



## DECLARATION OF PROTECTIVE COVENANTS

### SLATE RIVER SUBDIVISION

June 18<sup>th</sup>, 2020



## **ARTICLE 1: Dedication**

**Section 1. Property Dedicated.** Cypress Foothills, LP, a Texas limited partnership (“Declarant”) hereby makes, declares, and establishes the following covenants, restrictions and easements which shall be binding upon and affect the real property more particularly described as:

The Applicant Retained Land according to the Plat of the Slate River Subdivision, filed for record the 10 day of Sept, 2020 and bearing Reception No. 669207 of the Records of Gunnison County, Colorado.

(the “Property”)

**Section 2. Dedication.** This Declaration of Protective Covenants (the “Covenants”) shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any Lots, tracts, or parts thereof, their heirs, successors and assigns and their tenants, employees, guests, agents and invitees and shall inure to and be for the benefit of each Owner of the Lot within the Property. These Covenants are imposed for the benefit of all Owners and all future owners of Lots, parcels and areas located within the Property and to provide for the preservations of values of the Property and to provide and preserve the covenants, easements, restrictions, assessments, liens and all other matters set forth in the Covenants, all of which are for the benefit of the Property.

## **ARTICLE 2: Additional Definitions**

**Section 1. “Association”** Shall mean the Slate River Subdivision Homeowners Association, Inc., a Colorado nonprofit corporation.

**Section 2. “Association Documents”** shall mean these Covenants, the Articles of Incorporation and Bylaws for the Association, any amendments to these Covenants and such articles and bylaws, and the Regulations.

**Section 3. “Assessments”** shall mean such regular, annual, periodic, special, default, or delinquent assessments as levied pursuant to these Covenants by the Association.

**Section 4. “Common Area”** shall mean all portions of the Property that are not a Lot, including the Private Road, Alley, Open Space, and Snow Storage Areas shown on sheet 3 of the Plat of the Slate River Subdivision, filed for record the 10 day of Sept., 2020 and bearing Reception No. 669207 of the Records of Gunnison County, Colorado.

**Section 5. “Lot”** shall mean a tract or lot that is within the Property and is shown on the Plat and any subsequent plat.

**Section 6. “Member”** shall mean any person holding membership in the Association.



**Section 7. "Owner"** shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot.

**Section 8. "Plat"** shall mean the Plat of Slate River Subdivision filed for record the 10 day of Sept, 2020 and bearing Reception No. 669207 of the Records of Gunnison County, Colorado, and as the same may be amended or revised.

### **ARTICLE 3: Association Matters**

**Section 1. Governance of Association.** The Association and the subdivision are not subject to the Colorado Common interest Ownership Act ("CCIOA") as this is a planned community with less than ten units and it is not subject to any development rights. The Association does not elect treatment under CCIOA. Any provision in these Covenants that would result in electing treatment under CCIOA shall be construed in such a manner as to not require treatment under CCIOA, and if such a construction is not possible, shall be void. The Association shall have all powers and rights that may be afforded to a homeowners' association under the Colorado law, including the Colorado Nonprofit Corporation Act, as amended, without electing treatment under CCIOA, and these Covenants, including without limitation the power, authority and right to raise and impose assessments, foreclose liens for assessments, and any other right or power that may be exercised by an Association.

**Section 2. Members.** Each Owner shall be a Member; provided, however, that each Lot shall only have one membership, vote and share of common expenses, but all persons and entities that are Owners shall have the same rights to the use and enjoyment of the Common Areas.

**Section 3. Grant of Utility Easements.** The Lots and Common Area are subject to certain easements shown on the Plat. In addition, the Association shall have the authority to give, grant, and convey a utility easement for the installation, construction and maintenance of underground utilities, water lines or infrastructure, and/or wastewater lines or infrastructure over and across any road or street easement or roadway or street designated on the Plat. The Owner of each Lot hereby authorizes and empowers the Association, as its attorney in fact, to give and grant:

- A. A utility line, water line, wastewater line, other utility infrastructure, and/or ditch easement up to 10 feet in width adjacent to the exterior boundary line of each Lot for the installation, construction and maintenance of underground utilities, water lines, wastewater lines or infrastructure, and ditches.

**Section 4. Snow Storage and Common Areas.** The Association is responsible for snow removal from the roads in the subdivision. The Plat identifies common areas and snow storage areas. No Owner may erect any improvement nor store any personal property on the common areas and snow storage areas without first receiving written approval from the Association. The snow storage areas are for use as snow storage solely by the Association and not by Owners as



the snow storage areas are to be used for snow storage from snow removed from subdivision roads.

## **ARTICLE 4: Assessments**

**Section 1. Creation of Lien.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association: (1) all regular assessments or charges; (2) special assessments and charges; (3) default assessments or charges; (4) late fees, returned check charges, default interest; (5) attorney's fees and costs; (6) default assessments; and (7) fines imposed against such Owner. All of such amounts shall be fixed, established and collected as determined by the Association. All of such amounts and any other amounts that the Association is entitled to recover against an Owner under Colorado law shall be a charge and continuing lien upon the Lot against which such assessment is made or that such Owner may own, whichever may be applicable. The Association shall have a lien against each Lot to the fullest extent permitted and provided for by Colorado law. The recordation of these Covenants shall perfect the Association's lien on each Lot. The Association's lien shall be prior and superior to all other liens and encumbrances on a Lot except:

- (I) Liens and encumbrances recorded before the recordation of the declaration;
- (II) A security interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent, but such security interest shall still be junior in priority to the Association's lien for an amount not to exceed 6 months of regular assessments of the Association; and
- (III) Liens for real estate taxes and other governmental assessments or charges against the Lot.

**Section 2. Purpose of Assessments.** All assessments shall be levied for purposes permitted under Colorado law, including without limitation: maintenance of Common Areas, repair of Common Areas, snow removal from Common Areas, costs and expenses pertaining to the operation of the Association in the performance of its duties, legal fees, accounting fees, manager fees, and any other expense, fee, cost, obligation, debt or liability incurred by the Association upon the majority vote of the Board. Specifically, but without limitation, common expense assessments are anticipated for road maintenance, snowplowing, and the maintenance and operation of certain water and/or wastewater infrastructure.

**Section 3. Regular Assessments.** Regular Assessments shall be imposed based upon an annual budget adopted by the Association no less frequently than annually.

**Section 4. Special Assessments.** Special Assessments shall be imposed for unbudgeted or unforeseen expenses or for those matters not adequately budgeted for.



**Section 5. Default Assessments.** All fines imposed against an Owner by the Association shall be a default assessment. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner shall be a default assessment.

**Section 6. Nonpayment of Assessments.** Any assessment, whether regular, special or default, which is not paid within thirty days of its due date shall be deemed delinquent. All delinquent assessments shall bear interest at 18% per annum. A late charge of 10% of the delinquent amount shall be charged on all delinquent assessments. The Association shall have all powers of collection and enforcement provided and permitted by law, including without limitation the power to collect delinquent assessments through judicial foreclosure of the lien created by these Covenants, through personal judgment against such delinquent Owner, through referring an account to a collections agency, through the filing of a statement of lien against a delinquent Owners' Lot in the Gunnison County, Colorado Clerk and Recorder's Office, and through such further actions as an association is entitled to take.

**Section 7. Liability for Assessments.** In addition to the personal obligation of each Owner of a Lot to pay all assessments and the Association's lien on a Lot for such assessments, all successors to the ownership of a Lot shall be jointly and severally liable together with the prior Owner or Owners for any and all unpaid assessments, penalties, interest, costs, charges, expenses, attorneys' fees and other amounts secured by such lien.

## **ARTICLE 5: Enforcement of Covenants**

**Section 1. Violations Deemed a Nuisance.** Every violation of these Covenants, shall be deemed to be a nuisance and is subject to all the remedies provided by law for the same, including without limitation abatement thereof.

**Section 2. Who May Enforce.** Any action for the enforcement or interpretation of these Covenants may be brought by the Association in the name of the Association and on behalf of the Owners, and by the Owner of any Lot.

**Section 2. No Waiver.** The failure of the Board, the Association, or any Owner to enforce or obtain compliance as to any violation shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

## **ARTICLE 6: Provisions Required By The Town of Crested Butte**

**Section 1. Compliance With Town Code.** All building, development and other use of a Lot shall comply with the Plat, and the Town Code for the Town of Crested Butte, Colorado, as applicable.

**Section 2. Fencing.** The height of any fence shall not exceed forty-two inches.



**Section 3. Amendment.** No amendment to Article 6 of these Covenants shall be effective until approved by the Town of Crested Butte, Colorado, which approval shall not be unreasonably withheld.

## **ARTICLE 7: Provisions Pertaining To Common Interest**

**Section 1. Common Interest Community.** Slate River Subdivision is a common interest community that is a planned community governed by Slate River Subdivision Homeowners Association, Inc., a Colorado nonprofit corporation. The common interest community is located in Gunnison County. A legally sufficient description of the real estate included in the common interest community is attached hereto as **Exhibit A**. The boundaries of each unit created by the Covenants is set forth on the Plat, including the unit's identifying number and its size. There are no limited common elements.

**Section 2. Allocation of Interests.** There are 6 Lots. Each Lot has one voting interest as set forth above and one share of common expense liability. Each Lot is allocated 1/6<sup>th</sup> of the vote in the Association and 1/6<sup>th</sup> of the common expenses of the Association.

**Section 3. Notice.** Notice of matters affecting the common interest community may be given to Owners by the Association or other Owners by posting the same on the Owner's door, by U.S. Mail, or by email. Notice by posting shall be effective upon posting. Notice by mail or email shall be effective upon receipt.

## **ARTICLE 9: Duration of Covenants; Miscellaneous**

**Section 1. Term.** These Covenants shall remain in effect perpetually from the date of recordation.

**Section 2. Amendment.** These Covenants may not be waived, abandoned, terminated or amended, in whole or in part, except by an instrument setting forth the written consent of the owners of at least four of the Lots or containing the certification by the Secretary of the Association that the owners of four or more of the Lots voted in favor of such amendment at a duly called and properly noticed meeting of the membership. No mortgage or lienholder approval is required.

**Section 3. Severability.** These Covenants shall, to the fullest extent possible, be construed so as to give validity to all of the provisions hereof. If any provision or portion of provision in these Covenants is determined to be invalid, unenforceable or prohibited by any court, the same shall not affect any other provision or portion thereof or section hereof and all other provisions, portions of provisions and sections shall remain in full force and effect.



**Section 4. Construction.** In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.

**Section 5. Headings.** The headings on any section or article are included only for the purposes of convenient reference and shall not affect the meaning or interpretation of these covenants.

**Section 6. Limitation of Liability.** Neither the Association nor any officer, director or other representative of the Association shall be liable to any party for any action or for any failure to take any action with respect to any matter arising by, through, or under these Covenants if the action or failure to act was made in good faith. The Association shall indemnify all officers, directors or other representatives of the Association with respect to any action taken in their official capacity as provided in the Articles of Incorporation and Bylaws of the Association. Such indemnification shall include repayment of all costs and expenses incurred, including reasonable attorneys' fees.

**Section 7. Attorneys' Fees.** The prevailing party in any legal action in any Court of law to enforce or interpret any provisions of these Covenants shall be entitled to recover from the non-prevailing parties reasonable attorney's fees and costs incurred in such legal action, including without limitation all costs and fees incurred in collection, on appeal, and in bankruptcy proceedings.

**Section 8. Applicable Law.** Gunnison County, Colorado district court or county court shall be the exclusive venue for any action arising out of or relating to the Association or the Covenants or any other dispute between the Association and any Owner provided, however, that the Association may establish exclusive venue, means and procedures for the enforcement of fines, which may include binding arbitration.

**IN WITNESS WHEREOF**, the Declarant has executed these Covenants as of the day and year first above written.

CYPRESS FOOTHILLS, LP,  
a Texas limited partnership

By: CYPRESS FOOTHILLS, GP, LLC,  
a Delaware limited liability company, its  
General Partner

By:   
Brian Parro, its Vice President

STATE OF COLORADO )  
                                  )ss.  
COUNTY OF GUNNISON )



The foregoing letter was acknowledged before me this 18 day of June, 2020, by Brian Parro, as Vice President of Cypress Foothills GP, LLC, which is the General Partner of Cypress Foothills, LP.

Witness my hand and official seal.

My commission expires: 11.20.2020.

Laurie Hughes  
Notary Public

