Homeowners Association who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4.5 Notice And Quorum For Any Action Authorized Under Sections 4.3 and 4.4.

Written notice of any meeting called for the purpose of taking any action authorized under Sections and shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast forty (40%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.6 Uniform Rate of Assessment.

Both annual and special assessments must be fixed at uniform rates within Pond Village Subdivision, and may be collected on calendar quarterly basis.

Section 4.7 Date Of Commencement Of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all Lots sold by Declarant on the first day of the month following recording of this Declaration and the sale of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a Certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 4.8 Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until the date paid in full at the rate of five percent (5%) per annum above the Base Rate of Interest then being charged by U.S. Bank, a National Banking Association to its largest and most credit-worthy Commercial Borrowers, such rate to be adjusted on the first (1st) day of each month. The Association may bring an Action at Law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot(s). No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Easements or abandonment of his Lot.

Section 4.9 Subordination Of The Lien To Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any bona fide first mortgage from a commercial lender against a Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof. Mortgagees shall not be required to collect any assessment.

ARTICLE 5 - ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, constructed, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the Plans and Specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. In the event the Board of Directors fails to approve or disapprove such design and location within thirty (30) days after said Plans and Specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with, except that any such improvements must still comply with all other provisions of this Declaration and the Design Guidelines. The Board of Directors shall implement and enforce the Pond Village Subdivision Design Guidelines, as adopted by the Association and as amended from time to time, a copy of which is attached hereto as Exhibit "B" and is hereby made a part hereof. Location of the setbacks and/or Lot lines may be changed and Variances granted by the Board of Directors, subject to necessary governmental approvals. In no event shall the Declarant, the Association, the Board of Directors nor any Committee of the Association, be liable for any defect in Plans and/or Specifications for construction, whether approved or modified by any of them, nor for any work or construction done in accordance with any approved Plans and/or Specifications.

ARTICLE 6 - RULES AND REGULATIONS

Section 6.1.

From time to time the Association may, by a majority vote of the Board, adopt, amend and repeal such Rules and Regulations as it deems reasonable. These Rules and Regulations may include administrative and policy resolutions. The Rules and Regulations may also be

adopted, amended or repealed by written agreement of Members entitled to cast at least fifty percent (50%) of the votes allocated to all Members of the Association. Any Member may revoke his written agreement to any such action prior to the requisite number of Members having so agreed, and any such written agreement by a Member shall be effective only if the requisite number of Members shall have so agreed to specific action within a one (1) year period. Once the Members have so agreed, such action may not be modified by the Board for a period of at least one (1) year, although the same may at any time be further adopted, amended or repealed by action of the Members as heretofore provided.

Section 6.2.

The Rules and Regulations may govern the use of any Easements by the Owners, by the families of the Owners, or by any invitee, licensee, lessee, or contract purchaser of an Owner.

Section 6.3.

The Rules and Regulations may not unreasonably discriminate among Owners and shall not be inconsistent with this Declaration, the Articles of the Incorporation or the By-Laws of the Association.

Section 6.4.

The Rules and Regulations may govern the use of the easements, specifically including, but not limited to, the roadways.

Section 6.5.

The Rules and Regulations may also relate to other matters of general concern to Lot Owners and occupants.

Section 6.6.

A copy of the Association Rules and Regulations as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Lot Owner.

Section 6.7.

In the event of any conflict between any such Association Rules and any other the other provisions of this Declaration, or the Articles of Incorporation or Bylaws of the Association, the provisions of such Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or the Bylaws, to the extent of any such inconsistency.

ARTICLE 7 - DISPUTE RESOLUTION/LIMITATION ON LITIGATION

Section 7.1. Agreement to Encourage Resolution of Disputes Without Litigation.

[A] Declarant, the Association and its Officers and Directors, all Members subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving this Declaration without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any Court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 7.2 in good faith effort to resolve such Claim.

[B] As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of this Declaration and/or the Articles of Incorporation and Bylaws of the Association;
- (ii) the rights, obligations, and duties of any Bound Party under this Declaration and/or the Articles of Incorporation and Bylaws of the Association; or,
- (iii) the design or construction of improvements within the Property, other than matters of aesthetic judgment, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 7.2.:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration;
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration and/or the Articles of Incorporation and Bylaws of the Association;
- (iv) any suit in which any indispensable party is not a Bound Party; and,
- (v) any suit as to which any applicable Statute of Limitations would expire within 180 days of giving the Notice required by section 7.2.(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

Section 7.2. Dispute Resolution Procedures.

- [A] Notice. The Bound Party asserting a Claim (“Claimant”) against another Bound Party (“Respondent”) shall give written notice to each Respondent and to the Board stating plainly and concisely:
- (i) the nature of the Claim, including the Persons involved and the Respondent’s role in the Claim;
 - (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
 - (iii) the Claimant’s proposed resolution or remedy; and,
 - (iv) the Claimant’s desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.
- [B] Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.
- [C] Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice described in Section 9.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in northern New Mexico.

If the Claimant does not submit the Claim to Mediation within such time, or does not appear for the Mediation when scheduled, the Claimant shall be deemed to have Waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after the submission of the matter to Mediation, or within such time as determined reasonable by the Mediator, the Mediator shall issue a Notice of Termination of the Mediation proceedings indicating that the parties are at an impasse and the date that Mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the Mediation, including attorneys’ fees, and each Party shall share equally all fees charged by the Mediator.

ARTICLE 8 - GENERAL PROVISIONS

Section 8.1 Enforcement.

The Association, and/or any Owner, shall have the right to enforce, by any proceeding at Law or in Equity, all Restrictions, Conditions, Covenants, Reservations, Liens and Charges now or hereafter imposed by the provisions of this Declaration (specifically including but not limited to the right to require the removal of any improvement which does not conform to the Design Guidelines). Failure by the Association and/or by any Owner to enforce any Covenant, Condition, or Restriction herein contained shall in no event be deemed a Waiver of the right to do so thereafter.

Section 8.2 Severability.

Invalidation of any one of these Covenants, Conditions, or Restrictions by Judgement or Court Order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 8.3 Amendment.

The Easements, Covenants, Conditions, and Restrictions of this Declaration, as amended from time to time, shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years upon agreement of a majority of the members of the Association. All Easements shall be perpetual. Other than the foregoing sentence related to Easements, the provisions of this Declaration may be amended by the Declarant in whole or part for up to sixty (60) months following the sale of the first Lot in Pond Village Subdivision. Thereafter, unless specifically prohibited in this Declaration, the Covenants, Conditions and Restrictions contained herein may be amended by an instrument signed by not less than two-thirds (2/3rds) of the Members. Any Amendment must be signed by all necessary parties and filed for record with the Taos County, New Mexico, Clerk and Recorder. Notwithstanding the foregoing, no change to the Subdivision Plat may be made without the written consent of Town of Taos, New Mexico.

In Witness Whereof, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 16th day of January, 2019.

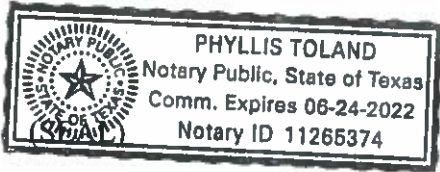
TAOS SENIOR LIVING PARTNERS, LP,
A Texas Limited Partnership duly
registered to do business in New Mexico
"Declarant", by: Taos Senior Living Managers,
LLC, a Texas Limited Liability Company

By 
Stephanie Toliver, Manager

TAOS COUNTY
ANNA MARTINEZ, CLERK
000436587
Book 1015 Page 144
13 of 23
05/16/2019 03:30:50 PM
BY BLANCAL

STATE OF TEXAS)
)SS:
COUNTY OF DALLAS)

On this 16th day of January, 2019, before me personally appeared Stephanie Toliver, Manager of Taos Senior Living Managers, LLC, General Partner of Taos Senior Living Partners, LP, a Texas Limited Liability Partnership duly authorized to do business in the State of New Mexico, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his own free act and deed on behalf of said limited liability company.



Phyllis Toland
Notary Public

My Commission Expires: June 24, 2022

EXHIBIT "A"

Property Description

TRACT A

A TRACT OF LAND IN THE TOWN OF TAOS, TAOS COUNTY, NEW MEXICO, BEING A PORTION OF EXCEPTION 150, PRIVATE CLAIM 313, PARCEL 1 WITHIN THE TAOS PUEBLO GRANT, AND ALSO BEING A PORTION OF TRACT 192, MAP 18, SURVEY 2 OF THE 1941 TAOS COUNTY REASSESSMENT SURVEY, LOCATED WITHIN SECTION 8, TOWNSHIP 25 NORTH, RANGE 13 EAST, N.M.P.M. DESCRIBED AS FOLLOWS:

BEGINNING AT A UNITED STATE GENERAL LAND OFFICE (USGLO) BRASS DISK MONUMENT FOR CORNER No. 7 OF SAID PRIVATE CLAIM;

THENCE, NORTH 46°07'02" EAST A DISTANCE OF 100.89 FEET TO A USGLO BRASS DISK MONUMENT FOR CORNER No. 8 OF SAID PRIVATE CLAIM;

THENCE, NORTH 43°30'57" WEST A DISTANCE OF 117.30 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY OF VALVERDE STREET, FROM WHENCE A REBAR WITNESS CORNER WITH CAP MARKED "LS 12349" BEARS S 43°30'57" E A DISTANCE OF 12.00 FEET;

THENCE ALONG SAID RIGHT-OF-WAY, NORTH 64°03'35" EAST A DISTANCE OF 105.36 FEET TO A REBAR WITH CAP MARKED "LS 3905" ON THE SOUTHWESTERLY RIGHT-OF-WAY OF TOWN HALL DRIVE;

THENCE ALONG SAID RIGHT OF WAY, SOUTH 51°06'17" EAST A DISTANCE OF 337.54 FEET TO A ½" REBAR ON THE NORTHWESTERLY RIGHT-OF-WAY OF MANZANARES ROAD;

THENCE ALONG SAID RIGHT-OF-WAY, SOUTH 38°45'18" WEST A DISTANCE OF 188.44 FEET TO A ½" REBAR;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, SOUTH 26°20'23" WEST A DISTANCE OF 38.20 FEET TO A ½" REBAR SET WITH CAP MARKED "NMPS 17532";

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, SOUTH 31°30'01" WEST A DISTANCE OF 199.00 FEET TO A ½" REBAR SET WITH CAP MARKED "NMPS 17532";

THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 85°35'29" WEST A DISTANCE OF 5.28 FEET TO A REBAR WITH CAP MARKED "LS 12348";

THENCE, NORTH 48°08'42" WEST A DISTANCE OF 50.00 FEET TO A REBAR WITH CAP MARKED "LS 12349";

THENCE, NORTH 42°45'22" WEST A DISTANCE OF 178.05 FEET;

THENCE, NORTH 43°34'40" WEST A DISTANCE OF 131.07 FEET TO THE POINT OF BEGINNING.

ALL AS DEPICTED ON A PLAT OF SURVEY ENTITLED "TAOS SENIOR LIVING PARTNERS, LP" PREPARED BY EAGLE PEAK LAND SURVEYING, INC., MARK W. SHADBURN, NMPS No. 17532, AS JOB No. 2118.01 AND DATED JUNE 8, 2017

CONTAINING 137,265 SQUARE FEET OR 3.151 ACRES, MORE OR LESS.

All as shown on Plat of Survey for Taos Living Center Partners, LP, Mark W. Shadburn, NMPS #17532, Job No. 2118.01 dated 6/8/17.

EXHIBIT "B"

Section I: INTRODUCTION

NOTE:
These Design Guidelines do not supersede any existing Town of Taos building and land development codes or regulations. Prior to designing and constructing any improvements, the Town of Taos, and the State of New Mexico should be contacted to obtain a copy of all specific applicable Town, and State requirements.

A. PURPOSE

The purpose of the Pond Village Design Guidelines (the "Design Guidelines") is to protect the value of Lots in Pond Village for the benefit of all Owners. These Design Guidelines establish a combination of specific requirements and general guidelines to accomplish this.

The purpose of these requirements and guidelines is not to impede design and development of the individual residences, rather it is to establish a continuity of design quality and character. It is hoped that these Design Guidelines inspire the individual to consider all design details with a genuine, thoughtful concern for the value of Lots in Pond Village Subdivision.

These Design Guidelines are enforceable pursuant to the provision a part of the Declaration of Easements Covenants, Conditions and Restrictions for Pond Village Subdivision filed in Book _____ at Pages _____ to _____, Records of Taos County, New Mexico, and are enforced by the Pond Village Homeowners Association, a New Mexico Nonprofit Corporation.

B. GOALS AND OBJECTIVES

The following goals and objectives are intended to provide the Board of Directors of Pond Village Association guidance in evaluating proposed designs and interpreting requests for variances from these Design Guidelines.

1. General

Goal: Provide direction to individual design efforts so that all Lots subjected to these Design Guidelines are developed and maintained with a strong sense of northern New Mexico identity and character by establishing a cohesive design concept.

2. Site Planning

Goal: Locate roads, driveways and homes in a manner that maintains compatibility and privacy between neighboring homes, disturbs as little of the natural landscape as possible.

Objectives:

- Limit disturbance of the natural landscape to areas within roadways, driveways, and building areas.
- Protect and maintain views and privacy between homes.

3. Architecture

Goal: Architectural styles that are appropriate to the area and its character.

Objectives:

- Establish architectural design criteria to give guidance on the desired external three dimensional building form, materials and appearance.
- Encourage a high quality of New Mexico style architecture.

4. Landscape

Goal: A landscape theme which results in preservation and enhancement of the site's natural vegetation patterns, while allowing home sites adequate shade, buffers, color and texture.

Objectives:

- Establish a palette of native and naturalized plant materials for revegetation of areas disturbed by roads, utilities, and wall construction.
- Establish site planning criteria for terrain and storm drainage management.
- Establish appropriate palettes of plant material for use in the various distinct landscape zones.

C. REVIEW PROCESS

The Pond Village Subdivision Declaration of Easements, Covenants, Conditions & Restrictions provide that the Board of Directors of the Pond Village Association fulfill the responsibility of reviewing and approving all proposed site and building improvements prior to their implementation and may, at times, designate a Design Review Professional as their agent. To facilitate the Board of Director's review and assist each resident in complying with the Intent of these Design Guidelines, a simple four step process has been established. The four steps of this process are:

- Preliminary Plan Review
- Final Plan Review
- Preconstruction Site Review
- Completion Review

The details of these reviews are outlined in Section IV of these Design Guidelines.

**Section II:
SITE DEVELOPMENT**

The emphasis of this section is on the integration of buildings and site improvements with the natural setting through a coupling of site planning considerations and architectural styles.

A. GRADING

The intent of these site grading guidelines is to preserve and enhance the natural landscape and visual character of the site. Site grading shall be designed in such a way as to minimize disturbance of the natural landscape, the visual impact, and the potential for soil erosion. All grading shall be limited to the building area and driveway corridors. No grading activity or disturbance may occur outside of these zones.

B. DRAINAGE

Storm water run-off on each Lot shall be managed in such a manner as to minimize discharge from the developed area and minimize soil erosion.

- Storm water runoff shall be dispersed as much as practicable and areas of concentrated flows shall be minimized.
- Where concentrated flows are necessary, a positive means of erosion control shall be implemented. Erosion control measures shall incorporate vegetation as the principle component.
- If detention or retention basins are incorporated into drainage designs, they shall be designed to be a visual amenity with appropriate landscape treatment.

C. BUILDING ORIENTATION AND SITING

Buildings shall be designed and sited to minimize the impact and silhouette of built forms on the natural landscape. Roof line silhouettes shall be designed to minimize the visual impact by keeping a low profile that does not obstruct views from adjacent lots and does not dominate the horizon line. No permanent improvements shall be built in any location which would impede or influence water flow.

D. WALLS AND FENCES

Walls and fences shall be designed as required to provide privacy, define views, and relate to the natural land forms.

- Walls, including the exposed faces of retaining walls, shall be constructed of materials and finishes that are complementary to the building architecture. Wall construction styles shall include exposed adobe, plastered adobe, indigenous rock or field stone, rammed earth and/or imported rock of a character that relates to the natural site conditions. Stucco walls may be constructed with concrete masonry unit construction only if the method of construction prevents cracking through the stucco finish. Plain, un-colored and un-textured concrete block walls shall not be used in areas visible from adjacent lots.
- Fences shall reflect the character of the area. Suggested fence styles and materials include post and rail, latillas ("coyote" fencing), and rustic wood plank and rail. Chainlink, sheet metal, and other utilitarian-character material shall not be used in areas visible from adjacent lots.

- The total maximum height of a wall and/or fence system shall not exceed four (4) feet in height except where abutting a building when six (6) feet is permissible when specifically approved by the Board of Directors .
- Dominant colors shall be desert tones of brown, tan, beige, sand, and natural weathered wood tones.

E. STORAGE, REFUSE, UTILITIES AND EXTERIOR EQUIPMENT

- All outdoor storage and refuse collection facilities shall be screened from view by either fencing or landscaping.
- All exterior utilities other than above-ground lines existing as of the date hereof, including, but not limited to, gas lines, water lines, electrical wires, telephone and communication wires shall be installed and maintained underground. Temporary overhead power and telephone facilities are permitted during the approved construction period.
- Utilities shall be designed and installed to minimize the disturbance of natural vegetation, and shall be routed within the driveway corridors.
- No dish greater than 36" in diameter which is used for transmission or reception of any signals—including, but not limited to telephone, television, and radio—shall be placed on any Lot in a location that is visible from adjacent lots and must be screened to minimize view.
- Antennae used for ham radio reception and transmission of commercial television shall be of minimum size and configuration necessary, but require prior approval of the Board of Directors.
- Exterior lighting must comply with the Town of Taos Dark Sky Ordinance.
- No exterior light posts shall exceed twelve (12') feet in height.

F. LANDSCAPING

The intent of these landscaping guidelines is to allow development of appropriate landscaping around each home while ensuring that the overall natural landscape character is retained.

1. Planting

- All undeveloped disturbed areas shall receive some type of vegetative landscape treatment to stabilize the soil surface and reduce generation of dust.
- Revegetation Seed Mix:** All areas disturbed during construction of driveways, utilities, roads, and drainage ways shall be seeded with a mix generally consisting of buffalo/blue grama, side oats grama, Indian rice grass, western wheatgrass, galleta, alkali sacaton, sheep fescue, and little bluestem. Minor amounts of sage and

Juniper seed can be added to this mix at a rate recommended by the seed mix producer. Other native and naturalized plants may be included in the revegetation seed mix as is recommended by a professional landscaper familiar with the local growing conditions. Reseeding is to take place between July 1 and August 15.

- High water use lawn areas and gardens watered from a domestic well shall be limited to 400 square feet per Lot.
- All landscaping outside of walled portions of the building site, except as noted above, shall be limited to native or naturalized plantings closely adapted to the local conditions and character of the site.
- Trees shall not be planted in mass nor in locations that will block significant views and solar collectors from other residences and shall be not taller than twenty (20') feet.
- All Lot Owner planted vegetation must have low water use requirement and be drought resistant.
- All Lot Owners must maintain defensible spaces surrounding all structures on the Lot which shall include keeping non fire-resistant vegetation or growth, leaves, needles and other dead vegetation materials clear of any buildings or structures; tree crowns extending within ten feet (10') of any buildings or structures pruned to maintain a minimum horizontal clearance of ten feet (10'); tree crowns pruned to remove limbs located less than six feet (6') above ground surface adjacent to the trees in a manner so as to provide a clear area of suppression.

2. Maintenance

- Landscaped areas shall be maintained in good health and appearance by each Lot Owner.
- Each Lot Owner shall be responsible to ensure that areas revegetated with the seed mix attain sufficient vegetative cover to stabilize the soil and minimize the visual impact of the disturbed area.
- Each Lot Owner shall be responsible to protect and ensure that the natural vegetation remain undisturbed in all areas of the Lot that are not developed with buildings, structures, or landscaping.

A. ARCHITECTURAL STYLES

The architectural style of houses and structures constructed in Pond Village Subdivision shall be reminiscent of traditional Pueblo Revival and Territorial Revival Styles of Southwestern Architecture. These styles are an expression of New Mexico's architectural heritage, and reflects hundreds of years of ethnic and cultural influences. These styles are rarely found in pure form. Cultural blending, environmental responses, and the availability of building materials have produced a unique regional character. Contemporary interpretations can be successful and are acceptable if the traditions of scale, proportion, and materials are blended with honest concern for historic integrity.

B. COMMON VOCABULARY ELEMENTS

1. **Building Compounds**
Building sites are often developed as "compounds" where the main house, garages, various out-buildings, and possibly a guest house are arranged in a loose, yet functional, cluster that creates a variety of indoor and outdoor spaces. All structures should be physically connected. This cluster is often times enclosed by a wall. The wall is used to provide an architectural means to visually tie the building masses together and delineate developed areas from natural areas.
2. **Courtyards**
Courtyards of various forms are desirable because of the occasional extremes of climate in the Taos area. They provide shelter from the elements and a sense of enclosure and privacy. These can take the form of atriums, patios, gardens and parking courts.
3. **Portales**
Portales are covered porches. They offer shade, wind protection and a special space for indoor/outdoor living.
4. **Shade and Shadow**
Architectural design features that provide shelter from the intensity and heat of the New Mexico sun, also have aesthetic effects, creating patterns of shade and shadow that vary with each architectural style. These features include deeply set windows and large overhangs where large areas of glass are directly exposed to the sun. Particularly important are the shade and shadow patterns of the landscaping that soften the plain stucco surfaces.

C. GENERAL CONDITIONS

1. **Building Height and Mass**
 - Building masses shall be simple in form and of strong geometry.
 - Building masses shall be horizontal in nature, with the height of the building being much less than its length or width.
 - Roofs may be "flat" in appearance with parapet walls around the perimeter of each roof section or may be

pitched if Territorial Style. The slopes of roof surfaces shall be set at least the minimum slope necessary to provide for proper drainage.

- Building height shall not exceed 27 feet above the original natural grade of the building envelope area as it existed prior to construction. Building height shall be determined by comparing the elevation of the top of the parapet at any location on the building to the elevations shown on the original topographic survey that was used as the basis for creating the . The elevation datum used in the original topographic survey shall be used when making the building height survey. Chimneys and required rooftop vents may extend above these height limitations only if required by the minimum dimensions imposed by applicable codes. If not covered by any code, the height of these rooftop penetrations shall be kept to the minimum necessary to function properly.

2. Vents

Exterior components of plumbing, processing, and ventilating systems shall be combined to minimize the number of penetrations through the roof. Vents shall be as small as allowed by code and shall match roofing material color.

3. Materials and Colors

- Wall Materials: Exterior walls shall be predominantly stucco and/or a synthetic substitute with a "sand" or floated finish. Minor accents of wood and other materials may be incorporated into the wall systems.
- Dominant Colors: The dominant color of all structures shall be natural tones of beige, brown, tan, sand, and green.
- Accent Colors: Accent colors shall be used sparingly so that the effect is maintained. Traditional accent shades of turquoise, teal, and warm reds are encouraged for prominent doors, gateways, shutters, and limited trim areas.
- Roofing Materials: Roof material shall have a finished appearance and shall be non-reflective. Roofs may be steel, standing seam, composite, galvanized aluminum, slate, membrane and/or shingle.

4. Setbacks

- No permanent improvements (including fencing) shall be constructed within 10 feet of boundaries, such area to be reserved for the underground installation and maintenance of utilities, provided however,

TAOS COUNTY
ANNA MARTINEZ, CLERK
000436587
Book 1015 Page 153
22 of 23
05/16/2019 03:30:50 PM
BY BLANCAL

**Section IV:
REVIEW PROCESS**

The Board of Directors of the Pond Village Homeowners Association will review and respond to all plan submittals within thirty (30) days from date of submittal. No work may begin prior to approval from the Board of Directors of the Pond Village Homeowners Association.

Nothing in the review process described below shall Pond Village Subdivision supersede the right of any member of the Pond Village Homeowners Association to enforce provisions of the Design Guidelines as provided for in the Pond Village Subdivision Declaration of Easements, Covenants, Conditions and Restrictions.

REVIEW AND APPROVAL BY THE POND VILLAGE HOMEOWNERS ASSOCIATION IS IN NO WAY INTENDED TO BE AN APPROVAL OF ANY ENGINEERING OR CONFIRMATION OF COMPLIANCE WITH ANY APPLICABLE CODE, REGULATION, OR PERMIT REQUIREMENT.

A. APPLICATION

Submit two (2) copies of the proposed plans, drawings, specifications and color scheme to the Board of Directors. One copy shall be returned to the owner with status of review and one copy shall be maintained with the records of the Board of Directors.

B. REVIEW STEPS AND SUBMITTAL REQUIREMENTS

1. **Preliminary Plan Review - OPTIONAL**
At the option of the Lot Owner, preliminary plans may be submitted to the Board of Directors for review. This review is intended to provide the Lot owner with an opportunity to obtain preliminary approval of their design concept and anticipated variances to these Design Guidelines prior to incurring significant expenses related to preparing final design documents. To initiate this review, submit a preliminary plot plan, building plans and elevations. Drawings should show the nature, kind, shape, dimension, materials, color and location of the proposed improvements and should identify any anticipated variance from these Design Guidelines. Dimensions of building and exterior wall heights should be included.
2. **Final Plan Review**
Submit to Board of Directors three (3) sets of construction drawings and specifications showing the following:
 - Plot Plan** - locations and dimensions of buildings, outdoor walls, paved areas, septic tank and leach fields, and other outdoor improvements.
 - Building Elevations** - elevations of building from all sides, drawings shall be to scale and have dimensions showing heights and widths of building elements
 - Details** - details for all exterior walls, drainage structures, and all exterior improvements visible from outside Pond Village Subdivision at a height of 7 feet above ground level.
3. **Preconstruction Review**
To avoid inadvertent, excessive site disturbance, the limits of all

TAOS COUNTY
ANNA MARTINEZ, CLERK
000436587
Book 1015 Page 154
23 of 23
05/16/2019 03:30:50 PM
BY BLANCAL

site work construction and driveway grading must be clearly established on the site prior to start of any grading activity or other site disturbance. This limit shall be delineated with snow fencing or other acceptable methods that can be maintained throughout the construction period. Once established, no grading or construction disturbance shall occur outside of this limit line. After construction, natural landscaping shall continue uninterrupted to this line. Members of the Board of Directors will inspect the site after the above limit line has been established and prior to start of any site disturbance.

4. Completion Review

After completion of construction, the site and building will be inspected by the Board of Directors for compliance with approved plans and specifications.

C. CONSTRUCTION PERIOD

Construction shall be performed promptly and as diligently as possible. All site and building development shall be completed within three hundred sixty five (365) days after the date on which the work commenced; however, once construction begins owners must pursue construction diligently. An extension to lengthen the construction period may be granted by the Board of Directors.

D. NOTICE OF COMPLETION

Upon completion of any work for which approval has been given, the owner shall submit written notice of completion to the Board of Directors. Within 30 days thereafter, a representative of the Board of Directors shall inspect such improvement for a post-construction review. If the Board of Directors finds that such work was not done in substantial compliance with the approved plans, it shall notify the owner in writing of such noncompliance within the 30-day period and require the owner to correct the matter.

If upon expiration of the 30 days from the date of modification, the owner has failed to remedy the noncompliance, the Board of Directors may levy a fine against such owner for the costs of removing or remedying such noncompliance.

E. CONSTRUCTION ETIQUETTE

1. Prior to Construction

Once the Board of Directors has approved Final Plans for a Lot Owner, prior to commencement of construction, Owner and/or Owner's General Contractor shall:

- post the site with signage indicating the General Contractor's name, Construction Industries Division License Number and phone number; and,
- cause a portable sanitation facility to be placed on the site for construction crew usage.

2. During Construction

During Construction Owner and/or Owner's General Contractor shall:

