

COURTESY RECORDING ONLY NO TITLE LIABILITY ASSUMED

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Eileen Garbagnoli, County Clerk
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AMENDMENT TO RESTRICTIONS OF SOLCITO SUBDIVISION

THIS AMENDMENT TO RESTRICTIONS OF SOLCITO SUBDIVISION (this "Amendment") is made as of the 10th day of July, 2019, by Double M Properties, Inc., a New Mexico corporation ("Grantor"), and D.R Horton, Inc. a Delaware corporation ("D.R Horton, Inc.").

WHEREAS, the Restrictions of Solcito were recorded in the office of the County Clerk of Sandoval County, New Mexico on April 15, 2015 as Document No. 2015007809 (the "Initial Restrictions"). As provided therein, the Initial Restrictions encumber the following real property:

All of the Solcito Phase I Subdivision as the same is shown on the Plat thereof recorded in the Sandoval County, New Mexico Real Estate Records on April 13, 2015, in Vol. 3, Folio 3818, as Document No. 2015P00815.

WHEREAS, pursuant to the Annexation and Supplemental Declaration to Declaration of Covenants, Conditions and Restrictions for Solcito Subdivision (Phases III and IV) recorded in the office of the County Clerk of Sandoval County, New Mexico on May 3, 2019 as Document No. 2019009470 (the "Annexation"), additional property was annexed into the Initial Restrictions, including but not limited to the following Lots:

Lots 14 through 27, Block 3; Lots 1 through 14, Block 4; Lots 1 through 30, Block 5; Lots 1 through 12, Block 6; Lots 1 through 11, Block 7, Solcito Phase III & IV Subdivision, as the same are shown on the Plat thereof, recorded in the Sandoval County, New Mexico real estate records on April 4, 2019, in Book 3, Page 4371, as Document No. 2019P01367.

WHEREAS, Grantor remains the owner of the following Lots in the real property encumbered by the the Initial Restrictions, as amended by the Annexation (together, the "Restrictions"):

Lots 24 through 27 of Block 3; Lots 1 through 14 of Block 5; Lots 1 through 12 of Block 6; and Lots 1 through 11 of Block 7, Solcito Phase III & IV Subdivision, as the same are shown on the Plat of Solcito Phase III & IV Subdivision, Sandoval County, New Mexico, recorded in the Sandoval County, New Mexico real estate records on April 4, 2019, in Book 3, Page 4371, as Document No. 2019P01367.

WHEREAS, D.R Horton, Inc. is the owner of the following Lots in the real property encumbered by the Restrictions:

Lots 14 through 23, of Block 3; Lots 1 through 14, of Block 4; Lots 15 through 30 of Block 5; and Lot 7 in Block 6, Solcito Phase III & IV Subdivision, Sandoval County, New Mexico, being a replat of Tracts C & D Plat for Solcito, as the same is shown and designated on said plat filed in the Office of the County Clerk of Sandoval County, New Mexico, on April 4, 2019, in Plat Book 3, Folio 4371.

WHEREAS, together Grantor and D.R Horton, Inc. have the ability to amend the Restrictions pursuant to Section 11.01(a) of the Restrictions.

WHEREAS, Grantor desires to amend the Restrictions in order to provide for one class of membership for the Association, but to retain certain rights reserved to the Grantor, to specifically provide for the ability of the Association to fine Owners/Members and to further address enforcement, and to address certain other matters, all as more specifically addressed herein, and D.R. Horton, Inc. consents to and approves this Amendment.

NOW THEREFORE:

1. **Amendments**. The amendments to the Restrictions addressed below are hereby made. Reference to "Sections" in this paragraph relate to Sections of the Restrictions.

a. The phrase "to Owner Members" in the third line of Section 1.09 is deleted and is replaced by the phrase ", to Owners other than Grantor".

b. Section 4.02 is deleted in full and the following is added in its place:

Section 4.02: Membership Class.

The Association shall have only one (1) class of membership. All Owners, including Grantor, shall be members of the Association ("Members"). As to matters requiring the vote of the Members, each Member, including Grantor, shall be entitled to one (1) vote for each Lot held by such Member.

c. Each time the phrase "Owner Member" appears in the Restrictions, including in Sections 4.03 and 6.01, it is replaced by the word "Member".

d. Except as otherwise provided in paragraphs 1(a), 1(b) and 1(k) of this Amendment, each time the phrase "Owner Members" appears in the Restrictions, including in Sections 4.04, 4.04(a), 4.04(b), 5.02(a), 5.02(b)(3), 5.02(d), 6.03(b), 6.03(d) and 6.05, it is replaced by the word "Members".

e. The following sentence is added to the end of Section 5.01(d):
 “During the Grantor Control Period, the Grantor shall have the right to appoint and remove members of the Board.”

f. Each of the phrases “and the approval of the Grantor Member so long as there is a Grantor Member”, “and the approval of the Grantor Member”, “and approval of the Grantor Member”, “and is approved by the Grantor Member”, and like phrases, as such phrases appear in Sections 5.02(a), 5.02(b)(3), 5.02(d), 6.03(b), 6.03(d) and 6.05, is replaced by the phrase: “and, during the Grantor Control Period, the approval of the Grantor”. In relation to the specific Sections mentioned in this paragraph 1(f) of this Amendment, the intent of the amendments addressed in paragraphs 1(c), 1(d) and 1(f) of this Amendment is to revise those provisions of the Restrictions that required the approval of a particular percentage of the Owner Members and the approval of the Grantor to now require the approval of a particular percentage of the Members (considering Grantor as Member if Grantor then remains a Member), and to affirmatively require the approval of Grantor if during the Grantor Control Period.

g. The following sentence is added to the end of Section 5.02(g):

Additionally, the Association shall have the power and authority to pursue all other powers and remedies: (i) as addressed in this Declaration, the Articles of Incorporation, the By-Laws or the Rules and Regulations (the “Community Documents”), including establishing fines for the infraction of any provisions of the Community Documents, or (ii) as permitted by law or equity.

h. A new Section 6.14 is added immediately after the existing Section 6.13; the new Section 6.14 reads as follows:

Section 6.14: Fines.

In accordance with the provisions of the New Mexico Homeowner Association Act as in effect on July 1, 2019, and without limiting the provisions relating to fines as addressed therein, the Association may impose against an Owner, and/or the Owner’s tenants, guests and invitees, reasonable fines, in amounts determined by the Board, for each violation or infraction of any provision of the Community Documents (except for late payment of assessments, covered by late charges and interest). The Association shall provide written notice to the person against whom a fine is imposed and shall provide an opportunity to dispute such fine through, at the Board’s option, either submission of a written statement by the person or a hearing before the Board or a committee appointed by the Board. The Board shall have the right to

impose fines against an Owner for violations or infractions by the Owner, or a tenant or resident of the Owner's Lot, or by any guest or invitee of the Owner or any tenant or resident of the Owner's Lot, as the Owner is deemed responsible for their actions. A fine shall become a lien against the Lot from the date that the fine becomes due. The Board shall have the authority to levy further reasonable fines for a continuing violation of the Community Documents at such periods, monthly or otherwise, as the Board may determine, and no further hearing for fines relating to a continuing violation shall be necessary. Fines for a continuing violation may reasonably escalate, as the Board may determine. The provision for the opportunity to provide a written statement or hearing applies to fines as addressed in this Section 6.14 or as may be required by the Homeowner Association Act, and does not apply to other Association or Board actions.

i. The phrase "Grantor Member" in Section 8.01 is replaced by the phrase "Grantor during the Grantor Control Period".

j. The phrase "Grantor Member" in Section 10.04 is replaced by the phrase "Grantor while Grantor owns any property in the Subdivision".

k. Section 11.01(a) is deleted in full and the following is added in its place:

a. During the Grantor Control Period, these Restrictions and any provisions thereof which are in effect with respect to all or part of the Subdivision, may be amended or repealed in the following manner:

1. The consent of Grantor and the approval, through vote or written consent, of Members representing a majority of the Members (considering Grantor as Member); and

2. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth, in full, the amendment or amendments so approved, including any portion or portions of this Declaration repealed, and certifying that such amendment or amendments have been approved by the required vote or consent of the Owners.

After the termination of the Grantor Control Period, these Restrictions may be amended by the approval, through vote or written consent, of Members representing seventy-five

percent (75%) of the Members (considering Grantor as Member if Grantor then remains a Member), and by the recordation of a certificate as provided in Section 11.01(a)(2) above.

At any time during which Grantor is the only owner of property within the Subdivision, Grantor may amend or correct these Restrictions by a recorded instrument of amendment or correction.

I. New paragraphs h and i are added to the end of Section 11.02 as follows:

h. The Association may enforce the Community Documents in any manner provided for in the Community Documents or by law or in equity, including, but not limited to, the following rights and remedies:

1. imposing reasonable monetary fines against an Owner as provided in Section 6.14;

2. suspending an Owner's right to vote;

3. exercising self-help or taking action to abate any violation of the Community Documents;

4. requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

5. filing a suit at law or in equity to enjoin a violation of the Community Documents, to compel compliance with the Community Documents, to recover money damages or to obtain such other relief as to which the Association may be entitled.

The remedies addressed in subparagraphs 1, 2 and 3 above, and the right to enter the property, remove the violation and restore the property, as addressed in subparagraph 4 above, are not available to an Owner or Owners.

i. The Association may, but shall not be obligated to, take any enforcement action if the Board determines, in its sole discretion, that because of the strength of any possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

2. Miscellaneous. Capitalized terms not defined herein shall have the same meaning as in the Restrictions. The Restrictions, as amended by this Amendment, remain in full force and effect.

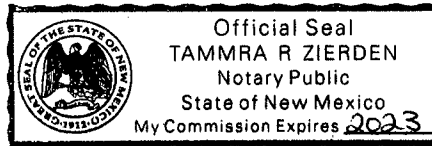
IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and year first above written.

DOUBLE M PROPERTIES, INC., a New Mexico corporation

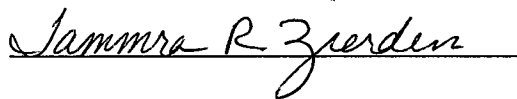
By: 

Robert C. Prewitt
Vice President

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)



This instrument was acknowledged before me on July 10th, 2019, by Robert C. Prewitt, as Vice President of Double M Properties, Inc., a New Mexico corporation.



My Commission Expires:

06/28/2023

[Additional signature page follows.]

