

March 13, 2014

**AMENDED ^[L]_[SEP]
DECLARATION OF PROTECTIVE COVENANTS ^[L]_[SEP] FOR
CASAS BELLAS DE SANTA TERESA SUBDIVISION, ^[L]_[SEP]
DOÑA ANA COUNTY, NEW MEXICO**

**A 12.62 ACRE PARCEL OF LAND COMPRISING
A PORTION OF THE SANTA TERESA GRANT
SITUATED WITHIN TOWNSHIP 28 SOUTH;
RANGE 3 EAST; DOÑA ANA COUNTY, NEW
MEXICO**

KNOW ALL BY THESE PRESENT: That Casas Bellas Homeowners Association, a New Mexico Nonprofit corporation, for the Subdivision in Doña Ana County, New Mexico, known as Casas Bellas having received approval by Seventy Five (75%) of the authorized voting members to amend the protective covenants recorded on May 10, 1985, and found in the records of the County Clerk's office of Doña Ana County, New Mexico, in Book 193, starting at Page 434 in consideration of the mutual interest of the owners of real estate in Casas Bellas De Santa Teresa Subdivision and agrees that all owners and future purchasers of lots or building sites in the Subdivision that the following restrictions and obligations shall apply to all lots and building sites in the Subdivision and all conveyances of any lot shall likewise be subject to the restrictions and obligations as follows:

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DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration of Covenants and Restrictions is amended this 8th day of April, 2014 by Casas Bellas Homeowners Association, (hereinafter referred to as "The Association") a New Mexico Nonprofit Corporation.

WITNESSETH

WHEREAS, Casas Bellas Home Owners Association is the Owner of the real property located in Santa Teresa, New Mexico (said property being hereinafter referred to as the "Property"), the Association deems it advisable to impose a general plan for the improvement and development of the Property by the adoption and establishment of the following Covenants and Restrictions upon the use, occupancy and enjoyment of the Property, all for the purpose of enhancing and protecting the value, desirability and attractiveness thereof.

NOW, THEREFORE, The Association hereby declares that all of the Property described in EXHIBIT B following and any additional property as may, by subsequent amendment be added to and subjected to this Declaration, shall be held, sold and conveyed subject to the following Covenants and Restrictions which are for the purpose of protecting the value and desirability of and which shall run with the Property subjected to this Declaration and which shall be binding part thereof, their heirs, successors, successors in title and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1

DEFINITIONS

Architectural Review Committee - shall mean and refer to the Architectural Review Committee created pursuant to Article 5.

Assessment – shall include the common annual assessment (dues) and any special assessment approved by 2 / 3 of the membership to cover unexpected maintenance or repairs, or special projects.

Association - shall mean and refer to the Casas Bellas Homeowners Association, Inc., a New Mexico Nonprofit Corporation, its successors and assigns.

Common Area - shall mean and refer to all real property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Common Facility - shall mean and refer to all facilities and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Fines and Penalties – shall mean monies that may be levied for violations of the Covenants, Bylaws and Rules and Regulations.

Improvement - shall mean and include all buildings, and roofed structures, parking areas, fences, walls, hedges, mass plantings and other landscaping, poles, walkways, driveways, and ponds. It does not include garden shrub or tree replacements, minor changes or other replacement or repair under \$500.00, and which does not change exterior colors or exterior appearances. It does include both original improvements and all later changes in improvements.

Mortgage - shall mean and refer to a first mortgage given upon a residential unit to secure the payment of a debt.

Mortgagee - shall mean and refer to a person or entity to which a Mortgage upon a residential unit is given and shall include the beneficiary of a Deed of Trust.

Owner - shall mean and refer to one or more persons or entities that hold the record title to any residential unit but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a residential unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) shall be considered the Owner.

Person - shall mean and refer to a natural person, a partnership, corporation, trustee or other legal entity.

Property - shall mean and refer to all real property which is subject to this Declaration together with such other real property as may from time to time be annexed.

Residential Unit - shall mean a single lot/dwelling located within the Subdivision of Casas Bellas.

Single Family - shall mean and refer to one family unit.

ARTICLE 2

PROPERTY RIGHTS

2.1 **Owners' Easement of Enjoyment - Casas Bellas Homeowners Association.**

Every Owner shall have a right and easement of enjoyment in and to the common area and common facilities which have been conveyed by the developer of the Property which is the subject of this Declaration prior to said developer's conveyance of the first lot in said Property to the Casas Bellas Homeowners Association, said conveyance being made in fee simple, free and clear of all liens and encumbrances except current, real property taxes, prorated to the date of conveyance, and easements, reservations, covenants, conditions and restrictions then of record, including those set forth in this Declaration. Every Owner's right and easement of enjoyment in and to said common area and common facilities shall be subject to the following:

A. The right of the Board of Directors of the Association to suspend the right to use the common area and common facilities (excluding roads) by an owner for any period during which the Owner shall be delinquent in the payment of assessments (dues) and/or fines payable to the Association or during which he shall remain in default of any other obligations in these Covenants for any period not to exceed sixty (60) days for a single infraction of the Rules and Regulations. Provided, however, except for failure to pay assessments (dues), no such suspension shall be effective until the Owner shall have been given the opportunity to present evidence on his behalf at a hearing before the Board of Directors and no such hearing shall be held until the Owner shall have received at least ten (10) days written notice specifying the nature of the charges against him and the exact time and place of the hearing.

B. The right of the Board of Directors of the Association to establish and enforce compliance with uniform Rules and Regulations governing use of the common areas and common facilities not inconsistent with the terms of this Declaration and to amend same from time to time. A copy of such Rules and Regulations shall be available to each Owner.

C. The right of the Association to dedicate or transfer all or any part of the common areas or common facilities to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by two-thirds (2/3) of unit owners, has been recorded.

D. The right of the Association, subject to the approval of the Dona Ana County Planning Commission and the Dona Ana County Board of Commissioners, when required, to construct such facilities upon the common areas as the Association shall determine necessary for the use and enjoyment of the Owners and to provide maintenance service upon the common areas.

Provided, however, in no event is any residential or dwelling unit to be constructed upon any portion of the common areas.

2.2 **Delegation of Use and Enjoyment of Association Property.** Any Owner may delegate his right of use and enjoyment to the properties and facilities to members of his family, his guests, his invitees, tenant or contract purchaser, who reside in his residential unit subject to reasonable regulation by the Board of Directors of the Association and in accordance with procedures adopted by them. These rights and privileges shall be subject to suspension in the same manner and to the same extent as those of the Owner.

2.3 **Easements.**

A. Easements for installation and maintenance of utilities and drainage facilities have been or may be reserved. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity and cable television systems, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each residential unit and all improvements thereon shall be continuously maintained by the Owner of each residential unit; the easement area of common property and improvements, thereon owned by the Association shall be continuously maintained by the Association.

B. No structure of any kind shall be built, erected, or maintained on any such easements and such easements shall be at all times open and accessible to public and quasi- public utility corporations, their employees and contractors, and shall also be open and accessible to all of whom shall have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any of the purposes for which such easements are reserved.

ARTICLE 3

CASAS BELLAS HOMEOWNERS ASSOCIATION

3.1 **Nonprofit Corporation.** The Casas Bellas Homeowners Association (the "Association") shall be incorporated as a nonprofit corporation in the State of New Mexico, and as such no part of the income shall be distributed to any of its members, directors, trustees or officers and no part of the net earnings shall inure to the benefit of any private individual.

3.2 **Membership.** Each Owner of a residential unit in the Property shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a residential unit. Ownership of a residential unit shall be the sole qualification for membership. The membership by an Owner shall not be transferred, pledged or alienated in any way except upon the sale or encumbrance of such residential unit, and then only to the purchaser or mortgagee of such residential unit. Any attempt to make a prohibitive transfer is void, and will not be reflected upon the books and records of the Association. Evidence of transfer of

membership shall be furnished to the Association in the form of a certified copy of the recorded conveyance of a residential unit by the current Owner as reflected upon the books and records of the Association.

3.3 **Voting Rights.** A Member shall be entitled to one (1) vote for each residential unit in which he holds the interest required for membership. When more than one (1) person holds such interest or interests in any residential unit, all such persons shall constitute one (1) member, and the one (1) vote for such residential unit shall be exercised. Any Owner of a residential unit which is leased may, in the lease or other written instrument, assign the voting right for that residential unit to the Lessee, provided that a copy of such instrument is furnished to the Association prior to any meeting.

3.4 **Suspension of Voting Rights.** The voting rights of any member shall be automatically suspended during any period in which he shall be delinquent in the payment of assessments (dues) and/or fines payable to the Association and for any period during which his right to use the common area and/or common facilities shall have been suspended by the Board of Directors.

3.5 **Board of Directors.** The Board of Directors shall not be less than five (5) nor greater than nine (9) in number. The Bylaws of the Association shall specify the procedure for nomination and election of and the terms to be served by the directors. The Board shall exercise the powers and duties of the Association for the benefit of the common area and common facilities owned by the Association and its members and shall pay the costs required to be paid from assessments levied.

3.6 **Additional Powers.** The Association, to the extent the Board deems appropriate for the Association purposes, shall have the power to own real and personal property, to open bank accounts, to enforce this Declaration, to obtain policy or policies of insurance insuring the Association and its members, to contract for legal, accounting and other professional services, to enter into management agreements with third parties, to borrow funds for emergencies, to employ employees directly or through a contractor, and to otherwise do that which it believes necessary to protect or defend the common area and common facilities owned by the Association from loss or damage by suit or otherwise.

3.7 **Maintenance Responsibilities.** The Association shall be obligated to maintain, repair, replace and renew, or cause to be maintained, repaired, replaced or renewed, the common area and common facilities owned by the Association in a clean, safe and first-class condition. Maintenance shall include, but not be limited to:

A. The repair, replacement, renewal and cleaning of all common facilities or equipment owned by the Association.

B. The mowing, watering, fertilizing, weeding, replanting and replacing of landscaping on all common area.

C. The preservation of the visual attractiveness of ponds and other waterways comprising part of the common area.

3.8 **Ad Valorem Taxes.** The Association shall be responsible for the rendition of its properties, improvements and personal property for the purposes of ad valorem taxation and for the timely payment of said ad valorem taxes.

3.9 **Independent Contractors.** The Association may engage a licensed and insured independent contractor, person or company to perform on behalf of and as agent of the Association, the following functions:

- A. The maintenance described in Section 3.07.
- B. The calculation of the cost of said maintenance.
- C. The calculation and rendition to the members of the Association of statements for assessments.
- D. The collection of assessments (dues) and disbursement to pay the cost of the above described maintenance.
- E. All other general duties and responsibilities fairly related to the functions, duties and responsibilities of the Association set forth in this Declaration.

3.10 **Association Insurance.** The Association shall obtain and pay premiums as a common expense for policies of insurance providing the following coverage:

A. All the common area and common facilities owned by the Association and all personal property owned by the Association shall be insured in an amount equal to the maximum insurable replacement value, affording protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to improvements similar in construction, location and use including, by way of example, vandalism and malicious mischief. Such coverage shall be issued in the name of the Association, as insured, with loss payable in favor of the Association.

B. Broad form comprehensive liability coverage in an amount not less than \$3,000,000.00 shall be purchased by the Association. The Directors of the Association shall be named as additional insured and they shall be issued appropriate certificates to such effect upon their request. Such coverage shall include, but not be limited to, the legal liability of the Association for bodily and personal injuries, including death, property damage, operation of automobiles on behalf of the Association and activities of the Association in connection with the operation or use of the common area and common facilities owned by the Association and all personal property and the maintenance of the common areas and common facilities required to be performed by the Association.

C. The Association shall also purchase such other insurance coverage as shall hereafter be required by law or determined by the Board of Directors to be necessary for the protection of the Association.

3.11 **Duty to Restore.** If damage shall occur to any portion of the common area or common facilities owned by the Association, it shall be the responsibility of the Association to restore such damaged portion to its same or similar condition existing just prior to the occurrence. Such restoration shall be commenced and completed within a reasonable time in a good and workmanlike manner, using the same or similar materials as were originally used in or on the properties or improvements which were damaged or destroyed. The Association shall not be liable to any Owner for any delay in the completion of any repair, restoration or replacement due to causes beyond the reasonable control of the Association, its contractors or subcontractors. Specifically, the Association shall not be liable to delay occasioned by weather, shortage or unavailability of materials and strikes or work stoppages.

As soon as possible after the occurrence of damage to the properties or improvements, the Association shall obtain reliable and detailed cost estimates to accomplish the restoration, applying all insurance proceeds available to the Association in payment. However, if there is no insurance or if the insurance proceeds are not sufficient to pay the cost of restoring the damage to the properties or improvements then an equal Special Assessment may be made upon each residential unit for its share of the deficiency. Provided, however, each Owner shall be responsible for the cost not otherwise covered by insurance carried by the Association, of any reconstruction, repair or replacement of any portion of the properties or improvements as a result of the occurrence caused by the negligent or tortuous acts or neglect of such Owner, a member of his family, his agents, tenants, invitees, employees or contractors.

3.12 **Rules and Regulations.** The Board of Directors of the Association shall adopt Rules and Regulations concerning the use of the Association's common area and common facilities. Sanctions for violations may include reasonable monetary fines and suspension of the right to vote and the right to use the common area. Rules and Regulations shall be consistent with the rights and duties established by this Declaration.

3.13 **Implied Rights.** The Association through the Board of Directors may exercise any other right or privilege given to it expressly by this Declaration or by the Bylaws, and every right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate any such right or privilege.

3.14 **Establishment of Assessments.** The Board of Directors of the Association shall have the responsibility and authority to impose on each residential unit common assessments (dues) and special assessments and the Owners of such residential units shall be personally liable for the payment of such assessments.

A. Not less than thirty (30) days prior to the beginning of each fiscal year (to be determined in accordance with the Bylaws) the Board of Directors, shall, after taking into consideration all anticipated items of common expense for such fiscal year, together with a reasonable reserve for contingencies, fix and establish as to each residential unit an Annual Common Assessment. The Board may increase the previous years Annual Common Assessment by an amount up to ten (10) percent. Following such establishment each Owner

shall be given prompt notice of the Annual Common Assessment (dues) on his residential unit, but the failure of an Owner to receive such notice shall not affect his liability for the payment. The Annual Common Assessment (dues) on each residential unit shall be payable by the Owner in equal monthly installments on or before the first day of each month during a fiscal year.

(1) If the Board of Directors shall fail to establish the Annual Common Assessment (dues) on each residential unit, the Annual Common Assessment (dues) on each residential unit for the previous fiscal year shall be automatically established immediately prior to the commencement of the fiscal year so that there will be no interruption in the payment by the Owner of the monthly installments due on the Annual Common Assessment (dues) on his residential unit.

(2) If at any time the Board of Directors determines that the Annual Common Assessment (dues) is inadequate to fulfill the functions of the Association, it shall call a special meeting of the Association for the purpose of increasing such amount. At such meeting, provided a quorum is present, the amount of Annual Common Assessment may be increased by a vote of two-thirds (2/3) of members in attendance. Such increase shall continue until such members shall decide otherwise in a similar manner.

B. In addition to the Annual Common Assessment, the Association may levy a Special Assessment for the purpose of defraying the cost of any construction or reconstruction, unexpected repair or replacement of a described improvement including the necessary fixtures and personal property related, or for carrying out other purposes of the Association as stated in this Declaration.

The Special Assessment must be approved by a vote of two-thirds (2/3) of members in attendance at an annual or special meeting at which there is a quorum present. Written notice of the meeting shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

C. Each assessment under this article shall be the separate, distinct and personal debt and obligation of the Owner against whom it is assessed. No Owner may exempt himself from liability from such assessment, nor release the residential unit owned by him from the liens and charges by waiver of the use and enjoyment of the properties and improvements owned by the Association, by abandonment of his residential unit or by any other action. Any assessment provided for in this article, which is not paid when due, shall be delinquent. With respect to each assessment not paid within ten (10) days after its due date, the Association may, require the Owner to pay a late charge to be determined by the Association. Such a charge shall be considered a late fee and collectable with the assessment for which it was charged. The Association may bring an action at law against the Owner or Owners for nonpayment

D. No action shall be brought to foreclose an assessment lien less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said residential unit, and a copy is recorded by the Association in the office of the appropriate county official. Notice of claim must recite a good and

sufficient legal description of any such residential unit, the record Owner or reputed Owner, the amount claimed (which shall include the interest charges, costs and attorney's fees recoverable by an action at law) and the name and address of the Association.

E. Any foreclosure sale provided for above is to be conducted in accordance with the customary practices of the court of the State of New Mexico, applicable to the foreclosure of mortgages, or in any other manner permitted or provided by law. The Association, by its duly authorized agents, shall have the power to bid on the residential unit at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

F. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association to cover the cost of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

G. The Association shall, upon demand, furnish to any Owner liable for assessments, a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified residential unit have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

H. A sale or transfer of any residential unit shall not affect any assessment lien. However, the sale or transfer of any residential unit pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such residential unit from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE 4

RESIDENTIAL UNIT MAINTENANCE

4.1 **Owner's Maintenance.** Each Owner shall at all times be obligated to maintain, repair, replace and renew or cause to be maintained, repaired, replaced or renewed, all improvements on his residential unit and the area between the boundary line of each Owner's residential unit and adjacent street if such area is not otherwise maintained by the Association), to keep the area in a clean, safe and first-class condition consistent with its original intended appearance. Owner's maintenance obligation shall include, but not be limited to:

A. The prompt removal of all paper, debris, refuse and dead and diseased trees and plantings and all snow and ice from paved areas; the repair, replacement, cleaning and replacing of all lighting fixtures and bulbs on or about the improvements on the residential unit; the

mowing, watering, fertilizing, weeding, replanting and replacing of all landscaping approved in the landscaping plan for both the residential unit and the area between the boundary line of the Owner's residential unit and adjacent street if such area is not otherwise maintained by the Association; and, during construction of improvements on a residential unit, consistent cleaning of dirt, construction debris and other construction-related refuse.

B. If any improvement is damaged or destroyed, the Owner shall diligently proceed to restore such improvement to the condition existing prior to such damage or destruction or, in the alternative, raze and remove such improvement and landscape the residential unit pursuant to a landscaping plan approved as provided in Section 5.04.

C. In the event an Owner does not commence construction of improvements on the residential unit within twelve (12) months of the date of acquisition of a residential lot, the Owner shall maintain the residential lot in a clean, neat and safe condition, keeping it in such a condition to minimize blowing sand and tumbleweeds until the commencement of construction of the improvements.

4.2 **Association's Right to Perform Owner's Maintenance.** If the Owner shall fail to perform his maintenance obligations or the landscaping work, as discussed in Section 4.01, the Association may give written notice to the Owner specifying the manner in which the Owner has failed to perform. If such failure has not been corrected within ten (10) working days after such notice, or if such work, if it cannot be completed within such 10-day period, has not been commenced within such period and diligently prosecuted to completion, the Association may enter upon the residential lot and perform such work. The Association by reason of its performing such work shall not be liable or responsible to the Owner for any loss or damage sustained by the Owner or anyone claiming by or under the Owner except for gross negligence or wanton acts. The cost of such work shall be assessed against and paid by the Owner within thirty (30) days of the date the Association renders a statement; the statement shall specify the details of the work performed by the Association and the cost. Such statement may include, at the option of the Association, a nominal charge to help defray the Association's administrative expenses connected with performing such work. The provisions of Section 3.15 D through I shall govern the enforcement and collection of the assessment.

ARTICLE 5

THE ARCHITECTURAL REVIEW COMMITTEE

5.1 **Composition.** The Architectural Review Committee shall consist of a member of the board and at least two (2) but no more than four (4) members of the association. Committee

Members shall be appointed by the Board of Directors, and the Committee Members shall serve at the pleasure of the Board.

Upon the removal, death, incapacity or resignation of a Committee Member, a successor Committee Member shall be appointed by the Board of Directors. Until such successor Committee Member shall have been so appointed, the remaining Committee Member or Members shall have the full rights, authority and power to carry out the functions of the Committee.

5.2 **Function and Authority.** The function and authority of the Committee shall include, but not be limited to, the following:

A. The Committee shall have the responsibility for review of all original construction and or modification on any portion of the Property. No improvement, shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of the Property until the plans and specifications, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing. The Committee may recommend professional consultants to assist it in discharging its duties.

B. The Committee is authorized to review and recommend deviations from the provisions of this Declaration when such deviations are justified from the standpoint of esthetics, architectural design, variety, harmony, or other reasons deemed by the Committee to justify deviation. All deviations from this Declaration must be approved in writing by the Board of Directors.

5.3 **Committee Procedures.** The Committee shall meet at times and places to be determined by the Committee. Any party wishing to submit a matter to the Committee for consideration shall submit to the committee such matters in writing upon forms as may be prescribed by the Committee. Each Committee Member shall have one (1) vote, and no decision shall be made by the Committee except by majority vote. The recommendations made by the Committee shall be submitted to the Board of Directors who has the ultimate approval authority.

5.4 **Content of Plans and Specifications.** The plans and specifications shall be in a form and substance reasonably satisfactory to the Committee and shall be accompanied by all such information as may be reasonably required which will enable the Committee to determine the location, scale, design, character, style and appearance of the intended improvement. The plans and specifications to be so submitted and approved may include the following:

A site plan showing the location, dimensions and orientation to boundary lines and the setback lines of the improvements, structures, walks, patios, driveways, fences and walls.

Existing and finish grades shall be shown on lot corners and at corners of proposed improvements.

Lot drainage provisions shall be indicated as well as cut and fill details if any applicable change in the lot contours is contemplated.

It may also include if applicable: exterior elevations, exterior materials, textures and shapes, structural design, landscaping plan, including walkways, fences and

walls, waterfalls and pooling areas, elevation changes, watering systems and vegetation and ground cover, parking area, driveway plan and traffic patterns, including all access roadways, screening, including size, location and method, utility connections, exterior illumination, fire protection system, signs, including size, shape, location and materials.

5.5 Time for Review of Plans. Within thirty (30) days after the Owner, or Owner's representative, has submitted the plans and specifications to the Committee, the Committee shall formally notify the Owner, or the Owner's representative, in writing, whether the submitted plans and specifications are approved or disapproved. Any disapproval shall set forth the specific reason or reasons for such disapproval. No construction of the improvements provided for in the submitted plans and specifications shall be commenced until receipt of written approval, or disapproval, from the Board of Directors.

5.6 Time for Review of Revised Plans. If the Committee shall disapprove any part of the submitted plans and specifications, the Owner, or the Owner's representative may revise the submitted plans and specifications to incorporate such changes and may deliver the revised submitted plans and specifications to the Committee and the Committee shall have fifteen (15) days within which to review such revised plans and specifications to determine Owner's, or Owner's representatives, compliance with the Committee's requested changes. If the committee does not approve the revised plans, the Owner may appeal to the Board of Directors. The decision of the Board shall be final, conclusive, and binding on the applicant.

5.7 Construction per Approved Plans and Specifications. The Owner, or the Owner's representative, shall cause the construction of all improvements to be done in such a manner as to comply with the final plans and specifications approved by the Committee and Board of Directors. Construction shall be completed in a timely manner but not to exceed six (6) months. It is the responsibility of the owner to insure a building permit is obtained prior to beginning construction.

5.8 Limitation of Liability. Neither the Association, or the Architectural Review Committee nor any of the members of such Committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner of land effected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

ARTICLE 6

PERMITTED AND PROHIBITED USES OF PROPERTY

6.1 Permitted Uses of Common Area. The common areas and facilities are for the use of and enjoyment of Casas Bellas owners and their guests.

6.2 **Permitted Uses of Property Other than Common Area.** The use of all other property, other than the common area, shall be limited to residential single-family dwellings, either attached or detached, having a minimum of 1,300 square feet of heated living area with white stucco exterior and red tile roofs, Russian Red [called Russian Black] garage door, fascia and trim, associated parking, garages, landscaped areas, and all public or private service and utility facilities related to such uses, including, but not limited to, drainage, sewer, gas, water, electric and communication facilities.

Each residential single family dwelling shall be occupied by no more than one (1) family nor shall it be used as a boarding house or divided into apartments or rooms for rental purposes. This subsection does not prevent the rental or lease of the whole residential single family dwelling by the Owner, but any such rental or lease must be by a written agreement which requires the tenant to observe these Covenants. No residential single family dwelling may be leased or rented for a period of less than six (6) months.

6.3 **Prohibited Uses and Operations.** The following uses and operations shall not be permitted on any portion of the Property:

A. Industrial use.

B. Mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, or gravel or earth.

C. Dumping, disposal, incineration or reduction of garbage, sewage, offal, dead animals or refuse, or the construction or operation of water or sewage treatment plants or electrical substations.

D. No illegal, noxious or offensive activity shall be carried on within the Property. No light shall be emitted from the Property which is unreasonably bright to cause unreasonable glare. No sound shall be emitted on or within the Property which is unreasonably loud or annoying. No odor shall be emitted within the Property which is noxious or offensive to others. Nothing shall be done or placed within the Property which may be or become a nuisance, or cause unreasonable embarrassment, disturbances or annoyances to the Owners in the enjoyment of their dwellings.

E. No discharge of firearms or fireworks within the property.

ARTICLE 7 PROTECTION OF SECURITY INTEREST

7.1 **Application of Assessments to Mortgagees.** The liens created under this Declaration upon any residential unit shall be subject and subordinate to, and shall not affect the right of a Mortgagee under any recorded first mortgage upon a residential unit made in good faith and for value, provided that after the foreclosure of any such mortgage the amount of all assessments and liens on the property become due.

7.2 **Right of Notice.** The Association shall provide all eligible Mortgagees with timely written notice of any delinquency in the payment of monthly assessments, special assessments or other charges due the Association by the Owner of a residential unit which is subject to a first mortgage held by any Mortgagee and which delinquency remains uncured for a period of sixty (60) days or more.

7.3 **Limitation of Enforcement Against Mortgagees.** No violation by an Owner of the Covenants and Restrictions or enforcement of the Covenants contained against an Owner shall defeat or render invalid the lien of any first Mortgagee made in good faith and for value against the property of the Owner, but, these Covenants shall be effective against any Owner whose title is acquired by foreclosure, trustee's sale, voluntary conveyance or otherwise.

7.4 **Rights of Mortgagee to Information.** A Mortgagee shall, upon written request, be entitled to inspect this Declaration, Bylaws, and Rules and Regulations of the Association and the books and records of the Association on the same basis as a member. If a Mortgagee furnishes the Association its address in writing, it shall be entitled to receive, within a reasonable time, a financial statement for the immediately preceding fiscal year, and shall receive notice of meetings on the same basis as members.

7.5 **Application of Covenants.** Except as provided in this Article or specifically provided elsewhere in these Covenants, all Mortgages and Mortgagees are bound by the provisions of these Covenants.

ARTICLE 8

GENERAL PROVISIONS

8.1 **Duration.** The Declaration of Protective Covenants shall run and bind the land for a term of thirty (30) years from the date it is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless at the expiration of the thirty (30) year term or of any ten (10) year extension period the Covenants are amended or repealed.

8.2 **Amendment or Repeal.** The Declaration of Protective Covenants may be amended or repealed in the following manner:

A. The approval by a three quarters seventy-five percent (75%) vote of Casas Bellas Homeowners Association members.

B. The recording of a certificate by the Secretary of the Association setting forth,

in full the amendment or amendments so approved, including any portion or portions repealed, and certifying that such amendment or amendments have been approved by the required vote.

8.3. Enforcement.

A. Except to the extent otherwise expressly provided, the Association shall have the right to enforce any and all of the provisions now or hereafter imposed by these Covenants upon Owners or upon any Property which is the subject matter of these Covenants.

B. Every act or omission whereby any Covenant of this Declaration is violated, in whole or in part, is declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for the negative or affirmative action, by the Association.

C. Each remedy provided for in the Covenants is cumulative and not exclusive.

D. The failure to enforce the provisions of any Covenant of this Declaration shall not constitute a waiver of any right to enforce any such provision or any other provision of this Declaration.

E. No breach of any of the provisions of these Covenants shall cause any forfeiture of title or reversion or bestow any rights of reentry whatsoever.

F. Reasonable attorney's fees and costs may be awarded in any action brought to enforce these Covenants.

8.4. Severability. If any of the Covenants, shall be found void or unenforceable for whatever reason by any Court of law or of equity, then every other Covenant, shall remain valid and binding. The Association shall to the fullest extent possible modify such Covenant as required to carry out the general intention of this Declaration and to impart validity to such Covenant.

8.5 Delivery of Notices and Documents. Any notice or other document permitted or required by this Declaration may be delivered either personally, by mail or electronic mail [email].

If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed as follows:

A. If delivered to an Owner at any residential unit owned by the Owner or at such other address given by the Owner to Casas Bellas Homeowners Association, in writing. Any such address may be changed from time to time by any Owner by notice in writing, delivered to Casas Bellas Homeowners Association.

B. If delivered to the property management firm employed by the Casas Bellas Homeowners Association

(amended January 13, 2023)

8.6 **Interpretation.** Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one (1) gender shall include all genders and the use of the term "including" shall mean "including, without limitation". This Declaration shall be liberally construed in favor of the party seeking to enforce the provisions to effectuate the purpose of protecting and enhancing the value, marketability and desirability of the Property by providing a common plan for the development. The headings used are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions.

EXHIBIT A

LIST OF ASSOCIATION MEMBERS EVIDENCING THEIR AGREEMENT TO AMEND THE COVENANTS

NAME	ADDRESS	SIGNATURE
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EXECUTED this ____ day of _____, 20 ____

ATTEST: Casas Bellas Homeowners Association.

Secretary

President

STATE OF NEW MEXICO

COUNTY OF DOÑA ANA

The foregoing instrument was acknowledged before me
this ____ day of _____, 20 ____

by _____ of Casas Bellas Homeowners Association, ^[1]_{SEP} a
New Mexico corporation, on behalf of said corporation.

Notary Public in and for The State of New Mexico

My commission expires:

EXHIBIT B

**PROPERTY OWNED BY CASAS BELLAS
HOMEOWNERS ASSOCIATION:**

- A. All streets and Common Area
- B. Maintenance/Storage Building
- C. Ponds and Pumps.
- D. Fountains.

Legal Description

12.62 Acre Parcel

Within the Santa Teresa Grant Doña Ana County. New Mexico Township 28 South, Range 3 East New Mexico Principal Meridian

A certain portion of land comprising a portion of the Santa Teresa Grant situate within Township 28 South. Range 3 East, New Mexico Principal Meridian, Dona Anna County, New Mexico, and being more particularly described by metes and bounds as follows:

Beginning at an iron "pin" at the most westerly corner of the parcel herein described, said iron pin being on the southerly boundary of the Yucca Golf Course, whence Meander Corner No. 5 on the westerly boundary of the Santa Teresa Grant bears N 49°40 '53" W, a distance of 1903.98 feet; thence,

Continuing along the southerly boundary of the Yucca Golf Course the following four courses and distances:

N 74°37'46" E a distance of 158.25 feet to a brass cap marked AGolf Course No. 10"; thence,

N 53°25'24" E a distance of 130.33 feet to a brass cap marked AGolf Course No. 9"; thence,

N 38°59'15" E a distance of 257.34 feet to a brass cap marked AGolf Course No 8"; thence,

N 08°24'00" W a distance of 418.78 feet to a brass cap marked AGolf Course No. 7" thence,

Leaving the boundary of the Yucca Golf Course; N 08' 24'00" W, a distance of 91.73 feet to an iron pin; thence,

N 76°54" E, a distance of 158.55 feet to an iron pin; thence

S 24°40'00" E, a distance of 1180.39 feet to an iron pin at the northerly right-of-way line of South Country Club Road (150 ft. ROW); thence,

Continuing along the northerly right-of-way line of South Country Club Road, 98.91 feet along the arc of a curve bearing to the right, said arc having a radius of 1358.60 feet and a chord which bears S 63°14'15" W a distance of 98.89 feet to an iron pin at the point of tangency; thence,

S 65°20'00" W, a distance of 722.77 feet to an iron pin; thence,

Leaving the northerly right-of-way line of South Country Club Road, N 24°40'00" W, a distance of 607.54 feet to the point of beginning of the parcel herein described.

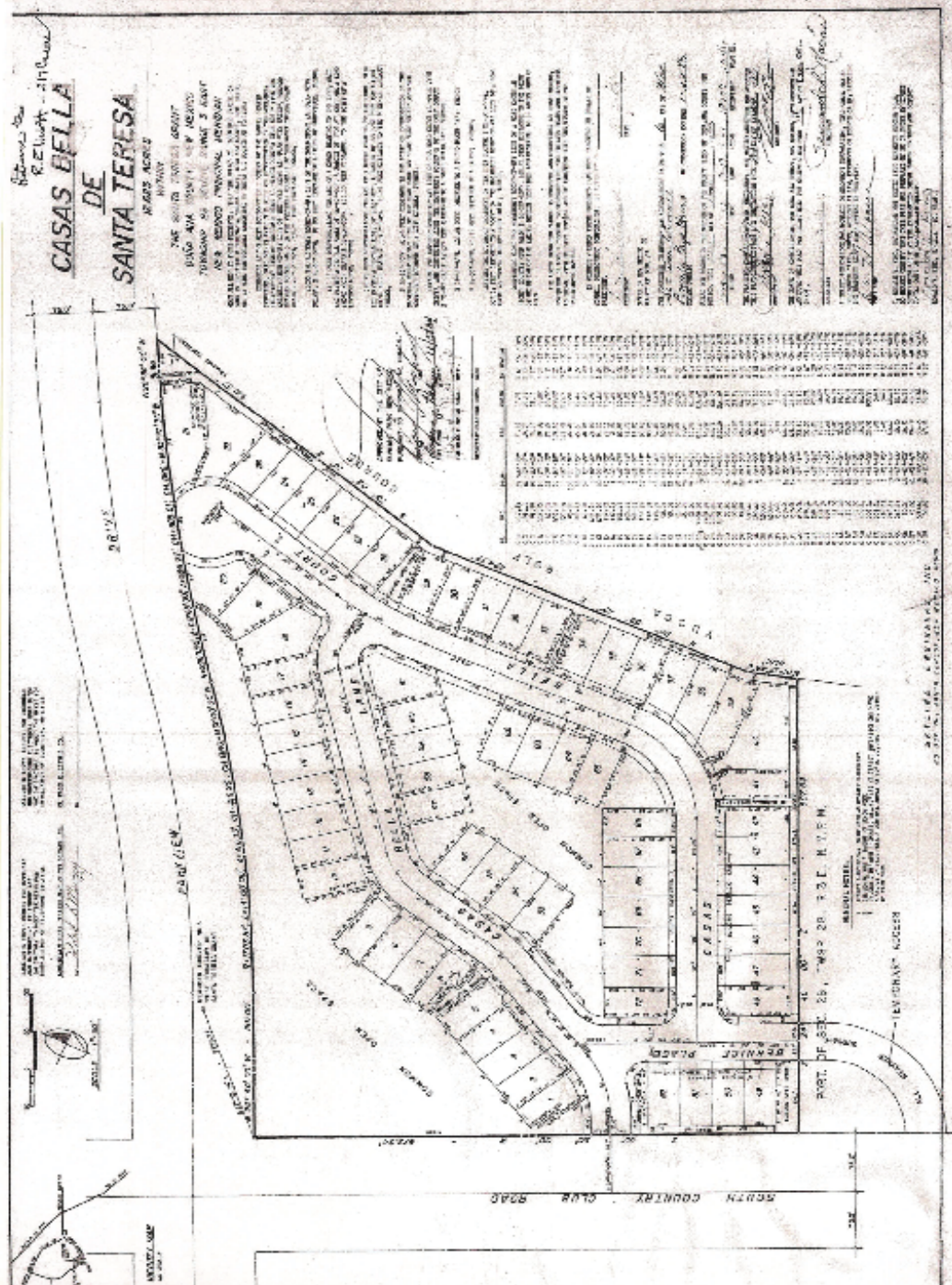


EXHIBIT C
EASEMENT MAP