

FIRST AMENDED AND RE-STATED BYLAWS
OF
THE PUEBLO AT ANDERSEN SPRINGS ASSOCIATION

ARTICLE I

GENERAL PROVISIONS

11 **Defined Terms.** Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions, Restrictions and Easements recorded with the County Recorder of Maricopa County, Arizona, as Instrument No. 95 0092592 and re-recorded with the County Recorder of Maricopa County, Arizona as Instrument No. 96-0038769 (the "Declaration"). Should there be a conflict between the initial recorded Declaration and the later recorded Declaration, the later-recorded version shall control.

12 **Principal Office.** The principal office of the Association shall be located at: c/o First Service Residential, 9000 East Pima Center Parkway, Suite 300, Scottsdale, Arizona 85258, but meetings of members and directors may be held at such other place within the State of Arizona as may be designated by the Board of Directors. The Board of Directors may designate a new principal office of the Association from time-to-time.

13 **Conflicting Provisions.** In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

14 **Designation of Fiscal Year.** The fiscal year of the Association shall begin on the 1st day of January and end of the 31st day of December of every year, except that the first year shall begin on the date of incorporation of the Association.

15 **Books and Records.** The books, records and papers of the Association shall be available for inspection by any Member during reasonable business hours at the principal office of the Association, where copies may be purchased at reasonable cost.

16 **Amendment.** These Bylaws may be amended by a vote or written consent of not less than sixty-six and two-thirds percent (66.6%) of all of the members of the Board of Directors.

ARTICLE 2

MEETINGS OF MEMBERS

2.1 **Annual Meeting.** The first annual meeting of the Members shall be held within one (1) year of the date of incorporation of the Association at such time and place as may be set by the Board. An annual meeting of the Members shall be held at least once every twelve (12) months thereafter at such time and place as is determined by the Board.

2.2 **Special Meetings.** Special meetings of the Members may be called at any time by the President, a majority of the Board or upon written notice signed by the Members requesting the meeting having at least twenty-five percent (25%) of the total authorized votes.

2.3 **Notice of Meetings.** Written notice of a meeting of the Members shall be given by, or at the direction of, the secretary or person(s) authorized to call the meeting by mailing a copy of the notice, postage prepaid, at least ten (10) days before, and not more than fifty (50) days before, the meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, including the general nature of any proposed amendment to the Declaration or bylaws. By attending a meeting, a Member waives any right he may have had to object to the meeting on the basis that the proper notice or the meeting was not given in accordance with these Bylaws or the statutes of the State of Arizona.

2.4 **Quorum.** Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by absentee ballot of fifty percent (50%) of the Members shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting and reconvene the Meeting of Members not less than seven (7) nor more than fourteen (14) days after the annual meeting of the Members where a quorum was not present (the "Reconvened Meeting"). Notice of the Reconvened Meeting shall be provided as specified in Section 2.3 above provided, however, notice of the Reconvened Meeting shall be given not less than three (3) nor more than seven (7) days before the Reconvened Meeting. At the Reconvened Meeting, the presence in person or by absentee ballot of one-third (33.33%) of the Members shall constitute a quorum at the Reconvened Meeting. An absentee ballot submitted in connection with the Meeting of Members where a quorum was not present shall be valid for the Reconvened Meeting.

2.5 **Proxies.** Votes may not be cast pursuant to a proxy.

ARTICLE 3

BOARD OF DIRECTORS

3.1 **Number.** The affairs of the Association shall be managed by a board of directors of not less than three (3) nor more than seven (7) directors. The number of directors may be determined by the Board of Directors from time-to-time. All directors shall be Members of the Association or agents of Members.

3.2 **Term of Office.** The initial members of the Board shall hold office until the first annual meeting of the Members and until their successors are elected and qualified. Commencing from and after the adoption of these First Amended Bylaws, all directors shall serve three-year terms provided, however, all directors elected prior to the adoption of these First Amended Bylaws shall serve the balance of their earlier-designated term.

3.3 **Removal.** At any annual or special meeting of the Members duly called and providing a quorum is present to conduct business as provided by section 2.4, any one or more of the Directors may be removed from the Board with or without cause by Members having more than seventy-five percent (75%) of the votes entitled to be cast by the Members present in person or by absentee ballot at the meeting, and a successor shall then and there be elected to fill the vacancy thereby created.

3.4 **Compensation.** No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

3.5 **Action Taken Without a Meeting.** The Directors shall have the right to take any action or adopt any resolution via written consent in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the Directors. Any such written consent shall be filed with the minutes of the proceedings of the Board. For purposes of this section, "written consent" shall include consents confirmed via email from all the Directors.

3.6 **Vacancies.** Vacancies on the Board caused by any reason other than the removal of a Director in accordance with the provisions of Section 3.3 of these Bylaws shall be filled by a majority vote of the remaining Directors, even though the Directors present at such meeting may constitute less than a quorum. Each person so appointed shall serve the unexpired portion of the prior Directors' term.

3.7 **Regular Meetings.** Regular meetings of the Board may be held at such time and place that shall be determined from time to time by the Board. Such meetings shall be held at least once during each fiscal year.

3.8 **Special Meetings.** Special meetings of the Board may be called by the President upon the written request of at least two Directors on reasonable notice to each Director, which notice shall set forth the time, place and purpose of the meeting.

3.9 **Notice of Meetings.** Notice of meetings of the Board shall be given to the Members in at least forty-eight (48) hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the Board.

3.10 **Quorum.** A majority of the Directors shall constitute a quorum of the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board.

3.11 **Powers and Duties.** The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as permitted by the Articles and the Declaration. In addition to the duties imposed by the Articles, the Declaration and these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board shall have the following powers and duties:

(a) Open bank accounts on behalf of Association and designate the signatories thereon;

(b) Make, or contract for the making, of repairs, additions to, improvements to or alterations of the Common Area., in accordance with the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

(c) In the exercise of its discretion, enforce by legal means the provisions of the declaration;

(d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Area and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

(e) Provide for the operation, care, upkeep and maintenance of all of the Common Area and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Common Area; provided however, the consent of Members having at least fifty-one percent (51%) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of \$15,000.00;

(f) Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year in the method specified in the Declaration;

(g) Adopt and publish rules and regulations governing the use of the Common area and facilities and the personal conduct of the Members and their family-members, guests, lessees and invitees thereon and establish penalties for the infraction thereof;

- (h) Suspend the voting rights and the right to use of the Common Area of a Member during any period in which such Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Declaration, and for a period not to exceed thirty (30) days for any other infraction of the Declaration;
- (i) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Declaration;
- (j) Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board without good cause;
- (k) Appoint or form committees as may be necessary or desirable.
- (l) Hire or employ and dismiss a manager, whether as an independent contractor or as an employee, to perform such services and duties as the Board may direct including, but without limitation, any of the duties granted to the officers of the Association in these Bylaws or any duties of the Board set forth in this section.
- (m) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote;
- (n) Supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- (o) Levy assessments in accordance with the Declaration and take all action which the Board deems necessary to collect the assessments and all other amounts due to the Association;
- (p) Issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (q) Procure and maintain adequate property, liability and other insurance as required by the Declaration or as the Board of Directors may deem appropriate;
- (r) Cause officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (s) Cause the Common Area to be maintained, as more fully set forth in the Declaration; and

(t) Comply with the provisions of the Declaration of Covenants, Conditions, Restrictions, and Easements for Andersen Springs, recorded at Instrument No. 85 622938, records of Maricopa County Arizona, the Tract Declarations for parcels 15 and 17B of Andersen Springs recorded at Instrument Nos. 86-152561 and 86-033630, and the Architectural Guidelines, recorded at Instrument No. 93 0122176, records of Maricopa County, Arizona, as now or hereafter amended and as applicable, and co-ordinate and cooperate with the Andersen Springs Community Association as required.

3.12 **Violations and Fines.** The following procedure shall be used for the imposition of fines for violations of the Declaration, Bylaws or any Association Rules adopted by the Board:

(a) **Demand.** Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: 1) the alleged violation; 2) the action required to abate the violation and either a time period, of not less than ten (10) days, if the violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of sanctions after notice and hearing if the violation is not continuing.

(b) **Continuing Violations.** For purposes of Section 3.12 of these Bylaws, each day a violation continues after notice to cease has been given by the Board to the Owner shall constitute a separate violation.

(c) **Notice.** If the violations continue past the period allowed in the notice for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice of a hearing to be held by the Board in executive session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing; and (iv) the proposed sanction to be imposed, which may include the imposition of a fine of not more than \$100.00 for the first violation, and not more than \$500.00 for any subsequent violations or, in addition or in the alternative, the Board may take other action or impose a sanction deemed appropriate by the Board (e.g., causing an improperly parked vehicle to be towed at the Member's expense, correcting a violation at the Member's expense, etc.).

(d) **Hearing.** The hearing shall be held in executive session thereby affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the minutes by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain written statement of the results of the hearing and the sanctions if any, imposed.

(e) **Imposition of Fine or other Sanction.** Upon conclusion of the hearing, the Board shall determine the amount of the fine or other sanction to be imposed, if any,

based on the seriousness of the violation, whether this is a first violation, or a continuing violation, whether the type of offense poses a danger to property or any person, and whether the violator agrees to abate the violation within the time specified by the Board. After the amount of the fine is determined, the Board shall determine the due date for the payment of such fine or the imposition of such other sanction. In the event the fine is not paid within fifteen (15) days of its due date, the Board, in its discretion, may impose a late payment fee of fifteen dollars (\$15) or ten percent (10%) of the fine.

(f) **Collection.** Collection of any fines may be enforced against any owner in the same manner as the collection of delinquent assessments and/or as otherwise provided in the Declaration and by Arizona law.

ARTICLE 4

OFFICERS AND THEIR DUTIES

4.1 **Enumeration of Officers.** The principal officers of the Association shall be the president, the vice-president, the secretary, and the treasurer all of whom shall be elected by the Board. The president must be a member of the Board. Any other officers may, but need not, be members of the Board.

4.2 **Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

4.3 **Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4 **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

4.5 **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall all not be necessary to make it effective.

4.6 **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

4.7 **Multiple Offices.** The offices of treasurer and secretary may be held simultaneously by the same person. One person may not simultaneously hold more than one of any of the other offices, including special offices created pursuant to Section 4.4 of these Bylaws.

4.8 **Powers and Duties.** To the extent such powers and duties are now assigned or delegated to a manager pursuant to Section 3.10(1) of these Bylaws the powers and duties of the officers shall be as follows:

(a) **President.** The president shall be the chief executive officer of the Association; shall preside at all meetings of the Board or the Members; shall see that orders and resolutions of the Board are carried into effect; and have general and active management of the business of the Association;

(b) **Vice-President.** The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board;

(c) **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board;

(d) **Treasurer.** The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Declaration; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members; and, in general perform all the duties incident to the office of treasurer. Notwithstanding the foregoing, the Treasurer shall be deemed to fulfill his or her duties hereunder by reviewing the work performed by a third-party (e.g., a management company employed by the Association) to fulfill all or part of the Treasurer's duties as specified in this section.

ARTICLE 5

INDEMNIFICATION

5.1 **Directors and Officers; Third Party Actions.** The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he is or was a member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney fees, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its

equivalent shall not of itself create a presumption that the person acted or failed to act other than good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was lawful.

5.2 **Directors and Officers; Derivative Actions.** The Association shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorney fees, but excluding judgments and fines, and, except as hereinafter set forth, amounts paid in settlement, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association and except that no indemnification may be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The court in which any such action or suit was brought may determine upon application that, in view of all circumstances of the case, indemnity for the amounts so paid in settlement and for the expenses, including attorney fees, actually and reasonably paid in connection with such application, to the extent the court deems proper.

5.3 **Employees and Agents.** To the extent that a member, director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 5.1 and 5.2 of these Bylaws or in defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorney fees, actually and reasonably incurred by him in connection therewith.

5.4 **Procedure for Effecting Indemnification.** Any indemnification under Section 5.1 or 5.2 of these Bylaws, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of a member, director, officers, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 5.1 or 5.2 of these Bylaws. Such determination shall be made by any of the following:

- (a) By the Board by a majority vote of a quorum consisting of directors who were not parties to the action, suit or proceeding;
- (b) If such a quorum is not obtainable, in a written opinion of independent legal counsel appointed by a majority of the disinterested directors for that purpose;
- (c) If there are no disinterested directors, by the court or other body before

which the action, suit or proceeding was brought or any court of competent jurisdiction upon the approval of or application by any person seeking indemnification, in which case indemnification may include the expenses, including attorney fees, actually and reasonably paid in connection with such application;

(d) By act of the Members.

5.5 **Advancing Expenses.** Expenses, including attorney fees, incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of the action, suit or proceeding as authorized in the manner provided in Section 5.4 of these Bylaws upon receipt of an undertaking by or on behalf of the member, director, officer, employee or agent or repay the amount unless it is ultimately determined that he is entitled to be indemnified by the Association as authorized in this Article.

5.6 **Not Exclusive.** The indemnification provided by this Article is not exclusive of any other rights to which those indemnified may be entitled under any agreement, vote of Members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office and shall continue as to a person who has ceased to be a member, director, officer, employee or agent of the Association and shall inure to the benefit of the heirs, executors and administrators of such a person.

5.7 **Insurance.** The Association shall have power to purchase and maintain insurance on behalf of or insure or cause to be insured by any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article. As used in this subsection, "insurance" includes retrospectively rated and self-insured programs.

5.8 **Scope of Article.** A person is protected under the terms of this Article as to any claims on which suit may be brought against him by reason of any alleged dishonesty on his part, unless a judgment or other final adjudication establishes that acts of active and deliberate dishonesty committed by the person with actual dishonest purpose of intent were material to the cause of action adjudicated.

ARTICLE 6

ARCHITECTURAL CONTROL

6.1 **Committee Composition.** The Declarant so long as Declarant has the right to appoint the Architectural Control Committee as set forth in the Declaration, and thereafter the Board shall appoint an Architectural Committee to administer the provisions of Article IX of the Declaration and any other portion of the Declaration pertaining to the appearance of Improvements and Common Area. The Architectural Committee shall consist of three (3) 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. The Board may increase the number of members on the Architectural Committee but the number of members must always be an odd number. In the event the Board elects not to appoint an Architectural Committee, the Board shall fulfill those functions set forth herein and it shall serve as the Architectural Committee.

6.2 **Terms of Office.** The term of office for members of the Architectural Committee shall be a period of one year, or until the appointment of a 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.

6.3 **Appointment and Removal.** The right to appoint and remove all members 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.

6.4 **Resignations.** Any member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to the Board.

6.5 **Vacancies.** Vacancies on the Architectural Committee, however caused, shall be filled by the Board. A vacancy or vacancies on the Architectural Committee shall be deemed to exist in case of the death, resignation or removal of any member.

6.6 **Duties.** It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms of the Declaration, 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 the Declaration.

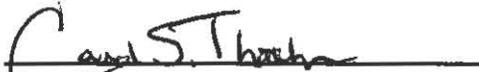
6.7 **Meetings and Compensation.** The Architectural Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members of the Committee, at a meeting or otherwise shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of the Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services.

6.8 **Architectural Committee Rules.** The Architectural Committee may adopt, amend and repeal, by unanimous vote or written consent, rules and regulations. Said rules shall interpret and implement the 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 required to be used within the Property.

6.9 **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 the Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or other matter subsequently submitted for approval.

6.10 **Time for Approval.** In the event the Architectural Committee fails to approve or disapprove any full and complete application for approval within forty-five (45) days after its receipt of such application, approval will not be required and this Article will be deemed to have been complied with.

IN WITNESS WHEREOF, these First Amended and Re-Stated Bylaws were duly adopted this 1st day of February, 2015, thereby superseding all Bylaws heretofore adopted by the The Pueblo at Andersen Springs Association.



Resident

ATTEST:


Secretary