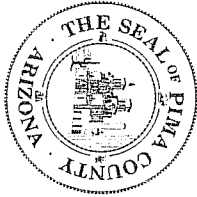


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2492 East River Road, Suite 100, Tucson, AZ 85718 (520) 615-8900

**FIRST AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR LEE LOFTS**

This First Amended And Restated Declaration of Covenants, Conditions And Restrictions is made and entered into this 7th day of September, 2010 by Miramonte Lee Lane, L.L.C., an Arizona limited liability company hereinafter referred to as "Declarant".

RECITALS:

A. WHEREAS, Declarant and the Owner of Lots 1, 2 and 3 of that certain land in Pima County described as Lee Street RCP, Lots 1-5 and Common Areas A, B and C an RCP Subdivision in Pima County Arizona recorded in Book 62 of Maps and Plats at Page 35 a resubdivision of Lot 7, Block 11 of Speedway Addition No. 2, located in a portion of the property legally described on the attached Exhibit "A" which is incorporated by this reference

B. WHEREAS, Declarant and the Owner of Lots 4 desire to impose certain easements upon the Property and to establish certain covenants, conditions and restrictions with respect to the Property, for mutual and reciprocal benefit and complement of the present and future Owners (as hereinafter defined), on the terms and conditions set forth in this First Amended and Restated Declaration.

C. WHEREAS, Lot 4 as depicted on the Final Plat is owned by Bank of Oklahoma, N.A. a national banking association. It is the intention of the Owner of Lot 4 to agree to the imposition of certain easements upon the Property and to establish certain covenants, conditions and restrictions with respect to the Property, for mutual and reciprocal benefit and complement of the present and future Owners, on the terms and conditions set forth in this Declaration.

D. WHEREAS, pursuant to Section 12.9 of the Declaration Of Covenants, Conditions, Restrictions And Easements For Lee Lofts Homeowners' Association, Inc. Declarant and Bank Of Oklahoma make up more than seventy five percent (75%) of the Owners of the Lots as defined therein and hereby amend said Declaration Of Covenants, Conditions, Restrictions And Easements For Lee Lofts Homeowners' Association, Inc.

NOW THEREFORE, the Declaration is hereby set forth that Miramonte Lee Lane, L.L.C., hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, and liens which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on and for the benefit of all parties having or acquiring any right, title or interest in the described Property or any part thereof, their heirs, successors or assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

SECTION 1. Association shall mean and refer to Lee Lofts Homeowners' Association, Inc., an Arizona non-profit corporation, its successors, and assigns.

SECTION 2. Architectural Committee shall mean the committee created pursuant to **Article VII** hereof.

SECTION 3. Architectural Committee Rules shall mean the rules adopted by the Architectural Committee, as they may be amended from time to time.

SECTION 4. Articles shall mean the Articles of Incorporation of the Association which are, or shall be, filed in the office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

SECTION 5. Association Rules rules adopted by the Board, as they may be amended from time to time.

SECTION 6. Board shall mean the Board of Directors of the Association.

SECTION 7. By-Laws shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.

SECTION 8. Common Area shall mean that portion of the Property owned by the Association (including the Improvements thereto), for the common use and enjoyment of Owners as described on Exhibit B.

SECTION 9. Declarant shall mean and refer to Miramonte Lee Lane, L.L.C., an Arizona limited liability company, including its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development and an Assignment of Declarant's Rights is recorded.

SECTION 10. Declaration shall mean this First Amended and Restated Declaration of Covenants, Conditions and Restrictions herein set forth in this entire document, as same may from time to time be amended.

SECTION 11. Developer shall mean Miramonte Arizona, L.L.C., or any successor to all or substantially all of the interest of Miramonte Arizona, L.L.C. in the development.

SECTION 12. Improvement(s) shall mean the buildings, roads, roadways, parking areas, lighting fixtures, fences, walls, hedges, plantings, planted trees and shrubs, and all other structures or landscaping of every type and kind.

SECTION 13. Lot shall mean and refer to any separate parcel of real property shown upon any recorded subdivision plat of the Property, with the exception of the Common Area.

SECTION 15. Monthly Assessment shall mean and refer to the Monthly Assessments and charges levied and assessed each month against each Lot pursuant to Article VI, Section 3 hereof.

SECTION 16. Member shall mean any person, corporation, partnership, joint venture or other legal entity, including Declarant and Developer(s), who is a member of the Association, based upon ownership of a Lot.

SECTION 17. Mortgage shall mean any recorded instrument as security for the performance of an obligation, including, without limitation, a deed of trust. Mortgagee shall mean a person secured by a mortgage, including a Trustee and Beneficiary under a deed of trust, and Mortgagor shall mean the party executing a mortgage, including a Trustor under a deed of trust. First Mortgage shall mean a mortgage which is the first and most senior of all mortgages upon the same property.

SECTION 18. Owner(s) shall mean and refer to record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot. "Owner" shall also include the purchaser under an executory contract for the sale of Lot(s). The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Except as stated otherwise herein, "Owner" shall not include a lessee or tenant of a Lot. For the purposes of Articles II and VIII only, unless the context otherwise requires, "Owner" shall also include the family, guests, invitees, licensees, and lessees of any Owner, together with any other person or parties holding any possessory interest granted by such Owner in any Lot. "Owner" shall include Declarant and Developer so long as each own any Lot within the Property.

SECTION 19. Plat shall mean and refer to the recorded subdivision Plat of real estate, subject to this Declaration as indicated above.

SECTION 20. Property or Properties shall mean and refer to that certain real, personal, or mixed property herein before described which is subject to this Declaration, and such additions hereto as may hereinafter be brought within the jurisdiction of the Association, by instrument recorded in the Office of the Recorder of Pima County, Arizona.

SECTION 21. Public Purchaser shall mean any person or other legal entity who becomes an Owner of any Lot within the Property, other than the Declarant or Developer.

SECTION 22. Visible From Neighboring Property shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II PROPERTY RIGHTS

SECTION 1. Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to impose fines and suspend the voting rights and right to use of the Common Areas by an Owner for any period during which any assessment against its Lot remains unpaid, or during which any other breach of this Declaration by such Owner continues; and the right of the Association to suspend the right of use of the Common Areas for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- b. The right of the Association to mortgage, dedicate or convey all or any part of the Common Area 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 mortgage or conveyance shall be effective unless an instrument signed by Three-Quarters (3/4) of Owners agreeing to such mortgage or conveyance has been recorded.

SECTION 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, its right of enjoyment to the Common Area and facilities to the members of its family, its tenants, or contract purchasers who reside on the Property.

SECTION 3. Owner's Easement of Enjoyment Limitations.

- a. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot and such right and easement of enjoyment in and to the Common Areas shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Area.
- b. The Common Area shall remain undivided and no action for partition or division of any part thereof shall be permitted.

- c. Each Owner, tenant and occupant of a Lot, and the invitees, tenants, agents and employees of such Owner, may use the Common Area in common with the Owner's invitees, tenants, agents and employees of the other Lots in accordance with the purposes for which it is intended without hindering or encroaching upon the lawful right of such others, and subject to rules and regulations adopted by the Board of Directors.
- d. No Owner will be exempted from liability for assessments with respect to the Common Area by waiver of the enjoyment of the right to use the Common Area or by abandonment of its Lot or otherwise.

SECTION 4. Title to Common Area. Declarant covenants that it will convey legal title, where appropriate, to the Common Area to the Association, free of all encumbrances except current real property taxes and other easements, conditions, reservations, and restrictions then of record. The conveyance, where appropriate, shall be made to the Association prior to the close of escrow of the first Lot by a Public Purchaser. The term "legal title" as used herein shall mean the fee simple title of Declarant. The Common Areas cannot be mortgaged or conveyed without the consent of at least three-quarters (3/4) of the Owners.

SECTION 5. No Declarant or Developer Reserve. Declarant or The Officers and Directors of the Association while still under Declarant Control, shall not and shall not be required to provide the association a reserve account for the maintenance, replacement or repair of the Common Area. **ALL OWNERS AND PUBLIC PURCHASERS ARE HEREBY PUT ON NOTICE OF THIS PROVISION REQUIRING NO RESERVE FUNDS TO BE PLACED IN THE ASSOCIATION BY DECLARANT OR DEVELOPER.**

ARTICLE III PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1. General Declaration. As the Property has been subdivided into various Lots, and it is intended that the Property so subdivided shall be sold and conveyed to Public Purchasers subject to this Declaration, Declarant hereby declares that all the Property subject hereto is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision improvement and sale of the Property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and their successors in interest.

ARTICLE IV THE ASSOCIATION

SECTION 1. Organization.

- a. The Association. The Association is an Arizona non-profit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, By-Laws, and this

Declaration. Neither the Articles nor By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

- b. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors and such Officers as the Directors may elect or appoint, in accordance with the Articles and By-Laws, as same may be amended from time to time.

SECTION 2. Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and By-Laws, as same may be amended from time to time.

SECTION 3. Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as the "Rules". The Rules may restrict and govern the use of any area by any Owner, or by an invitee, licensee or lessee of such Owner, provided, however, that the Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or By-Laws. A copy of the Rules as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded. Said Rules shall have the same force and effect as if they were set forth herein and were a part of this Declaration.

SECTION 4. Personal Liability. To the fullest extent permitted by law, no member of the Board or any Committee Member of the Association, or any Officer of the Association, or any Manager, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, any Manager, or any other representative or employee of the Association, or the Architectural Committee, or any other Committee, or any Officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

SECTION 5. Transfer Fee. Each Public Purchaser of a Lot shall pay to the Association or its Agent immediately upon becoming the Owner of the Lot, a transfer fee, including a charge for copies of the Association Documents, in such amount as is established from time to time by the Board.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every 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 ownership of any Lot which is subject to assessment.

SECTION 2. The Association shall have one (1) class of voting Membership:

Members shall be all Owners of Lots within the Property, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The voting for such Lot shall be exercised as such persons among themselves determine or, in the absence of determination, as determined by the Board of Directors, but in no

event shall more than one (1) vote be cast with respect to any Lot. If any Owner or Owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner or Owners were acting with the authority and consent of all other Owners of the same Lot.

ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association or its Agent: 1) Monthly Assessments or charges, and 2) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The Monthly and Special Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Lot or Lots owned by the Member of the Association and shall be a continuing lien upon the Lot or Lots against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' 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 assessments shall not pass to its successor in title unless expressly assumed by them.

SECTION 2. Purpose of Assessments. In order to promote common good of this community, the assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property and for the improvement and maintenance of the Common Area.

a. The Association shall pay all ad valorem taxes which may be assessed against the common elements and improvements.

SECTION 3. Monthly Assessment. Each lot of said lots 1-5 inclusive shall be subject to the following assessments:

a. Such lot's pro rata share of the actual cost to the Association of all repair, maintenance, safety and control of common elements, including but not limited to maintenance of walkways, sidewalks, streets and sewers, care of lawns and landscaping in common areas, painting of common recreational and other Common Area facilities, maintenance of Common Area water and sprinkler systems, Common Area recreational buildings and other charges required by this Declaration of Restrictions.

b. Such lot's pro rata share of the actual cost to the Association of such recreational facilities as may from time to time be provided by the Association.

c. Such lot's pro rata share of such sum as the Board of Directors of the Association shall determine to be fair and prudent for the establishment and maintenance of a reserve, should the Association determine after Declarant control period is over, for repair, maintenance, taxes and other charges as specified herein, including

fire and other hazard insurance premiums as hereinafter provided, and a liability policy in the face amount of not less than \$500,000.00 which policy in addition to public liability, shall cover repair and construction work to all of the assets and property owned by or to be maintained by the Association. The disposition of liability insurance proceeds shall be made upon majority vote of the Board of Directors but in all events shall be used to and for the purpose of the Association.

d. The initial share of all expenses determined under subparagraphs (a), (b), and (c) above shall be \$75.00 per month for each lot, and such assessments shall be in effect until the Board of Directors of the Association meets and determines that the total estimated expenses should be increased or decreased and different assessments made.

e. The amount to be prorated among the members of the Association pursuant to the foregoing paragraphs shall be established annually by the Board of Directors. An annual report prepared in accordance with a consultation with a public accountant shall be mailed or delivered on or before March 31st of each year to each member. Such report shall show the Association's income and expenses for the preceding year. All assessments shall be the same for every lot.

f. No owner of a lot may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of his unit.

SECTION 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 a capital improvement upon the Common Area or replacement of damaged or destroyed common elements where the Owner or Owners responsible for such damage or destruction have failed to replace or rebuild pursuant to Article VIII herein, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 5. Notice and Quorum for any Action Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of Members 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 6. Uniform Rate of Assessment and Declarant and Developer exemption. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis. Declarant and each Developer shall not pay assessments on any Lot within the Property owned by Declarant or such Developer, respectively. Assessments shall begin upon the sale of each Lot to a Public Purchaser.

SECTION 7. Date of Commencement of Monthly Assessments: Due Date. Each lot Owner shall become liable for monthly charges commencing with the first full calendar month after:

1. The closing date of the escrow regarding his purchase of the lot, or
2. The time the unit is ready for occupancy, whichever first occurs.

The monthly charges shall be paid in advance on the first day of each month to the Association or its designated agent and, if not paid by the 20th of the month, the amount of such charges shall become a lien in the following manner: The Association shall cause to be executed and recorded an affidavit of non-payment in the form of an association lien and shall post a copy of such affidavit on the lot liable for such charges. Such lien shall be foreclosed in the manner provided by Arizona law for the foreclosure of an association lien.

SECTION 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any Annual or Special Assessment not paid within thirty (30) days after the due date shall bear a late charge which is the greater of Ten Dollars (\$10.00) or fifteen percent (15%) of the amount of the Assessment and shall bear interest from the due date at the rate of twelve percent (12%) per annum, or at such rate as determined by the Board. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Area or abandonment of its Lot.

- a. Enforcement by Suit. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner or Member to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with the interest thereon at the rate of twelve percent (12%) per annum from the date of delinquency, court costs, and reasonable attorney's fees in such amount as the Court may adjudge against the delinquent Owner or Member.
- b. Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Lot within the Property to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots covered by the Declaration, together with interest thereon at the rate of twelve percent (12%) per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any default in the payment of any such assessment, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or even without such a written demand being made, the Association may elect to file such a claim of lien on behalf of the Association against the Lot of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any Officer or representative of the Association, and shall contain substantially the following information:
 1. The name of the delinquent Owner;

2. The legal description and street address of the Lot against which claim of lien is made;
3. The total amount claimed to be due and owing for the amount of the delinquency interest thereon, collection costs, and reasonable attorneys fees (with any proper offset allowed);
4. That the claim of lien is made by the Association pursuant to the Declaration; and
5. That a lien is claimed against the Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to the Owner, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes on any Lot in favor of any municipal or other governmental assessing unit, and the liens which are specifically described in Section 9 hereinafter. Any such lien may be foreclosed by appropriate action in court in the manner provided by law for the foreclosure of a realty mortgage or by the exercise of a power of sale in the manner provided by law under a trust deed, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association for the benefit of the Association. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Lot. In the event of such foreclosure, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

SECTION 9. Subordination of the Lien to Mortgages. The lien of the Annual or Special Assessment provided for herein shall be subordinated to the lien of any first mortgage, and be subordinated to the lien of assessments imposed by the covenants, condition and restrictions relating to any Lot or residential unit which is sold in a single family detached development, townhouse development, or a condominium development with separate common area and a homeowners association. 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 lieu thereof, shall extinguish the lien of such assessments as to payments which were due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII ARCHITECTURAL CONTROL

SECTION 1. Organization, Power of Appointment and Removal of Members. There shall be an Architectural Committee, organized as follows:

- a. Committee Composition. The Architectural Committee shall consist of three (3) regular members. None of such members shall be required to be an architect or to meet any other

particular qualifications for membership. A member need not be, but may be, a member of the Board or an Officer of the Association.

- b. Initial Members. The members of the Board shall act as the initial members of the Architectural Committee.
- c. Terms of Office. Unless the initial members of the Architectural Committee have resigned or been removed, their terms of office shall be for a period of one (1) year, or until the appointment of their respective successors. Thereafter, the term of each Architectural Committee member appointed shall be for a period of one (1) year and until the appointment of its successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired, may be reappointed.
- d. Appointment and Removal. The right to appoint and remove all regular member of the Architectural Committee, at any time, shall be and is hereby vested solely in the Board, provided however, that no member may be removed from the Architectural Committee by the Board except by the vote or written consent of fifty-one percent (51%) of all of the members of the Board.
- e. Resignations. Any regular member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to Declarant or to the Board, whichever then has the right to appoint Committee Members.
- f. Vacancies. Vacancies on the Architectural Committee, however caused, shall be filled by the Declarant or the Board, whichever has the power to appoint Committee members.

A vacancy or vacancies on the Architectural Committee shall be deemed to exist in case of the death, resignation or removal of any regular member.

SECTION 2. Duties. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals of plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration.

SECTION 3. Meetings and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to the provisions of Paragraph b of Section 1 above, the vote or written consent of any two regular members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services.

SECTION 4. Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole and absolute discretion, adopt, amend, and repeal, by unanimous vote or written consent, rules and

regulations, to be known as "Architectural Committee Rules". Said Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes, and materials and similar features which are recommended for use within the Property.

SECTION 5. Waiver. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

SECTION 6. Liability. Neither the Architectural Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any Property; or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may but it is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee.

SECTION 7. Time for Approval. In the event said Board, or its designated committee, 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 complied with.

ARTICLE VIII USE RESTRICTIONS

SECTION 1. Permitted Uses and Restrictions. The permitted uses, easements, and restrictions for all property covered by this Declaration shall be as follows:

- a. Single Family Residential Use. All property shall be used, improved, and devoted exclusively to single family residential use. No gainful occupation, profession, trade or other non-residential use shall be conducted on any such Property. Nothing herein shall be deemed to prevent the leasing of any such Property to a single family from time to time by the Owner thereof, subject to all of the provisions of this Declaration. No structure whatsoever, other than one private single family residence, together with a private garage, shall be erected, placed or permitted to remain on any Lot. Lots owned by Declarant or a Developer may be used as model homes and for sales and construction offices for the purposes of enabling Declarant and Developer(s) to sell Lots within the Property, until such time as all of the Lots owned by Declarant have been sold to Public Purchasers.

- b. Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot whether attached to a building or structure or otherwise, unless approved by the Architectural Committee. Permitted exception to this restriction are one (1) television satellite dish from a recognized satellite reception provider which all attempts to conceal the same shall be made.
- c. Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.
- d. Improvements and Alterations. No Improvements, alterations, repairs, painting, excavation or other work which in any way alters the exterior appearance of any Lot or the Improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed or transferred by Declarant to a Public Purchaser shall be made or done without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Committee or any committee established by the Architectural Committee for the purpose. Pursuant to its rule making power, the Architectural Committee shall establish a procedure for the preparation, submission and determination of applications for any such alteration or Improvement. The Architectural Committee shall have the right to refuse to approve any plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring Property. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme and building materials, shall be subject to the prior approval of the Architectural Committee. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Lot Owner or other parties shall have recourse against the Architectural Committee or any of its members, for or with respect to any decisions made in good faith.
- e. Maintenance of Lawns and Plantings. In addition to the maintenance which the Association shall perform pursuant to Section 2 below, the Association acknowledges that it is, and always will be, responsible for the maintenance of the Common Area. The Association further

acknowledges that the City of Tucson is not, and never will be, responsible in any way for Association duties. The Association shall maintain the lawns and plantings on all Common Areas, and for this purpose, Declarant and the Association shall have the right, at any time, to plant, replace, maintain and cultivate landscaping, shrubs, trees, grass and plantings on any Common Areas, and on such easements over an Owner's Lot as may have been granted to Declarant or the Association, regardless of whether any Owner or the Association is responsible hereunder for maintenance of such areas. No Owner shall remove, alter, injure or interfere in any way with any landscaping, shrubs, trees, grass or plantings placed upon any Common Area by Declarant or the Association without the written consent of the Association having first been obtained. The Association or its Authorized Agents shall have the right to enter upon any Lot, at any reasonable time, for the purpose of planting, replacing, maintaining or cultivating such landscaping, shrubs, trees, grass or plantings in the Common Area and shall not be liable for trespass of so doing.

- f. Repair of Buildings. No Improvement upon any Property shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. The Association shall have right, after thirty (30) days notice to an Owner, to repair, paint, or otherwise maintain the exterior of any Improvement (and without notice in the event of an emergency) which the Association, acting through its Board, determines in its discretion, is in violation of this provision. All costs and expenses, including reasonable attorneys' fees, incurred by the Association shall be borne by the Owner, and shall be paid to the Association on demand plus interest at the rate of twelve percent (12%) per annum from ten (10) days after said demand until paid in full. Any sum not paid by an Owner may be treated as an assessment and collected in a like manner as assessments levied pursuant to Article VI of this Declaration.
- g. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Property except in covered containers. In no event shall such containers be maintained so as to be Visible from Neighboring Property, except to make the same available for collection, and then only the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.
- h. Overhangs. No tree, shrub, or plantings of any kind on any Property shall be allowed to overhang or to otherwise encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.
- I. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Property, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of buildings, Improvements or structures within the permitted uses of such property, and except that which Declarant or the Association may require for the operation and maintenance of the Common Area.

- j. Restrictions on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. This provision shall not in any way limit Declarant from subdividing or separating into smaller lots or parcels any Property owned by Declarant.
- k. Signs. No sign (other than a name and address sign, not exceeding 9" x 30" in size) of any nature shall be permitted on any Lot; provided, however, that one sign of not more than five (5) square feet may be temporarily erected or placed on a Lot for the purpose of advertising the Lot for sale or rent; and provided further the Declarant and Developer(s) may erect any signs during construction and marketing; and provided further, this restriction shall not apply to the Association in furtherance of its powers and purposes herein set forth.
- l. Utility Easements. There is hereby created a blanket easement upon, across and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Property and to affix and maintain wires, circuits and conduits on, in and under roofs and exterior walls of the Property. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on the Property except as initially developed and approved by the Declarant or thereafter approved by the Board. This easement shall in no way affect any other recorded easements on the Property. This easement shall be limited to Improvements as originally constructed.
- m. Animals. No animals, birds, fowl, poultry or livestock, other than three (3) of generally recognized house or yard pets, shall be maintained on any Property covered by this Declaration and then only if they are kept, bred or raised thereon solely as domestic pets and for not commercial purposes. No animal, of any kind whatsoever shall be maintained so as to be Visible from Neighboring Property. Upon the written request of an Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal, bird, fowl, poultry or livestock is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds on any such Property is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.
- n. Temporary Occupancy. No trailer, basement of any incomplete Improvement, building, tent, shack, garage or barn, and no temporary Improvement of any kind shall be used at any time for a residence on any Property either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any such Property shall be removed immediately after the completion of construction.

- o. Trailers and Motor Vehicles. No motor vehicle classed by manufacturer rating as exceeding 1 ton, mobile home, travel trailer, recreational vehicle, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked or maintained on any Lot so as to be Visible from Neighboring Property, the Common Areas, or the streets. They may however, be concealed in attractively screened areas which must be maintained on any lot behind the front wall of the home and with prior approval be the Architectural Committee. The provisions of this Section shall not apply to pick-up trucks of less than 3/4 ton capacity with camper shells not exceeding seven feet in height measured from ground level and mini-motor homes not exceeding seven feet in height and eighteen feet in length. No mobile home, motor home, boat, recreational vehicle, trailer of any kind, truck camper, permanent tent, or similar structure shall be kept, place, maintained, constructed, reconstructed or repaired, nor shall any motor vehicle be constructed, reconstructed, or repaired, upon any Property; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Committee. Carports shall be used for parking vehicle and storage purposes only, and shall not be converted for living or recreational activities without the written consent of the Architectural Committee. Except as provided above, only vehicles in operating conditions shall be parked in uncovered parking areas.
- p. Use of Recreational Vehicle as Living Quarters and Storage of Motor Vehicles. The use or occupancy of a recreational vehicle, motor home, van, camper, trailer, or boat as living quarters on either a temporary or permanent basis is strictly prohibited on any portion of the Property.
- q. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Property, and no odors shall be permitted to arise there from, so as to render any such Property or portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Property. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Property.
- r. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, place or maintained on any Property unless they are erected, place and maintained exclusively within a fenced service yard or otherwise concealed and shall not be Visible from Neighboring Property.
- s. Mineral Exploration. No Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any each substance of any kind.

- t. Diseases and Insects. No Owner shall permit anything or condition to exist upon any Property which shall induce, breed or harbor infectious plant diseases or noxious insects.
- u. Walls and Fences. The rights and duties of Owners with respect to party walls or party fences, shall be as follows:
1. In the event any wall or party fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), it shall be the obligation of all Owners to maintain any and all wall or fence and to rebuild and repair such wall or fence at their joint and equal expense.
 2. In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a party wall or party fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which will be binding.
 3. There shall be no fences on the Property, or on any Lot constructed of chain link or corrugated metal/fiberglass/plastic.
 4. There shall be no fences of any kind placed in the front yard on any Lot which is over sixty (60) inches in height.
 5. In the event that any of the subdivision perimeter fencing on an Owner's Lot is damaged or destroyed, it shall be the obligation of the Owner of such Lot to rebuild and/or repair such perimeter fence so that the exterior surface will match in material and in color the surface of the perimeter fence of the subdivision. The right to contribution for costs among Owners shall run with the land.
- v. Mailboxes. The Architectural Committee and the Design Guidelines have provided for uniform mailbox designs in the course of original construction and such designs, colors, lettering and other features shall be maintained by the Owner at all times.
- w. Temporary Structures, Mobile Homes. No manufactured, prefabricated home or mobile home shall be permitted or placed upon any Lot or anywhere else in the Properties. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, temporary garage, or outbuilding shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed, nor shall any residence when completed be in any manner occupied until it complies with all requirements, conditions and restrictions herein set forth; provided, however, that during the actual construction or alteration of a structure on any Lot, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering, or remodeling any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof. The provisions of this Section shall not apply to the Declarant or Developer.

- x. Drainage Easement. There is hereby created a blanket easement for drainage of ground water on, over and across the Property. No Owner shall obstruct, divert, alter or interfere in any way with the drainage of ground water upon, across or over any portion of the Property. Each Owner shall, at its own expense, maintain the drainage ways and channels on its Lot in proper condition free from obstruction. The Association shall have the right, after thirty (30) days notice to an Owner, to repair or otherwise maintain the drainage way or channel on said Owner's Lot, which the Association, acting through its Board, determines has not been maintained by the Owner in compliance with this provision. All costs and expenses including reasonable attorneys' fees incurred by the Association shall be borne by the Owner, and shall be paid to the Association upon demand, plus interest at an annual rate of 12 percent (12%) from ten (10) days after said demand until paid in full. Any sum not paid by an Owner may be treated as an assessment and collected in like manner as assessments levied pursuant to Article VI of this Declaration.
- y. Easement for Subsequent Construction. There is hereby created an easement running in favor of Declarant and its Mortgagee or Beneficiary, the Developer(s), the Declarant's successors, assigns, and its or the Agents, employees, or independent contractors, to enter upon any portion of the Property for the purpose of constructing or installing Improvements upon any additional land annexed to the Property pursuant to the terms of Article IX, Section 5, of this Declaration.
- z. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant and/or Developer(s), or their duly Authorized Agents, of Improvements or signs necessary or convenient to the development or sale of Lots and the Property.
- aa. Variances. The Board shall have the authority to grant variances from the restrictions in this Article as is reasonably necessary for the health, safety, and welfare of the Members.

SECTION 2. Permitted Uses and Restrictions - Common Area. The permitted uses and restrictions for Common Area shall be as follows:

- a. Permitted Uses. In general, the Common Area shall be used for the benefit of the Owners, for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment to be derived from such reasonable and proper use, without hindering the exercise of or encroaching upon the right of any other Owner to utilize the Common Area, provided that no unlawful use shall be permitted.
- b. Restricted Uses.
 - 1. The Common Area shall not be used by Owners for storage of supplies, material or personal property of any kind.
 - 2. In general, no activity shall be carried on nor condition maintained by any Owner upon the Common Area which spoils the appearance of the Property or hinders or encroaches

upon the right of any other Owner to utilize the Common Area as reasonably intended, or which would violate laws, rules or regulations of government authorities.

- c. Maintenance by Association. The Association may, at any time, as to any Common Area conveyed, leased or transferred to it or otherwise placed under its jurisdiction, at the discretion of the Board, without any approval of the Owners being required:
1. Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area) in accordance with (a) the last plans thereof approved by the Board; (b) the original plans for the Improvement; or (c) if neither of the foregoing is applicable and if such Improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such Improvement as same existed.
 2. Construct, reconstruct, repair, replace, or refinish any road Improvement or surface upon any portion of such area used as a road, street, walk, and parking area.
 3. Replace injured and diseased trees or other vegetation in any such area and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil for aesthetic purposes.
 4. Place and maintain upon any such area such signs, markers and lights as the Board may deem appropriate for the proper identification, use and regulation thereof, subject to the approval of the Architectural Committee.
 5. Remove all paper, debris, filth and refuse from the Common Areas as required, and clean and relamp lighting fixtures as needed.
 6. Pay all real estate taxes and assessments on the Common Area.
 7. Pay all electrical, water, gas and other utility charges or fees for services furnished to the Common Areas.
 8. Pay for and keep in force at the Association's expense public liability insurance in companies acceptable to the Association in amounts and with limits of liability desired by the Owners or required of the Owners pursuant to any other recorded document affecting the Property, such insurance to name the Association or the Owners or both as named insureds.
 9. Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the beauty thereof, in accordance with the general purposes specified in this Declaration.

10. The Board shall be the sole judge as to the appropriate maintenance of all grounds within the Common Area.
 11. Nothing herein shall be construed so as to preclude the Association from delegating its powers set forth above to manager or agent or to other persons, firms or corporations.
- d. Damage or Destruction of Common Area by Owners. In the event any Common Area or Improvement thereon is damaged or destroyed by an Owner or any of its guests, tenants, licensees or Agents, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered-subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall be paid by said Owner, upon demand, to the Association and the Association may impose a lien and enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

ARTICLE IX GENERAL PROVISIONS

SECTION 1. The Declaration. By acceptance of a deed or by acquiring ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, its heirs, personal representatives, successors, transferees and assigns, binds himself, its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the Improvement and development of the real property covered thereby and hereby evidences its interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

SECTION 2. Enforcement. The Association 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 and recover any attorney's fees by the prevailing party. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, in perpetuity from the date this Declaration is recorded, unless a Declaration of Termination satisfying the requirements of an amendment to this Declaration is recorded. This Declaration may be amended any time

by an instrument signed by not less than eighty percent (80%) of the Member votes. Any amendment must be recorded.

SECTION 5. Annexation. Additional residential property and Common Area may be annexed to the Properties with the unanimous consent of all of the Members.

SECTION 6. Notices. All notices, demands, or other notices intended to be served by the Board or the Association, except for monthly statements and other routine notices provided for in these Restrictions, shall be in writing and shall be addressed to the last known address of the Lot Owner in the files of the Association; if to Declarant: Miramonte Lee Lane, L.L.C., 2492 East River Road, Suite 100, Tucson, Arizona 85718. Notices shall be deemed delivered when mailed by United States Registered or Certified Mail addressed to the Lot Owner at such address, or when hand delivered to such Lot Owner.

IN WITNESS WHEREOF, Miramonte Lee Lane, L.L.C., an Arizona limited liability company, has hereunto caused its name to be signed by the signatures of its duly authorized officials on the date hereof.

DATED this 7th day of September, 2010.

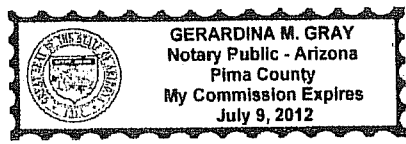
By: _____
Its: Manager

STATE OF ARIZONA)
)ss.
County of Pima)

On this 7th day of September, 2010, before me, the undersigned Notary Public, personally appeared Stephen Quinlan, who acknowledged himself/herself to be the Manager of Miramonte Lee Lane, L.L.C., an Arizona limited liability company, and that he/she as such Officer, being authorized so to do, executing the forgoing instrument for the purposes therein contained by signing his/her name as such Officer.

Notary Public

My Commission Expires:
7-9-2012



IN WITNESS WHEREOF, Bank of Oklahoma, N.A. a national banking association, has hereunto caused its name to be signed by the signatures of its duly authorized officials on the date hereof.

DATED this 7 day of September, 2010.

By: Kristin Sathern

Its: Vice President

STATE OF ARIZONA)
)ss.
County of Pima)

On this 7th day of September, 2010, before me, the undersigned Notary Public, personally appeared Kristin Sathern, who acknowledged himself/herself to be the Vice President of Bank of Oklahoma, N.A. a national banking association, and that he/she as such Officer, being authorized so to do, executing the forgoing instrument for the purposes therein contained by signing his/her name as such Officer.

Lynn Romo
Notary Public

My Commission Expires:

