

**BUENA VIDA IMPROVEMENT ASSOCIATION, INC.**

**BY - LAWS**

**ARTICLE I - DEFINITIONS**

Section 1

“Association” means the BUENA VIDA IMPROVEMENT ASSOCIATION, INC., a non-profit corporation organized and existing under the law of the State of New Mexico.

Section 2

“Indenture” means the Indentures by which the Association from time to time conveys property to United Continental New Mexico, Inc. pursuant to Article Four of the Articles of Incorporation and imposes upon such property covenants, liens, and charges for the benefit of the Association, the property, and the residents of communities located thereon.

Section 3

“BVIA Property” means any property subject to the indenture or the covenants, liens, or charges imposed thereby.

Section 4

“He” shall refer to both the male and female genders.

**ARTICLE II - LOCATION**

Section 1

The principal office of the Association shall be located at #1 Tierra Grande, Roswell, New Mexico 88203.

**ARTICLE III - MEMBERSHIP**

Section 1

The Members of the Association are determined by Article Five of its Articles of Incorporation. The rights of Members are subject to (a) the payment of annual charges imposed by the indenture, and (b) compliance with the covenants of the Indenture and the rules and regulations of the Board of Directors regarding the use of BVIA Property and the conduct of members, their families, their tenants, and the guests of any thereof. As provided in the Articles, the voting and other membership rights of any Member may be suspended by action of the Directors during any period when such Member shall have failed to pay any Annual Charges then due and payable; but, upon payment of such Charges, his rights and privileges shall be automatically restored. If the Directors have

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adopted and published rules and regulations governing the use of BVIA Property, or any Common Facilities, or the personal conduct of any person thereon, the voting or other membership rights of any member may be suspended by action of the Board of Directors for a period not to exceed thirty (30) days, if he, any member of his family, his tenants, or the guests of any thereof shall have violated such rules and regulations.

### Section 2

All members are entitled to the use and enjoyment of the BVIA Property and Community Facilities in accordance with the Indenture. Such rights may be delegated to and exercised by all members of their family, any of their tenants who reside there under a lease for a term of one (1) year or more, and the guests of any thereof. Each Member shall notify the Secretary of the Association in writing of the name and relationship to the member of any person who shall be entitled to exercise such rights under this Section. The rights and privileges of such persons are subject to suspension by the Board in the same manner and for the same reasons as those of any Member under the preceding Section.

## **ARTICLE IV - MEETING OF MEMBERS**

### Section 1

The Annual Meeting of the Members shall be held at the office of the Association specified in Article II above or at any other address specified in the Notice of the Meeting.

### Section 2

Special meetings of the Members for any purpose may be called at any time by the President, the Vice President, or by any three (3) or more Directors. The Secretary shall call a special meeting upon written request of the Members who have a right to vote one-fourth (1/4) of all of the votes of the entire membership.

### Section 3

Notice of meetings shall be given to the Members by the Secretary. Notice will be given by mailing a copy of the notice, postage prepaid, to the address appearing of the books of the corporation. (Each Member shall register his address and any change in address with the Secretary.) Notice of any meeting, regular or special, shall be mailed not less than ten (10) nor more than fifty (50) days in advance of the meeting and shall set forth the purposes of the meeting.

### Section 4

At any membership meeting, the presence, whether in person or by proxy, of Members

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entitled to vote not less than 10% of the total membership vote, shall constitute a quorum for the transaction of business. All proxies shall be in writing and be filed with the Secretary at the commencement of the meeting. Any proxy given by a person who shall not be a qualified Member at the date of the meeting and any proxy given more than eleven (11) months before the date of the meeting shall be void.

### Section 5: Removal of a Board Member

At any annual or special meeting of the Members, a recall vote may be cast to remove any Director from the board for cause. Cause shall be defined, but not limited to negligence, malfeasance, and breach of a fiduciary duty or obligation to the Association, mismanagement or acting adversely for the benefit of the Association. If a majority of a quorum of the votes as listed (Article IV, Section 4) is cast in favor of removal, the recall will be effective immediately. The removed Board Member will not be eligible to serve on the Board again

### Section 6

No Member shall be denied the opportunity to address the Membership.

## **ARTICLE V - BOARD OF DIRECTORS**

### Section 1

The Association shall be governed by a Board of Directors in accordance with Article Eight of the Articles of Incorporation of the Association. Without limiting the generality of the preceding sentence or any power vested in it by law, the Board of Directors shall have the power (a) to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them security or fidelity bonds as it may deem expedient (nothing contained in these By-Laws shall be construed to prohibit the employment of any Member, officer or director of the Association in any capacity whatsoever); (b) to establish, levy, assess, and collect the Annual Charges and all other charges referred to in the Indenture; (c) to adopt and publish rules and regulations governing the use of BVIA Property and Community Facilities, and the personal conduct of Members, their families, their tenants, and their guests with respect thereto; (d) to exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those expressly reserved to the Members; and (e) in the event any Member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may by action taken at the meeting in which such third absence occurs declare the office of said absent Director to be vacant.

### Section 2

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It shall be the duty of the Board of Directors:

(a) to cause to be kept a full, true, and accurate record of its acts and corporation affairs and to present a statement thereof to the Members at the Annual Meeting of the Members or at any Special Meeting when requested in writing by one-fourth (1/4) of the full Membership;

(b) to supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;

(c) in accordance with the Indenture:

i. to fix the amount of the Annual Charge against each lot or living unit as soon as may be practicable after the beginning of each calendar year and, in any event, before April 1. The amount of any proposed increase shall not exceed ten percent (10%) of the current assessment or the C.P.I. as stated in the covenants whichever is less.

ii. to prepare a roster of the properties and Annual Charges applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member; and

iii. to send written notice of each assessment to every Owner subject thereto; and

(d) to issue or to cause an appropriate officer to issue, upon demand by any person, a certificate stating whether any Annual Charge has been paid, which shall be conclusive evidence that any charge stated therein has or has not been paid.

### Section 3

Vacancies in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors though less than a Quorum of the Board of Directors and any such appointed Director shall hold office for the unexpired term of his predecessor in office. If the vote results in a tie, the President shall call a special election of the Members of the Association within thirty (30) days to fill the vacancy. The Secretary shall follow the procedures outlined in Article VII of these by-laws.

## **ARTICLE VI – DIRECTOR'S MEETINGS**

### Section 1

The Annual Meeting of the Board of Directors shall be held immediately following adjournment of the Annual Meeting of Members in each year.

### Section 2

A regular meeting of the Board of Directors shall be held at the office of the Association specified in Article II above, provided that the Board of Directors may, by resolution, change the day and hour or the place of holding such regular meeting. If the day of the regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday.

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### Section 3

No notice need be given for the Annual or any regular meeting of the Board. Notice of any special meeting shall be sufficient if mailed to each Director, postage prepaid, at his mailing address as it appears on the records of the Association, at least three (3) days before the meeting or given personally, by telephone or electronically (e-mail, text messaging, etc.) not later than the day before the meeting. No notice need be given to any Director who attends the meeting, or to any Director who in writing (before or after the meeting) waives such notice.

### Section 4

Special meetings of the Board of Directors shall be called by the Secretary upon request by any officer of the Association or by any two ( 2 ) Directors. The action of a majority of the Board, although not at a regularly called meeting, shall be valid and effective in all respects if the record of the meeting shall be assented to in writing buy all members of the Board.

### Section 5

At all meetings of the Board, a majority of the Board of Directors shall constitute a quorum, and, except as otherwise provided by law or by the By-Laws, the act of a majority of the Directors present shall be the act of the Board. In the event of a tie vote by any motion made during a meeting of the Board of Directors, the motion will be postponed until the next Board Meeting (regular or special).

### Section 6

The members of the Board of Directors may participate and vote in person, by telephone, text messaging, e-mail, fax or any other teleconferencing means available.

## **ARTICLE VII - ELECTION OF DIRECTORS**

### Section 1

The election of Directors shall be by written ballot as hereinafter provided. At each Annual Meeting or at any special meeting called for the purpose of electing Directors, the Members or their proxies may cast, in respect of each vacancy, as many votes as they are entitle to cast under the Articles of Incorporation of the Association. The nominees receiving the largest number of votes shall be elected.

### Section 2

Nominations for election to the Board of Directors shall be made by the Nominating

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Committee, which shall consist of a Director who shall be the Chairman, and four (4) members of the Association. The Nominating Committee shall be appointed from members who express their desire in writing to be on this committee. If no such members are available, the Board of Directors will appoint the committee at their discretion. The Nominating Committee shall be appointed two (2) months prior to the Annual meeting. Only Members of the Buena Vida Improvement Association in good standing are eligible to serve on the Board of Directors. The majority of the seats on the Board of Directors shall be filled by resident members. If a resident member is not available to fill the vacancy, then a non-resident member of the Association may be nominated.

### Section 3

The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies to be filled. Nominations shall be placed on a written ballot as provided in Section 4 and shall be made in advance of the time fixed in Section 4 for the mailing of such ballots to the Members.

### Section 4

All elections of the Board of Directors shall be made on written ballots which shall (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominating Committee for such vacancies; and (c) contain a space for a write-in vote by the Members for each vacancy. Such ballot shall be prepared and mailed by the Secretary to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the day before the Annual Meeting or any special meeting called for the purpose of electing Directors).

### Section 5

Each Member shall be mailed a ballot on which he may cast the number of votes to which he is entitled. The completed ballot shall be returned in the manner hereinafter outlined. The ballot shall be placed in the envelope provided that shall be marked "ballot" and shall bear on its face the name and signature of the member or his proxy, the number of votes being cast and such other information as the Board of Directors may determine will establish his right to cast the vote or votes stated therein. The ballot shall be returned to the Secretary at such an address as may be clearly designated by the Secretary.

### Section 6

Upon receipt of each return, the Secretary shall immediately place it in a safe or other locked place until the day set for the meeting at which the elections are to be held. On that day the external envelopes containing the "ballot" envelopes shall be turned over,

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unopened, to an Election Committee which shall consist of three (3) persons appointed by the Board of Directors. The Election Committee shall then adopt a procedure which shall (a) establish that the member is entitled to cast, either personally or by proxy, the number of votes indicated on the outside envelope; and (b) that the signature of the member or his proxy on the outside of the envelope is genuine; and (c) if the vote is by proxy, that a valid proxy has been filed with the Secretary. Such procedure shall be taken in such a manner that the vote of any member or his proxy shall not be disclosed to anyone, even the Election Committee. The outside envelope shall thereupon be placed in a safe or other locked place and the Election Committee shall proceed to the opening of the "ballot" envelopes and the counting of the vote. Immediately after the announcement of the results, unless a review of the procedure is demanded by the Members present, the ballots and the outside envelopes shall be destroyed.

### **ARTICLE VIII - OFFICERS**

#### Section 1

The officers of the Association shall be a President and Vice President. The President and Vice President shall be members of the Board of Directors and shall have a vote at meetings.

#### Section 2

All officers shall be elected at each Annual Meeting of the Board, and each officer shall hold office until the next Annual Meeting of the Board and until his successor shall have been duly elected and qualified or until his earlier death, resignation, or removal in accordance with the By-Laws. The officers shall be chosen by a majority vote of the Directors.

#### Section 3

The President shall be the chief executive officer of the Association and as such shall have general supervision of the affairs and property of the Association and over its several officers, subject to the direction of the Board of Directors. The President shall, if present, preside over all meetings of the Board of Directors, and shall generally do and perform all acts incident to the office of President. He may sign in the name and on behalf of the Association all notes, leases, mortgages, deeds and all other written instruments authorized by the Board, except where the Board shall delegate the execution thereof to some other officer or agent of the Association.

#### Section 4

The Vice President shall perform all of the duties of the President in the event of his absence or disability, and when so acting shall have all of the powers and be subject to all restrictions placed upon the President.

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### **ARTICLE IX – COMMITTEES**

#### **Section 1**

Standing committees of the Association shall be the Nominating Committee, Audit Committee (CPA) and By-laws Committee. Unless otherwise provided herein each committee (with the exception of the Audit Committee) shall consist of a Chairman and two (2) or more members as determined by the Board of Directors, at least one of whom shall be a Director. Each committee shall be appointed by the Board of Directors, as necessary, to serve until the next Annual meeting of the Board and until it's successor shall have been duly elected and qualified, except that the Nominating Committee shall be appointed in accordance with Article VII section (2) hereof. The Board of Directors may appoint such other committees as it deems desirable.

#### **Section 2**

The Nominations Committee shall have the duties and functions described in Article VII.

#### **Section 3**

The Audit Committee shall supervise the annual audit of the Association's books and approve the annual budget and balance sheet statement to be presented to the Members at their Annual Meetings. The Secretary/Treasurer shall be an ex officio member of the committee.

#### **Section 4**

With the exception of the Nominations Committee, each committee shall have the power to appoint a subcommittee from among its membership and may delegate to any subcommittee any of its powers, duties and functions.

#### **Section 5**

It shall be the duty of each committee to receive complaints from the Members on any matter involving Association functions, duties and activities within the field of its responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, director or officer of the Association as is further concerned with the matter presented.

#### **Section 6**

It shall be the duty of the By-laws Committee to review the by-laws yearly at least four (4) months prior to the Annual Meeting and to propose any amendments or addendums at



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the Annual Meeting.

### **ARTICLE X – BOOKS AND PAPERS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Members.

### **ARTICLE XI – CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the word: Buena Vida Improvement Association, Inc., a New Mexico non-profit corporation incorporated in 1972.

### **ARTICLE XII – AMENDMENTS**

#### Section 1

These By-laws may be amended at a regular or special meeting of the Members by a vote of the majority of a quorum of the Members present in person or by proxy, provided that those provisions of these By-laws which are covered by the Articles of Incorporation of the Association may not be amended except as provide in the Articles of Incorporation or applicable law, and provided further that any matter stated herein to be or which is in fact covered by the Indentures may not be amended except as provided therein. Any member of the Association may propose amendments to the By-laws Committee in writing. Amendments approved by the Membership will take effect immediately.

#### Section 2

In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Indentures and these By-Laws, the Indentures shall control.

### **ARTICLE XIII – SECRETARY/TREASURER**

#### Section 1

The Secretary/Treasurer shall act as Secretary and Treasurer of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for the purpose. He shall sign all certificates of membership. He shall keep the records of the Association. He shall record the names and addresses of all Members of the Association, shall see that all notices are duly given as required by the By-laws or shall see that all notices are duly given as required by the By-laws or applicable law, and shall be the custodian of the corporate seal. He shall receive and deposit in a bank account approved by the Board all monies of the Association and shall disburse such funds as

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directed by a resolution of the Board of Directors, provided, however, that a resolution of the Board of Directors shall not be necessary for the disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. He shall sign all checks and notes of the Association. He shall keep proper books of account and cause an annual audit of the Association's books to be made by a certified public accountant at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its Annual meeting. He has the authority to pay up to \$150.00 in invoices without prior approval of the Board of Directors. Any invoices over \$150.00 must be approved prior to being paid by the Board of Directors. The Secretary/Treasurer must submit the paid invoices to the Board of Directors.

Section 2

The Secretary/Treasurer shall receive compensation for his or her duties deemed appropriate by the Board of Directors and shall be paid monthly.

Section 3

The Secretary/Treasurer will be appointed/removed by the Board of Directors by majority vote. The Secretary/Treasurer cannot be a member of the Board of Directors.

MISCELLANEOUS

Section 1

Roberts Rules of Order, latest edition, shall be recognized as the authority governing the meetings of the Board of Directors, Annual Meetings, Special Meetings and committees, in all instances wherein its provisions do not conflict with these By-laws or Articles of Incorporation

State of New Mexico     )  
  ) ss.  
County of Chaves         )

I hereby certify that the above and forgoing By-laws of Buena Vida Improvement Association, a New Mexico corporation consisting of eleven (11) pages, this page included, are the By-laws of this corporation, adopted by the Board of Directors thereof at a meeting held June 6, 2009.

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Secretary

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_