

FIRST AMENDMENT
TO
PROTECTIVE COVENANTS
FOR
DESERT GARDENS SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS CERTAIN PROTECTIVE COVENANTS FOR DESERT GARDENS SUBDIVISION, DATED SEPTEMBER 30, 1958, WERE HERETOFORE RECORDED ON OCTOBER 27, 1958, IN THE RECORDS OF THE CLERK OF OTERO COUNTY, NEW MEXICO; AND

WHEREAS THE UNDERSIGNED ARE THE OWNERS AND HOLDERS OF THE TITLE TO AND ALL EQUITIES IN THE FOLLOWING DESCRIBED LANDS SITUATED AND LOCATED IN OTERO COUNTY, NEW MEXICO, TOWIT:

ALL OF DESERT GARDENS, A SUBDIVISION TO THE CITY OF ALAMOGORDO, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF FILED IN THE OFFICE OF THE CLERK OF OTERO COUNTY, NEW MEXICO, ON JUNE 25, 1958;

AND

WHEREAS THE UNDERSIGNED DESIRE TO AMEND PARAGRAPH NUMBERED "A-5" OF SAID PROTECTIVE COVENANTS DATED SEPTEMBER 30, 1958:

NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING AND OTHER GOOD AND VALUABLE CONSIDERATION, THE UNDERSIGNED, BEING THE OWNERS OF ALL THE LANDS AND ALL EQUITIES IN SAID DESCRIBED LANDS, DO HEREBY CANCEL, ANNUL, AND VOID, SAID PARAGRAPH, "A-5" AND SUBSTITUTE IN LIEU THEREOF THE FOLLOWING, TOWIT:

A-5

BUILDING LOCATION: No BUILDING SHALL BE LOCATED ON ANY LOT NEARER TO THE FRONT LOT LINE OR NEARER TO THE SIDE STREET LINE THAN THE MINIMUM BUILDING SETBACK LINES SHOWN ON THE RECORDED PLAT. IN ANY EVENT NO BUILDING SHALL BE LOCATED ON ANY LOT NEARER THAN 25 FEET TO THE FRONT LOT LINE, OR NEARER THAN 15 FEET TO ANY SIDE STREET LINE. No BUILDING SHALL BE LOCATED NEARER THAN 5 FEET TO AN INTERIOR LOT LINE, EXCEPT THAN ONLY 2½ FEET SHALL BE REQUIRED FOR A GARAGE OR OTHER

PERMITTED ACCESSORY BUILDING LOCATED 65 FEET OR MORE FROM THE MINIMUM BUILDING SETBACK LINE. NO DWELLING SHALL BE LOCATED ON ANY INTERIOR LOT NEARER THAN 15 FEET TO THE REAR LOT LINE. FOR CORNER LOTS THE STREET SIDE OF THE LOT HAVING THE SHORTER DISTANCE SHALL BE THE FRONT OF THE LOT AND THE STREET SIDE OF THE LOT HAVING THE GREATER DISTANCE SHALL BE A SIDE OF THE LOT FOR THE PURPOSE OF DETERMINING SETBACK REQUIREMENTS, BUT STRUCTURES BUILT THEREON MAY FACE EITHER STREET. NO DWELLING ON A CORNER LOT SHALL BE LOCATED NEARER THAN 15 FEET TO EITHER THE INTERIOR LOT LINE OR THE REAR LOT LINE NOR NEARER THAN 5 FEET TO THE OTHER OF THESE TWO LINES -- IN OTHER WORDS, IF THE DWELLING ON A CORNER LOT IS LESS THAN 15 FEET FROM THE INTERIOR LOT LINE, IT MUST BE AT LEAST 15 FEET FROM THE REAR LOT LINE, AND IF THE DWELLING ON A CORNER LOT IS LOCATED LESS THAN 15 FEET FROM THE REAR LOT LINE, IT MUST BE AT LEAST 15 FEET FROM THE INTERIOR LOT LINE. FOR THE PURPOSES OF THIS COVENANT, EAVES, STEPS AND OPEN PORCHES SHALL NOT BE CONSIDERED AS A PART OF A BUILDING, PROVIDED, HOWEVER, THAT THIS SHALL NOT BE CONSTRUED TO PERMIT ANY PORTION OF A BUILDING ON A LOT TO ENCROACH UPON ANOTHER LOT.

IT IS FURTHER CONTRACTED, AGREED, AND CERTIFIED THAT SAID PROTECTIVE COVENANTS DATED SEPTEMBER 30, 1958, AS HEREIN AMENDED, BE AND THE SAME SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, THE UNDERSIGNED HAVE EXECUTED AND CAUSED THIS INSTRUMENT TO BE EXECUTED ON THE 30 TH DAY OF MARCH, 1959.

ATTEST:

CASA ALEGRE, INC. (NO STOCKHOLDERS' LIABILITY)

/s/ ELMER T. LEWIS
SECRETARY

BY /s/ DONALD F. MATHESON, JR.
PRESIDENT

ATTEST:

DESERT GARDENS, INC.

/s/ RUTH D. MORGAN
SECRETARY

BY /s/ ALFRED T. MORGAN
PRESIDENT

ATTEST:

SNOW CONSTRUCTION COMPANY, INC.

/s/ ELMER T. LEWIS
SECRETARY

BY /s/ DONALD F. MATHESON, JR.
PRESIDENT

S & M CONSTRUCTION COMPANY,
A PARTNERSHIP

BY /s/ MARGARET MC CULLOUGH
PARTNER

STATE OF NEW MEXICO)
) SS
COUNTY OF OTERO)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 13
DAY OF APRIL, 1959, BY CECIL SMITH AND OPAL SMITH, HIS WIFE, CHARLIE
B. MONTOYA AND EVA V. MONTOYA, HIS WIFE, LOUIS A. BLUNDELL, A
SINGLE PERSON, AND JOHN H. WEAN, A SINGLE PERSON, STANLEY L. HANCOCK
AND PAULINE M. HANCOCK, HIS WIFE, KENNETH R. MCCRACKEN AND BETTY D.
MCCRACKEN, HIS WIFE, EDWART T. OCHOA AND HELEN F. OCHOA, HIS WIFE,
LOUIS J. STURM AND VONDA J. STURM, HIS WIFE, RICHARD L. WEAN AND
PATSY WEAN, HIS WIFE, JAMES E. CALDWELL AND GOLDIE B. CALDWELL, HIS
WIFE, EDWARD F. LAHAIE, AND DELORES M. J. LAHAIE, HIS WIFE,
JOSEPH F. HOOTEN AND INA V. HOOTEN, HIS WIFE, VANCE VOSTEL AND
JULIA MAE VOSTEL, HIS WIFE, GUSTOVO R. HOLGUIN AND MAGIE D. HOLGUIN,
HIS WIFE, CAROLL A. ROBBINS AND MAMIE ROBBINS, HIS WIFE, BILLY K.
SMITH AND DONETTA M. SMITH, HIS WIFE, AND JAMES E. SYLING, JR. AND
MARTHA SYLING, HIS WIFE.

/s/ DALE W. SCOTT
NOTARY PUBLIC

MY COMMISSION EXPIRES

OCTOBER 25, 1959

CLERKS CERTIFICATE

STATE OF NEW MEXICO)
COUNTY OF OTERO) SS

I, MARGARET D. SANCHEZ, COUNTY CLERK, OF OTERO COUNTY, NEW MEXICO, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF
FIRST AMENDMENT TO PROTECTIVE COVENANTS FOR DESERT GARDENS SUBDIVISION
FILED IN MY OFFICE ON THE 22ND DAY OF APRIL, 1959, AND DULY RECORDED
IN BOOK-----PAGE----- . RECEPTION No. 19879.

WITNESS MY HAND AND OFFICAL SEAL THIS 22ND DAY OF APRIL, 1959.

(SEAL)

/s/ MARGARET D. SANCHEZ, COUNTY CLERK
OTERO COUNTY, NEW MEXICO

By RUTH ROBERTS
DEPUTY

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 1ST DAY OF APRIL, 1959, BY DONALD F. MATHESON, JR., PRESIDENT OF CASA ALEGRE, INC. (NO STOCKHOLDERS' LIABILITY), A NEW MEXICO CORPORATION, ON BEHALF OF SAID CORPORATION.

/s/ DELBERT A. DUBROCK
NOTARY PUBLIC

MY COMMISSION EXPIRES
FEBRUARY 19, 1962.

STATE OF ARIZONA)
COUNTY OF YUMA) ss.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20TH DAY OF APRIL, 1959, BY ALFRED T. MORGAN, PRESIDENT OF DESERT GARDENS, INC., AN ARIZONA CORPORATION, ON BEHALF OF SAID CORPORATION.

MY COMMISSION EXPIRES
JANUARY 1, 1962

/s/ J. C. BOKERS
NOTARY PUBLIC

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 1ST DAY OF APRIL, 1959, BY DONALD F. MATHESON, JR., PRESIDENT OF SNOW CONSTRUCTION COMPANY, INC., A NEW MEXICO CORPORATION, ON BEHALF OF SAID CORPORATION.

MY COMMISSION EXPIRES
FEBRUARY 19, 1962.

/s/ DELBERT A. DUBROCK
NOTARY PUBLIC

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 21ST DAY OF APRIL, 1959, BY MARGARET McCULLOUGH, PARTNER OF S & M CONSTRUCTION COMPANY, A PARTNERSHIP, ON BEHALF OF SAID PARTNERSHIP.

MY COMMISSION EXPIRES
FEBRUARY 25, 1961

/s/ CHARLES A. BASEL
NOTARY PUBLIC

/s/ CECIL SMITH

/s/ CHARLIE B. MONTOYA

/s/ LOUIS A. BLUNDELL

/s/ STANLEY L. HANCOCK

/s/ KENNETH R. MCCRACKEN

/s/ EDWARD F. OCHOA

/s/ LOUIS J. STURM

/s/ RICHARD L. WEAN

/s/ JAMES E. CALDWELL

/s/ EDWARD F. LAHAIE

/s/ JOSEPH F. HOOTEN

/s/ VANCE VOSTELL

/s/ GUSTAVO R. HOLGUIN

/s/ CAROLL A. ROBBINS

/s/ BILLY K. SMITH

/s/ JAMES E. SYLING, JR.

/s/ OPAL SMITH

/s/ EVA V. MONTOYA

/s/ JOHN H. WEAN

/s/ PAULINE M. HANCOCK

/s/ BETTY D. MCCRACKEN

/s/ HELEN F. OCHOA

/s/ VONDA J. STURM

/s/ PATSY WEAN

/s/ GOLDIE B. CALDWELL

/s/ DOLORES M. J. LAHAIE

/s/ INA V. HOOTEN

/s/ JULIA MAE VOSTEL

/s/ MAGGIE D. HOLGUIN

/s/ MAMIE ROBBINS

/s/ DONETTA M. SMITH

/s/ MARTHA SYLING