

Prepared by:  
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McDonald Fleming Moorhead  
25 West Government Street  
Pensacola, FL 32502  
SRM-13-7591

**NOTICE OF ANNEXATION AND AMENDMENT TO THE DECLARATION OF RIGHTS, COVENANTS, RESTRICTIONS, AFFIRMATIVE OBLIGATIONS AND CONDITIONS APPLICABLE TO COTTONWOOD SUBDIVISION**

This Notice of Annexation and Amendment to the Declaration of Covenants, Conditions, Easements, and Restrictions of Cottonwood Subdivision, located in the County of Santa Rosa, State of Florida, is made this 20<sup>th</sup> day of NOVEMBER, 2014, by Timberland Contractors, LLC, a Florida limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer made and executed that certain Declaration of Covenants, Conditions, Easements and Restrictions for Cottonwood Subdivision, located in Santa Rosa County, State of Florida which is recorded in Official Records Book 2410, Page 83, et seq., which is amended by that certain Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Cottonwood Subdivision, which is recorded in Official Records Book 2633, at Page 1710, et seq., all of the public records of Santa Rosa County, Florida (the "Declaration"), which encumber and restrict the real property located in Cottonwood Subdivision, a subdivision according to the plat thereof recorded in Plat Book 9, at Pages 92 and 93, of the public records of Santa Rosa County, Florida;

WHEREAS, Developer made and executed that certain "Notice of Annexation and Modification to Declaration of Covenants, Conditions, Easements and Restrictions of Cottonwood Subdivision, located in Santa Rosa County, State of Florida" (the "First Annexation"), annexing additional residential real property known and described as Cottonwood Subdivision, First Addition, according to the plat thereof recorded in Plat Book 10, at Page 60 of the public records of Santa Rosa County, Florida; the First Annexation was recorded in Official Records Book 2650, Page 1021, et seq., of the public records of Santa Rosa County, Florida, and encumbered and restricted such annexed property by the Declaration, as modified and qualified by the First Annexation;

WHEREAS, Developer has developed an additional phase known as Cottonwood Subdivision, Second Addition and, upon final approval by Santa Rosa County, Florida, shall record the plat of said addition;

WHEREAS, pursuant to Article II, Section 2.2 and Article XII, Section 12.6(d) of the aforesaid Declaration, Developer desires to, and has the right to, annex the additional residential real property and common areas, if any, as described on the plat of Cottonwood Subdivision, Second Addition, such property to be encumbered and restricted by the aforementioned

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Declaration and to amend the Declaration as it applies to such residential real property being annexed hereby;

WHEREAS, pursuant to Article XII, Section 12.6, the Declaration may be modified and amended with the consent of fifty percent (50%) of the owners of Lots within Cottonwood Subdivision, and the annexation of Cottonwood Subdivision, Second Addition, provides Developer with ownership of over fifty percent (50%) of the Lots in Cottonwood Subdivision.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer declares as follows:

1. Annexation of Cottonwood Second Addition. Effective as of the date of recording of this instrument in the public records of Santa Rosa County, Florida, that certain real property described in the attached Exhibit "A" ("Second Addition Property") shall be encumbered by and subject to each and all of the provisions of the aforesaid Declaration and the First Annexation, as if originally encumbered thereby.

2. Amendment to Declaration. The Declaration is hereby amended as follows:

A. Article III, Section 3.9 is amended to read as follows<sup>1</sup>:

3.9 Permanent Outside Storage Building. No outside storage building of any nature whatsoever will be permitted on any Lot unless approved by the Architectural Review Committee. Any such building shall meet the following requirements:

- a) Construction shall be of wood, vinyl siding, brick or "hardiboard" siding and the roof constructed using fiberglass shingles. The building should be of a color and quality comparable to the main house.
- b) No metal buildings shall be permitted. ~~and no building shall be moved onto the lot from another location.~~
- c) The total area shall not exceed ~~200~~ 400 square feet and shall be located no closer than 5 feet from the side and rear property lines.
- d) No building or design shall violate the ordinances of Santa Rosa County.
- e) The building shall not be utilized as a temporary or permanent residence and no plumbing is permitted to be installed.

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<sup>1</sup> Underlined words are being added; stricken words are being deleted.

B. Article IV, Section 4.4, is amended to read as follows:

4.4 ~~Noxious Vegetation.~~ Lawn and Exterior. The Owner or occupants of all Lots shall at all times keep weeds and grass thereon cut in a healthy and attractive manner and shall maintain the Lot in such a manner that is aesthetically pleasing and within the community standard. No Owner or occupant of a Lot may permit the growth of noxious weeds or vegetation on the Owner's ~~their~~ Lot or on the land lying between the street pavement and the front lot line of Owner's ~~said~~ Lot. All unimproved areas of a Lot must be maintained in an attractively landscaped and sightly manner. The Association may impose a fine for each day this paragraph is violated. The fine shall be in such amount as determined by the Board of Directors and the Association.

C. Article VII, Section 7.2 is amended to read as follows:

7.2 Voting Rights. The Association will have two classes of voting membership.

(a) Class A. Class A Members are all Owners of Lots other than Declarant, which Declarant is a Class B Member. Class A Members will be entitled to one vote for each Lot owned.

(b) Class B. Class B Member is Declarant, who shall be entitled to ten votes in all matters for each Lot owned by the Class B Member or its affiliates. Declarant may assign its Class B Membership. The Class B Membership will end and be converted to Class A membership ~~three months after when the first to occur~~ earlier of the following events occur:

(i) The total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership;

(ii) All Three months after all phases of Cottonwood Subdivision have been completed and made subject to this Declaration, and 90% of the Lots within Cottonwood Subdivision have been conveyed to Members other than the Class B Member;

(iii) Declarant chooses to become a Class A Member, as evidenced by instrument to such effect, executed by Declarant and Declarant's mortgagees holding a mortgage encumbering Cottonwood Subdivision or portion thereof, which is recorded in the public records;

(iv) Upon Declarant abandoning or deserting its responsibility to maintain and complete the amenities or infrastructure as disclosed in the governing documents;

(v) Upon Declarant filing a petition for bankruptcy under Chapter 7 of the United States Bankruptcy Code;

(vi) Upon Declarant losing title to Cottonwood Subdivision through foreclosure or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities first arising after the date fo such assignment; or

(vii) Upon a receiver for Declarant being appointed and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the Association or the Members.

(c) Members other than Declarant may elect at least one Member to the Board of Directors of the Association if 50% of the Lots in all phases of Cottonwood Subdivision, which will ultimately be operated by the Association, have been conveyed to the Members.

D. Article IX, Section 9.4(a), is amended to read as follows:

(a) Initial Budget. Declarant will prepare the first annual budget. Any reserves established by Declarant must designate the components for which the reserve accounts may be used.

E. Article IX, Section 9.6, is amended to read as follows:

9.6 Financial Reporting. The Board shall prepare an annual financial report of cash receipts and expenditures for the Association within ~~60~~ 90 days of the close of the fiscal year and provide each Member with a copy of the report, or a written notice that a copy of the financial report is available upon request, without charge to the Member. The report must be in form required by Florida Statutes.

F. Article X, Section 10.7(e), is amended to read as follows:

(e) Other Remedies. The Association may assess fines and suspend the voting rights and right to use of the Common Property by an Owner for any period for failure of said Owner to comply with any provision of the governing documents, including, but not limited to, during which any Assessment against the Owner's Lot remains unpaid, but only as permitted by law.

G. Article XI is amended to include the following:

11.8 Association Management. The Association is required to maintain insurance or a fidelity bond for all persons who control or disburse funds of the Association in an amount to cover the maximum funds that will be in the custody of the Association or its management at any one time. The term "persons who control or disburse the funds of the Association" shall include, but not be limited to, all individuals authorized to sign checks on behalf of the Association., as well as the Association's President, Secretary and Treasurer. The cost of such insurance shall be included as a

common expense of the Association and may be waived annually by a majority of the voting interests present at a properly called Association meeting.

11.9 Attorney Fees. In the event of any litigation arising out of this Declaration, the prevailing party shall be entitled to recover all costs incurred including, but not limited to, reasonable attorney's fees at all trial and appellate levels and post-judgment proceedings.

H. Article XII, Section 12.6 (b) and (c), are amended to read as follows:

(b) Subject to the provisions of Paragraph 12.7, Declarant reserves the right to amend this Declaration in any other manner without the joinder of any other party, as long as said amendment is made in good faith and is not arbitrary or capricious, does not destroy the general plan of the development, does not prejudice the rights of the Members to enjoy the benefits of the Common Property, does not materially shift the economic burdens from Declarant to the Members and no Owner's right to the use and enjoyment of the Owner's Lot is materially altered.

(c) Subject to the provisions of Paragraph 12.7, this Declaration may be amended by consent of Owners of 50% or more of the Lots as evidenced by recording an instrument executed by said Owners in the Public Records, provided that no such amendment will be effective without the consent of Declarant, or its assigns, until Declarant and its affiliates own no Lots within Cottonwood Subdivision. Within 30 days of the recording of an Amendment in the Santa Rosa County public records, the Association shall provide copies of the Amendment to all of the Members.

I. Article XII, Section 12.7, is amended to read as follows:

12.7 Mortgagee's Consent to Amendments. This Declaration contains provisions concerning various rights, priorities, remedies, and interests of the Mortgagees. Such provisions are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by mortgages on the Lots. Accordingly, no amendment or modification of this Declaration impairing such rights, priorities, remedies, or interests of a Mortgagee shall be adopted without the prior written consent of Mortgagees holding liens on 30% or more of the Lots encumbered by mortgages to Mortgagees. Each Mortgagee agrees that it will either consent to a proposed amendment or give notice of refusal to consent by written notice to the party requesting such consent within 30 days after the request is received. If a Mortgagee does not respond ~~such time~~, within 60 days after the date of mailing of the written notice, the Mortgagee's consent will be deemed given, and an affidavit to such effect recorded in the Public Records by the party requesting the consent will be sufficient evidence to make the requested amendment; provided, that a photocopy of the documentation proving receipt of the request to the Mortgagee is attached to the affidavit. This paragraph shall

not apply or be construed as a limitation on those rights of Declarant, the Association, or the Owners to make amendments that do not adversely affect the Mortgagees.

3. Ratification. Other than as modified, the Declaration remains in full force and effect and is hereby ratified.

IN WITNESS WHEREOF, the Developer hereunto set his hand and seal this 20<sup>th</sup> day of NOVEMBER, 2014.

Signed, sealed and delivered  
in the presence of:

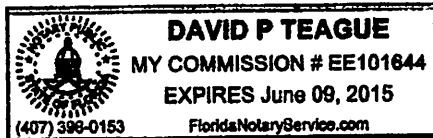
Patricia Luciani  
Print Name: Patricia Luciani  
Lisa L Burns  
Print Name: Lisa L Burns

TIMBERLAND CONTRACTORS, LLC,  
a Florida limited liability company

Christopher Walters  
By: Christopher Walters, its Manager

STATE OF FLORIDA  
COUNTY OF SANTA ROSA

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of November, 2014, by Christopher Walters, as Manager of Timberland Contractors, LLC, a Florida limited liability company.



David P. Teague  
NOTARY PUBLIC  
Print Name: DAVID P. TEAGUE

Personally known  
OR  
 Produced Identification  
Type of Identification produced \_\_\_\_\_

### Exhibit "A"

DESCRIPTION: (AS PREPARED BY SOUTHERN SURVEYING, INC.)  
BEGIN AT THE NORTHWEST CORNER OF LOT 40, BLOCK "E", COTTONWOOD SUBDIVISION (PLAT BOOK 9, PAGES 92-93) THENCE GO NORTH 02 DEGREES 44 MINUTES 26 SECONDS EAST ALONG THE EAST LINE OF COTTONWOOD SUBDIVISION AS RECORDED IN PLAT BOOK 9, PAGES 92-93 OF THE PUBLIC RECORDS OF SANTA ROSA COUNTY, FLORIDA FOR A DISTANCE OF 735.00 FEET; THENCE GO NORTH 62 DEGREES 08 MINUTES 58 SECONDS EAST ALONG THE BOUNDARY LINE OF COTTONWOOD SUBDIVISION FOR A DISTANCE OF 214.10 FEET; THENCE GO NORTH 84 DEGREES 39 MINUTES 38 SECONDS EAST FOR A DISTANCE OF 788.05 FEET; THENCE GO SOUTH 02 DEGREES 44 MINUTES 26 SECONDS WEST FOR A DISTANCE OF 484.39 FEET; THENCE GO SOUTH 83 DEGREES 20 MINUTES 58 SECONDS WEST ALONG THE NORTH LINE OF COTTONWOOD SUBDIVISION - FIRST ADDITION AS RECORDED IN PLAT BOOK 10, PAGE 60 OF THE PUBLIC RECORDS OF SANTA ROSA COUNTY, FLORIDA FOR A DISTANCE OF 504.39 FEET; THENCE GO SOUTH 02 DEGREES 51 MINUTES 18 SECONDS WEST ALONG THE WEST LINE OF SAID COTTONWOOD SUBDIVISION - FIRST ADDITION FOR A DISTANCE OF 369.65 FEET; THENCE GO NORTH 87 DEGREES 15 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 212.59 FEET TO THE EASTERLY RIGHT OF WAY LINE OF BRIGHTON LANE (50' RIGHT OF WAY); THENCE GO SOUTH 72 DEGREES 29 MINUTES 46 SECONDS WEST FOR A DISTANCE OF 53.30 FEET TO THE WESTERLY RIGHT OF WAY LINE OF BRIGHTON LANE (50' RIGHT OF WAY); THENCE GO NORTH 87 DEGREES 15 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 203.60 FEET TO THE POINT OF BEGINNING.