

**SECOND AMENDED AND RESTATED BYLAWS  
OF  
LOS PASEOS ASSOCIATION**

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**SECOND AMENDED AND RESTATED BYLAWS**

**OF**

**LOS PASEOS ASSOCIATION**

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**ARTICLE 1**

**NAME AND LOCATION**

The name of the corporation is Los Paseos Association, which is hereinafter referred to as the "Association." The principal office of the Association shall be located in Santa Clara County, California or such other place reasonably convenient to the Development as the Board of Directors may from time to time establish.

**ARTICLE 2**

**DEFINITIONS**

Any capitalized term that is not defined below shall have the meaning set forth in Article 1 of the Declaration.

2.1 Articles. "Articles" shall mean the Articles of Incorporation of Los Paseos Association, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

2.2 Assessments. "Assessments" shall mean any or all of the following: Annual Assessments, Special Assessments, and Reimbursement Assessments, each as is defined in the Declaration.

2.3 Associate Membership. "Associate Membership" shall mean memberships granted by the Board to non-owners for use of the swimming pool and Common Area, as more particularly described in Section 3.4.

2.4 Association. "Association" shall mean the Los Paseos Association, its successors and assigns.

2.5 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association.

2.6 Bylaws. "Bylaws" shall mean these Second Amended and Restated Bylaws of Los Paseos Association and any duly adopted amendments thereto.

2.7 Civil Code. "*Civil Code*" shall mean the California Civil Code as amended from time to time.

2.8 Common Area. "Common Area" shall mean all real property improvements and airspace owned by the Association for the common use and enjoyment of the Owners and Residents of the Development, as more particularly described in the Declaration.

2.9 Corporations Code. "*Corporations Code*" shall mean the California Corporations Code as amended from time to time.

2.10 Declaration. "Declaration" shall mean the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Los Paseos Association, recorded in the Office of the County Recorder of Santa Clara County, California, and any amendments thereto.

2.11 Development. "Development" shall mean all the real property comprising the Los Paseos planned development, as described in the Declaration.

2.12 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws, Declaration and Rules adopted by the Board and distributed to the Members.

2.13 Lot. "Lot" shall mean any plot of land shown upon any recorded subdivision map of the Development upon which a Residence has been constructed, with the exception of the Common Area. There are 279 Lots in the Development.

2.14 Member. "Member" shall mean an Owner.

2.15 Member in Good Standing. "Member in Good Standing" shall mean a Member of the Association who: is current in the payment of all Assessments, fines, penalties, and other charges imposed in accordance with the Governing Documents; is otherwise free from sanctions imposed by the Association; and is in compliance with all provisions of the Governing Documents.

2.16 Owner. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Development.



2.17 Resident. "Resident" shall mean any person who resides on a Lot within the Development whether or not such person is an Owner as defined in Section 2.16 above.

2.18 Rules. "Rules" shall mean the rules, regulations and policies governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time.

2.19 Simple Majority. "Simple Majority" and "Simple Majority of the Members" shall mean a majority of votes cast by Members in which the number of votes cast meets or exceeds the number required to establish a quorum.

2.20 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Lot, excluding any Lot as to which an Owner is not then a Member in Good Standing.

### **ARTICLE 3**

#### **MEMBERSHIP**

3.1 Membership. Every Owner of a Lot within the Development shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot, and shall not be transferred, encumbered, pledged, alienated, or hypothecated in any way, except upon the transfer or encumbrance of the Lot to which it is appurtenant. Any attempt to make a prohibited transfer is void. Upon any transfer of title to a Lot including a transfer upon the death of an Owner, membership in the Association shall pass automatically to the transferee.

3.2 Determination of Good Standing Status. A Member may only be determined "Not in Good Standing" after a duly noticed hearing before the Board. A Member's status shall remain as "Not in Good Standing" until determination by the Board to rescind that status at a hearing requested by the subject Member or on the Board's volition.

3.3 Delegation of Rights of Use and Enjoyment. Any Member may delegate his or her rights of use and enjoyment, including easements, in the Development as provided in Section 3.4 of the Declaration.

3.4 Associate Membership. The Board may grant Associate Memberships to non-Owners for use of the pool and Common Area. Associate Membership confers no right, title, or interest in or to any of the Association Properties. The Board shall determine the number of Associate Memberships of the Association but such number shall not exceed 75 at any given time. The

Board shall have the absolute right to suspend or terminate any Associate Membership.

## ARTICLE 4

### MEMBER MEETINGS AND VOTING

4.1 Annual Meeting. The Annual Meeting of the Members shall be held during the month of November of each year, on a date and at a time and place to be designated by the Board of Directors, upon proper written notice to all Members.

4.2 Special Meetings. Special Meetings of the Members may be called at any time by the President or by a majority of the Board of Directors or by written request of Members representing not less than five percent (5%) of the Total Voting Power of the Association or otherwise according to law.

4.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by or at the direction of the Secretary or other person authorized to call a meeting. Written notice shall be mailed first class, postage prepaid, or otherwise delivered at least ten (10) but not more than ninety (90) days before such meeting, to each Member entitled to vote at such meeting; provided however, if the notice is given by mail, and the notice is not mailed by first class, registered, or certified mail, that notice shall be given not less than twenty (20) days before the meeting. In the case of a special meeting called pursuant to a written request of Members, notice of such special meeting shall be mailed or otherwise delivered within twenty (20) days after receipt of such written request by the Board, and the date of such special meeting shall be set by the Board and shall be not sooner than thirty-five (35) days nor later than ninety (90) days after the date of the Board's receipt of such written request. Notice of any meetings of the members may be given by electronic transmission or other method of delivery subject to the requirements set forth in *Corporations Code* section 7511 and *Civil Code* section 4040. Notice of any meeting of Members shall specify the date, hour, and place of the meeting, and the general nature of those matters which the Board intends to present for action by the Members.

4.4 Conduct of Meetings. All meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. A reasonable time limit for all Members to speak at a meeting of the Members shall be established by the Board of Directors.

4.5 Place of Meetings. Annual and special meetings shall be held at a location within the Development or a convenient place outside the Development located as close as reasonably practicable to the Development.

4.6 Voting. Members in Good Standing shall be entitled to cast one (1) vote for each Lot owned. In the event more than one (1) person owns a given Lot, the vote for such Lot shall be exercised as the Owners among themselves shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot. If the joint Owners of a Lot are unable to agree among themselves as to how their vote or votes are to be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of the other Owners of that Lot. The vote at any meeting of Members may be by a show of hands or by ballot. Votes of the Members on the following issues must be by secret ballot, conducted by means of a double envelope system pursuant to *Civil Code* section 5100 *et seq.*: Assessments legally requiring a vote of the Members, election and removal of members of the Board of Directors, amendments to the Governing Documents, or the grant of exclusive use of Common Area property.

4.7 Record Date for Voting. The Board of Directors may fix a date not more than sixty (60) days before the date of any mailing or delivery of ballots as the record date for determining Members entitled to vote and only Members in Good Standing as of the record date shall be entitled to vote. If no record date for voting is set by the Board, Members in Good Standing on the day of the mailing or delivery of ballots shall be entitled to vote in any election or vote of the Members.

4.8 Quorum Requirements. The following quorum requirements must be satisfied in order to take valid action at any meeting of the Members or by written ballot:

4.8.1 Quorum for Votes on Assessment Increases. With respect to secret written ballots mailed to Members for the purpose of voting on Assessment increases requiring membership approval, the quorum requirement for valid action on the proposal shall be the percentage specified in *Civil Code* section 5600. That quorum percentage is currently a majority of the Members of the Association.

4.8.2 Quorum for Election of Directors and Vote Regarding Excess Income. There shall be no minimum quorum requirement for the election of Directors and/or the vote regarding excess income pursuant to IRS Revenue Ruling 70-604 (or any successor Ruling). With respect to the election of Directors, the number of secret written ballots received by the deadline set forth in the ballot and/or the voting instructions shall constitute the quorum for such election, notwithstanding any other quorum requirements set forth in these Bylaws or the Declaration. With respect to the vote of the Members regarding excess income pursuant to IRS Revenue Ruling 70-604 (or any successor Ruling), the number of ballots received by the deadline set forth in the ballot and/or the voting materials or the number of Members in attendance at the

meeting at which the vote is conducted shall constitute the quorum for such vote, notwithstanding any other quorum requirements set forth in these Bylaws or the Declaration.

4.8.3 Quorum for Removal of Directors. With respect to secret written ballots mailed to Members for the purpose of removing a Director or Directors, the quorum requirement for valid action on the proposal shall be a majority (i.e., more than fifty percent (50%)) of the Total Voting Power of the Association.

4.8.4 Quorum for Votes to Amend Declaration. With respect to secret written ballots mailed to Members for the purpose of voting on amendments to the Declaration, the quorum requirement for valid action on the proposal shall be at least twenty percent (20%) of the Members of the Association.

4.8.5 Quorum for Valid Action on Other Matters. With respect to a membership meeting called or written ballot distributed for any other purpose, the quorum shall be at least twenty-five percent (25%) of the Total Voting Power represented in person at the meeting or by casting a written ballot. If such quorum is not present or represented at any meeting in person and/or by ballot the Members otherwise entitled to vote at that meeting shall have power to adjourn the meeting from time to time, to be reconvened as soon as immediately following the originally-noticed meeting and not more than thirty (30) days from the date of the adjourned meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. In the absence of a quorum, no business other than adjournment may be transacted. At the continuation of any meeting so adjourned, the presence in person and/or by ballot of Members entitled to cast at least twenty percent (20%) of the votes of the Total Voting Power shall constitute a quorum for the purpose of conducting said meeting or concluding a vote of the Members.

4.8.6 Quorum for Annual Meeting of Members. There shall be no minimum quorum requirement for the Annual Meeting of the Members unless a vote of the Members is required, in which case the quorum requirements set forth in this Section 4.8, above, shall apply.

4.9 Proxies. The use of proxies in connection with votes of the Members and/or meetings of the Members is expressly prohibited.

4.10 Approval of the Members. If a quorum is achieved, in person and/or by ballot, the affirmative vote of a majority of the voting power so present and voting on any matter (a Simple Majority) shall constitute the act of the Members, unless the approval of a greater number or proportion of Members is required by any provision of the law or the Governing Documents. .

4.11 Voting by Ballot (*Corporations Code* section 7513).

4.11.1 Ballot Requirements. Any action which may be taken at a regular or special meeting (and is not required to be conducted by the secret ballot method prescribed by *Civil Code* section 5115) may be taken without a meeting of Members if the Association distributes a ballot to every Member entitled to vote and complies with the requirements of *Corporations Code* section 7513. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Association.

4.11.2 Solicitation Rules. The ballot solicitation shall identify both the number of responses needed to meet the quorum requirement and the percentage and/or number of approvals necessary to pass the measure submitted and shall specify the time by which the ballot must be received by the Association in order to be counted.

## ARTICLE 5

### BOARD OF DIRECTORS; ELECTION; TERM OF OFFICE

5.1 Number and Qualification of Directors. The affairs of this Association shall be conducted by or under the direction of a Board of five (5) Directors. Candidates for the Board: (i) must be Members in Good Standing or, in the case of a Member in Good Standing that is an entity, an officer, director, principal, or authorized representative of the entity; (ii) may not have been declared of unsound mind by a final order of court; and (iii) may not have been convicted of a felony. Co-Owners of one or more Lots may not serve on the Board at the same time.

5.2 Nomination. Nominations of candidates to the Board of Directors may be made by nominating committee or by self-nomination. All nominations shall be conducted in accordance with Rules adopted pursuant to *Civil Code* section 5105. The Board may recruit qualified candidates and/or appoint a Nominating Committee prior to any election of Directors. The Nominating Committee, if one is appointed, shall consist of a chairman, who shall be a Director, and two or more Members of the Association. The Nominating Committee may make as many nominations for election to the Board as it deems appropriate.

Any Member who satisfies the qualifications set forth in these Bylaws and Rules adopted pursuant to *Civil Code* section 5105 may place his or her name in nomination for election to the Board of Directors by giving written notice to the Association's managing agent and/or the Board. Notice of self-nomination must be received prior to the published deadline for nominations. Nominations may not be made from the floor at any meeting

5.3 Election. Directors shall be elected annually by secret ballot in accordance with *Civil Code* section 5100 through 5135 and Rules adopted pursuant thereto. The Members in Good Standing may cast, with respect to each position on the Board to be filled, one vote for each Lot owned. The persons receiving the largest number of votes shall be elected. Cumulative voting is prohibited. Additionally, write-in candidates shall not be permitted. The method for voting for Directors shall be as set forth in Section 4.6 of these Bylaws. If two or more candidates receive the same number of votes, a runoff election shall be conducted in accordance with *Civil Code* section 5100 through 5135 and Rules adopted pursuant thereto.

5.4 Election by Acclamation. If, as of the published deadline for nominations, the number of qualified candidates nominated does not exceed the number of Directors to be elected, then the individuals nominated and qualified to be elected may be declared elected on a date determined by the Board and the Inspector(s) of Election, in which case written notice of the election results shall be given to the Members.

5.5 Term of Office. Each Director shall serve a one-year term. Each Director shall serve until the expiration of his or her term and thereafter until a successor is elected, or until the earlier disqualification, death, resignation, or removal of such Director.

5.6 Removal. Any Director may be removed from the Board, with or without cause, by the affirmative vote of a Simple Majority of the Members; quorum for this purpose shall be a majority of the Total Voting Power, as set forth in Section 4.8.3, above. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of his or her term of office unless the reduction or amendment also provides for the removal of one or more specified Directors.

5.7 Disqualification of Directors. A Director may be deemed ineligible and disqualified from serving on the Board under the following circumstances: (i) the person fails within sixty (60) days after receiving notice of election to accept such office, either in writing or by attending a meeting of the Board of Directors as a Director; (ii) the person is absent from three (3) consecutive meetings of the Board; (iii) the person is more than sixty (60) days delinquent in the payment of Assessments, fines, penalties or other charges imposed by the Association; (iv) the person has been declared to be of unsound mind by a final order of court; or (v) the person has been convicted of a felony.

5.8 Vacancies. A vacancy shall exist on the Board of Directors in the event of the disqualification, death, resignation, or removal of any Director, if the authorized number of Directors is increased, or if the Members fail to elect the full authorized number of Directors. The Board of Directors, by a majority vote of the Directors who meet all of the qualifications for Directors as set forth in Section

5.1, above, may declare vacant the office of any Director who fails or ceases to meet any required qualification that was in effect at the beginning of that Director's current term of office. As provided in Section 3.2 of these Bylaws, a Member may only be determined "Not in Good Standing" after a duly noticed hearing before the Board.

5.9 Filling Vacancies. Any vacancy on the Board of Directors, except a vacancy created by the removal of a Director by the Members, may be filled by vote of the Board of Directors, or if the number of Directors then in office is less than a quorum, by the vote of a majority of the remaining Directors at a meeting of the Board, or by unanimous written consent of the Directors then in office, or by a sole remaining Director. A Director so chosen shall serve the remainder of the term of office of the Director whom he or she replaces. The Members may elect a Director at any time to fill any vacancy not filled by the Board. Additionally, any vacancy created by the removal of a Director by the Members shall be filled by a vote of the Members. If the Board of Directors accepts the resignation of a Director tendered to take effect at a future time, the Board or, if the Board fails to act, the Members may elect a successor to take office when the resignation becomes effective.

5.10 Compensation. No Director shall receive compensation for any service he or she may render to the Association as a Director. However, upon approval by the Board, any Director may be reimbursed for his or her expenses actually incurred in the performance of his or her duties.

## ARTICLE 6

### MEETINGS OF DIRECTORS

6.1 Organizational Meetings. Within thirty (30) days after the election of Directors, the Board of Directors shall hold a meeting for the purpose of organization, appointment of officers, and transaction of other business, as appropriate.

6.2 Regular Meetings. Regular meetings of the Board of Directors shall be held monthly, at a place within the Development or a convenient place outside the Development, and on a day and at a time as fixed from time to time by resolution of the Board or, upon proper notice which conforms to the provisions of Sections 6.4 and 6.5 of these Bylaws, at another place, day, and time as set forth in such notice. In the event the business of the Association does not reasonably justify monthly meetings, regular meetings of the Board shall be held at such intervals as the Board may determine, but not less frequently than quarterly.

6.3 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) Directors.

6.4 Notice to Directors. Except as otherwise provided in Section 6.2 of these Bylaws, notice of each meeting of the Board shall be communicated to the Directors not less than four (4) days prior to a regular meeting, and not less than seventy-two (72) hours prior to a special meeting; provided that shorter notice may be given in the case of a bona fide emergency; and provided further that notice of a meeting need not be given to any Director who signed a waiver of notice or a written consent to holding the meeting, whether before or after the meeting.

6.5 Notice to Members; Agenda. Except for bona fide emergency Board meetings as defined by law and Board meetings that will held solely in executive session, at least four (4) days' prior written notice of the day, time, and place of each meeting of the Board of Directors, whether regular or special, shall be given to all Members in the manner required by law. Except for an emergency meeting, Members shall be given notice, in the manner required by law. of the time and place of a meeting that will be held solely in executive session at least two (2) days prior to the executive session meeting. The notice of any Board meeting shall contain the agenda for the meeting.

6.6 Open Meetings. Regular and special meetings of the Board of Directors shall be open to all Members of the Association, except when the Board meets in executive session. A reasonable time limit for all Members to speak to the Board shall be established by the Board.

6.7 Teleconference and Remote Participation. All Board meetings may be conducted by teleconference, i.e., where members constituting a quorum of the Board, in different locations, are connected by electronic means, through audio or video or both. A Board meeting held by teleconference shall be conducted in a manner that protects the rights of Members and otherwise complies with applicable law. Except for a Board meeting that will be held solely in executive session, the notice of the Board meeting to be held by teleconference shall identify at least one physical location so that Members of the Association may attend that portion of the meeting that is open to the Members. At least one Board member or a person designated by the Board shall be present at the noticed location. Participation by Directors in a Board meeting held by teleconference constitutes presence at that meeting as long as all Board members participating in the meeting are able to hear one another and Association Members speaking on matters before the Board. Additionally, the meeting shall be audible to the Members in the location specified in the notice of the meeting.



6.8 Executive Session. To the greatest extent permitted by law, including *Civil Code* section 4935, the Board of Directors may meet in executive session to confer with legal counsel or to discuss and/or vote on the following issues: (i) litigation in which the Association is or may be involved; (ii) personnel matters; (iii) Member discipline; (iv) the formation of contracts involving the Association; (v) upon a Member's request or at the Board's discretion, the Member's payment of Assessments; (vi) a payment plan concerning a Member's payment of Assessments; and (vii) whether to foreclose on a lien for delinquent Assessments. A vote of the Board to initiate foreclosure of a lien for delinquent Assessments shall be taken in executive session, but shall be recorded in the minutes of the next meeting of the Board open to all Members. In any matter relating to the discipline of a Member, the Board shall meet in executive session if requested to do so by that Member and/or at the Board's discretion, and that Member and any other person(s) whose participation is, in the judgment of the Board, necessary or appropriate shall be entitled to attend the executive session.

6.9 Restrictions on Board Action Outside of Meeting; Board Meetings Via E-mail. The Board of Directors shall not take action on any item of business outside of a Board meeting. Notwithstanding *Corporations Code* section 7211, the Board shall not conduct a Board meeting via a series of electronic transmissions, including, but not limited to, electronic mail, except as a method of conducting an emergency meeting and then only if: (i) all members of the Board, individually or collectively, consent in writing to the action, and (ii) the written consent or consents are filed with the minutes of the meeting of the Board. Written consent to take such emergency action may be transmitted electronically.

6.10 Quorum. A majority of the Directors then in office, but not fewer than two (2) shall constitute a quorum for 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. Directors may not vote by proxy or be counted toward this quorum requirement by proxy.

6.11 Minutes of Meetings of Directors. Within thirty (30) days after the date of any meeting of the Board, the Board shall make available to the Members either: (i) the minutes of that meeting as adopted by the Board; (ii) if the minutes have not yet been adopted by the Board, the minutes as proposed for adoption which shall be marked to indicate draft status; or (iii) a summary of the minutes. Any matter discussed in an executive session shall be generally noted in the minutes of the immediately following Board meeting that is open to the entire membership. Copies of the minutes, proposed minutes, or summary of minutes of any Board meeting (other than an executive session) shall be provided to any Member of the Association upon request and upon reimbursement of the Association's costs in providing such copies. Members of the Association shall be notified annually in writing of their right to obtain copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

## ARTICLE 7

### POWERS OF THE BOARD OF DIRECTORS

In addition to such other powers as may be expressly set forth in the Governing Documents or provided by law, the Board of Directors shall have the power to:

7.1 Rules. Subject to *Civil Code* sections 4340 *et seq.*, adopt, publish, amend, repeal, and enforce Rules governing the administration, management, operation, use, and occupancy of the Development.

7.2 Contracts. Authorize any officer or officers to enter into any contract in the name of, or on behalf of, the Association. Unless expressly authorized by resolution of the Board, no officer shall have any power or authority to bind the Association or to render the Association liable for any purpose or on any account.

7.3 Collect Assessments. As addressed in the Declaration, the Board shall have the power to collect Assessments levied by the Association by foreclosing the lien against any property for which Assessments are not paid as required by the Declaration and/or by bringing an action at law against the Owner personally obligated to pay the same.

7.4 Sanctions; Hearings; Continuing Violations. Establish and impose monetary penalties (fines) for the infraction of any provision of the Governing Documents, in accordance with a schedule of monetary penalties adopted by the Board and distributed to all Members, and suspend the voting or other membership rights and privileges of a Member, including but not limited to the right to use Common Area facilities.

When the Board is to meet to consider or impose discipline upon a Member, the Board shall notify the Member, by personal delivery or individual delivery pursuant to Civil Code Section 4040, at least ten (10) days prior to the meeting. The notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a Member may be disciplined, and a statement that the Member has a right to attend and may address the Board at the meeting. The Board shall meet in executive session at the Board's discretion and/or if requested by the Member being disciplined. If the Board imposes discipline on a Member, the Board shall provide the Member a written notification of the disciplinary action, by either personal delivery or individual delivery pursuant to Civil Code Section 4040, within fifteen (15) days following the action. A disciplinary action shall not be effective against a Member unless the Board has fulfilled the foregoing requirements.

A Member's rights may be suspended after fifteen (15) days prior notice of the hearing at which the Board intends to suspend the Member's rights. The hearing to suspend a Member's rights must be conducted at least five (5) days before the effective date of suspension.

In the case of a continuing violation, such as an uncorrected architectural violation, where a Member fails to cease or remedy a violation after notice from the Board to do so, the Board may deem such a continuing violation and may impose separate and successive sanctions for each such violation without holding further hearings for each sanction unless requested by the Member in writing.

7.5 Manager. Engage the services of a manager or management company as either an employee or an independent contractor, and engage such other employees or independent contractors as the Board may deem necessary, and to prescribe their duties.

7.6 Professional Advisors. Consult with, seek the advice of, and reasonably rely on the advice of attorneys, accountants, and other professionals in carrying out its authority and responsibility under the Governing Documents and the law, and to pay for such professional services.

7.7 Investment of Reserve Funds. Invest Association reserve funds in prudent investments subject to the provisions of Section 8.7 of these Bylaws.

7.8 Right of Entry. Enter a Lot, when necessary in the Board's sole discretion, as set forth in Article 6 of the Declaration.

7.9 Property Taxes. Pay all real property taxes and assessments levied upon any property within the Development to the extent not separately assessed to the Owners. Provided that any such taxes are paid or that a bond insuring the payment is posted, such taxes and assessments may be contested or compromised by the Association prior to the sale or other disposition of any property to satisfy the payment of such taxes.

7.10 Mergers. To the extent permitted by law, participate in mergers and consolidations with other nonprofit organizations organized for the same purposes as this Association, provided that any such merger or consolidation shall be approved by the affirmative vote of a seventy-five percent (75%) of the Members of the Association.

7.11 Association Property; Common Area. Subject to the provisions of Articles 2 and 3 of the Declaration, including any required approval of the Members, acquire, own, hold, convey, transfer, dedicate or otherwise dispose of real or personal property consistent with the purposes and powers of the Association and the management, administration and operation of the

Development or the business and affairs of the Association, and grant and convey easements, licenses, and rights of way in, over, upon or under the Common Area.

7.12 Indemnification of Agents. Except with respect to intentional, wanton and/or grossly negligent acts, indemnify and hold harmless, to the maximum extent permitted by California law, each person who is or at any time was a Director, officer, Inspector of Election, employee, or agent of the Association or member of any committee appointed by the Board from and against any and all claims, liabilities, expenses, judgments, fines, settlements, actually and reasonably incurred by any such person, and to which any such person shall become subject by reason of his or her being a Director, officer, Inspector, employee, or agent of the Association or member of any committee appointed by the Board.

7.13 Bank Accounts and Borrowing; Pledge Assets As Security for Loans. Open bank accounts, designate signatories upon such bank accounts, borrow money on behalf of the Association, and pledge assets of the Association as security for loans.

7.14 Other Powers and Duties. Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by other provisions of the Governing Documents, and undertake any action on behalf of the Association as the Board shall deem necessary or proper in furtherance of the purposes and powers of the Association and/or the interests of the Association and its Members.

7.15 Limitations on Powers. The powers of the Board shall be subject to the limitations set forth in the Declaration.

## **ARTICLE 8**

### **DUTIES OF THE BOARD OF DIRECTORS**

8.1 Records and Minutes. The Board shall cause to be kept a complete record of all its acts and the corporate affairs, including an accurate and current record of the Members setting forth their names and addresses, adequate and correct books and records of account, and minutes of the proceedings of the Members, the Board, committees of the Board, and any other committee appointed by the Board having decision-making authority.

8.2 Supervision. The Board shall supervise all officers, agents, and employees, if any, of the Association, and see that their duties are properly performed.

8.3 Insurance. The Board shall procure and maintain adequate casualty, liability and other insurance on Common Area property, other insurance required by law and the Declaration, and any other insurance as the Board deems necessary and appropriate.

8.4 Enforcement of Governing Documents. The Board shall enforce the provisions of the Governing Documents, as more particularly set forth in the Declaration, and perform all acts required of the Board under the Governing Documents or required by law.

8.5 Reserve Study and Annual Review. The Board shall cause to be conducted, at least once every three (3) years, a reasonably competent and diligent visual inspection of the accessible areas of the major components which the Association is obligated to repair, replace, restore or maintain as part of a study of the reserve account requirements of the Development if the current replacement value of such major components is equal to or greater than one-half of the Association's reserve account for that period. The Board shall review, or cause to be reviewed, the reserve study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review. The reserve study required by this Section shall include the minimum requirements specified in *Civil Code* section 5550.

8.6 Reserve Funds. The Board shall not expend funds designated as reserve funds for any purpose other than the maintenance, restoration, repair, or replacement of, or litigation involving the maintenance, restoration, repair, or replacement of, major components which the Association is obligated to maintain, repair, or replace and for which the reserve fund was established. However, the Board may authorize a temporary transfer of money from a reserve fund to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed and describing when and how the money will be repaid to the reserve fund. Any such transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except as otherwise expressly provided by law. The Board shall exercise prudent fiscal management in maintaining the integrity of the reserve account.

8.7 Investment of Reserve Funds. The Board shall manage and invest Association reserve funds in a prudent manner designed to achieve the primary objective of preserving principal while realizing a reasonable return and to assure the availability of funds as they are needed based upon the most recent reserve fund study obtained by the Board as provided in these Bylaws and by law.

8.8 Review of Accounts. The Board shall review the Association's operating and reserve accounts at least in accordance with the following minimum requirements:

(a) Review a current reconciliation of the Association's operating account on at least a quarterly basis.

(b) Review a current reconciliation of the Association's reserve account on at least a quarterly basis.

(c) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(d) Review the latest account statements prepared by the financial institutions where the Association keeps its operating and reserve accounts.

(e) Review an income and expense statement for the Association's operating and reserve accounts on at least a quarterly basis.

As used in this Section, the term "reserve account" shall mean monies that the Board has identified in its annual budget for use to defray the future costs of repair or replacement of, or additions to, those major components which the Association is obligated to maintain, restore, repair or replace.

8.9 Notice and Collection of Assessments. As more fully provided in the Declaration, the Board, on behalf of the Association, shall: (i) send written notice to each Owner in advance of each fiscal year of the Annual Assessment levied against his or her Lot for that fiscal year; and (ii) collect Assessments levied by the Association by foreclosing the lien against any property for which Assessments are not paid as required in the Declaration and/or by bringing an action at law against the Owner personally obligated to pay the same.

8.10 Certificate of Payment of Assessments. The Board shall issue, or cause an appropriate officer to issue, upon demand by any proper person, a certificate setting forth whether any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment.

8.11 Annual and Periodic Notices and Disclosures. The Board, on behalf of the Association, shall distribute to the Members, other persons and/or entities all notices and disclosures when and as required by law. Any notice or disclosure that is required by law to be provided by the Association or the Board to the Members or to any other person or entity may be delivered in any manner permitted by law for such notice or disclosure.

8.12 Results of Membership Votes. The Board shall disclose results of membership votes in accordance with Rules adopted pursuant to *Civil Code* section 5100 through 5135 for all elections subject to those Rules. For all other elections, for a period of sixty (60) days following the conclusion of an annual, regular, or special meeting of Members, upon written request from a Member, the Board shall promptly inform the Member of the result of any particular vote of the Members taken at the meeting, including the number of memberships voting for, the number of memberships voting against, and the number of memberships abstaining or withheld from voting.

## ARTICLE 9

### OFFICERS AND THEIR DUTIES

9.1 Enumeration of Officers. The officers of the Association shall be a President, Vice-President, Secretary, and a Treasurer, who shall at all times be members of the Board of Directors, and such other officers as the Board of Directors may, from time to time, appoint by resolution.

9.2 Appointment of Officers. The appointment of officers shall take place at the first meeting of the Board of Directors following the annual election of Directors.

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

9.4 Special Appointments. The Board may appoint 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.

9.5 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 not be necessary to make it effective.

9.6 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 or she replaces, subject to the Board's right to remove an officer.

9.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of

any of the other offices, except in the case of special offices created pursuant to Section 9.4 of this Article.

9.8 President. The President shall be the chief executive officer of the Association and shall, subject to control of the Board of Directors, have general supervision, direction, and control of the affairs and the other officers and the employees and agents of the Association. The President shall preside at all meetings of the Members and at all meetings of the Board of Directors, shall have the general powers and duties of management usually vested in the office of the President of an Association, and shall have such other powers and duties as may be prescribed by the Board of Directors and the Bylaws subject, however, to any limitations contained in the Declaration.

9.9 Vice President. In the absence or disability of the President, the Vice President shall perform all the duties of the President and, when so acting, shall have all of the powers of, and be subject to all of the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as, from time to time, may be prescribed by the Board of Directors.

9.10 Secretary. The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board of Directors may prescribe, a book of minutes of all meetings of Directors, Members, and committees of the Board setting forth the time and place of holding of such meetings; whether regular or special, and if special, how authorized; the notice thereof given; the names of those present at Directors' or committee meetings; the number of memberships and votes present or represented at Members' meetings; and all the proceedings thereof. The Secretary shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors required by the Bylaws or by law to be given and shall maintain a proper record of the giving of such notice, and shall keep the books, records, and documents of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the Bylaws.

9.11 Treasurer. The Treasurer shall be responsible for the receipt and deposit in appropriate accounts of all monies of the Association and shall cause disbursement of such funds as directed by resolution of the Board of Directors; may sign all checks and promissory notes of the Association; shall keep proper books of account; shall cause an annual review of the Association's books and financial statements to be made by a public accountant at the completion of any fiscal year for which such review is required by law or as determined by the Board; shall assist the Board in preparation of an annual budget and a statement of income and expenditures to be presented to the Members of the Association as provided by law; and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.



## ARTICLE 10

### COMMITTEES

The Board may appoint an Architectural Review Committee as provided in Article 7 of the Declaration and a Nominating Committee as provided in Section 5.2 of these Bylaws. The Board may also appoint such other committees as it deems appropriate in carrying out the powers and purposes of the Association. The Board shall appoint all of the members of any committee created by the Board and said committee members shall serve at the pleasure of the Board. Any "committee of the Board" (that is, a committee consisting only of Directors, as referred to in *Corporations Code* section 7212) shall consist of at least two (2) Directors, and shall have such powers and duties as the Board shall determine, subject to the limitations of *Corporations Code* section 7212.

## ARTICLE 11

### BOOKS, RECORDS AND FUNDS

11.1 Association Records. In accordance with *Civil Code* section 5200 *et seq.*, the Association shall make Association records available for inspection and copying to a Member or Member's designated representative upon written request. If the Member requests the Members list, he or she shall state, in writing, the purpose for which the list is requested, which purpose shall be reasonably related to such Member's interest as a Member of the Association. Association records, and any information from them, may not be sold, used for commercial purpose, or used for any other purpose not reasonably related to a Member's interest as a Member. The Association may bill the Member who has requested documents the direct and actual costs incurred by the Association to copy and mail any requested documents. The Board may adopt and publish reasonable Rules establishing procedures relating Members' inspection and copying of Association records.

11.2 Checks, Drafts, and Evidences of Indebtedness. All checks, drafts, or other orders for payment of money, or notes or other evidences of indebtedness issued in the name of, or payable to, the Association shall be signed or endorsed by such person or persons and in such manner as shall be determined from time to time by resolution of the Board, and in the manner as specified by the Board of Directors; provided that the signatures of at least two (2) persons, who shall be members of the Board of Directors, shall be required for the withdrawal of funds from the Association's reserve account.

11.3 Funds and Deposits. Any funds of the Association shall be deposited to the credit of the Association in such banks or other depositories as the Board of Directors shall, from time to time, determine.

11.4 Fiscal Year. The fiscal year of the Association shall be as determined by resolution of the Board of Directors.

## ARTICLE 12

### AMENDMENTS

12.1 Amendment by the Members. These Bylaws may be amended by the affirmative vote of a Simple Majority of the Members.

12.2 Amendment by the Board of Directors. The Board of Directors may, by a vote of a two-thirds (2/3) majority of all Directors, adopt amendments to these Bylaws when an amendment is needed to conform a particular provision or provisions of the Bylaws to changes in applicable California statutory law that are nondiscretionary in nature. Before entertaining a motion to approve any such amendment(s), the Board shall receive a written opinion from an attorney licensed to practice law in the State of California confirming that a change or changes in California statutory law necessitates a corresponding amendment to these Bylaws to conform to the statutory requirements, which the Association is bound by law to follow.

## ARTICLE 13

### MISCELLANEOUS

13.1 Conflict Between Governing Documents. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the case of any conflict between the Rules and these Bylaws, these Bylaws shall control.

13.2 Amendment to Referenced Statutes. References in these Bylaws to particular statutes, including sections of the *Civil Code* or the *Corporations Code*, shall be deemed to include any successor statute and any amendments to existing or successor statutes.

13.3 References to the Declaration. These Bylaws were presented with the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Los Paseos Association for approval by the Members. In the event the Members approved adoption of these Bylaws but did not approve the adoption of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions, any references to specific sections of the Declaration in these Bylaws shall be null and void unless and until the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions is adopted.

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**CERTIFICATE OF AMENDMENT  
TO  
BYLAWS  
OF  
LOS PASEOS ASSOCIATION**

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I, the undersigned, hereby certify that:

I am the Secretary of Los Paseos Association.

The foregoing Second Amended and Restated Bylaws of Los Paseos Association were duly approved by the requisite vote of the Members of the Association on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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Secretary