**AMENDMENT TO**

**DECLARATION OF PROTECTIVE COVENANTS**

**FOR**

**DAUPHINAIS-MOSELEY SUBDIVISION, FILING #1**

THIS AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS FOR DAUPHINAIS-MOSELEY SUBDIVISION, FILING #1 (“**Amendment**”) is approved and effective this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_ 2021, by the undersigned.

**RECITALS**

1. The community known as Grand Traverse at Vail was created pursuant to the Declaration of Protective Covenants for Dauphinais-Moseley Subdivision, Filing #1 recorded on August 27, 1991 in Book 561 at Page 010 as Reception No. 457138 in the Eagle County Records (the “**Declaration**”).

1. The community is governed by the Grand Traverse at Vail Association (the “**Association**”).
2. Defined terms from the Declaration, such as Owner and Member, shall have the same meaning when used herein.
3. In accordance with Paragraph 11.b. of the Declaration, the Declaration may be amended upon the affirmative vote of a majority of the Classes (as such term is defined in the Paragraphs) or if there are only Class A Members, upon an affirmative vote of a majority of the Class A Members and Declarant, if any. The Declaration may be amended by recording in the public records of Eagle County, Colorado records a “Certificate of Amendment”, duly signed and acknowledged. The Certificate of Amendment shall set forth in full the amended adopted, and shall certify that at an election duly called and held pursuant to the provisions of the Paragraphs and Bylaws, the amendment was adopted by the Affirmative Vote of the Majority of Classes (until Class B and Class C are dissolved, in which case the Certificate shall certify that the majority of the Class A Members and the Declarant, if any, voted affirmatively for the adoption of such amendment).
4. The Association currently only has Class A Members as Class B and Class C have been dissolved.
5. The Declarant is no longer involved in the Association.
6. In accordance with the Bylaws of Grand Traverse at Vail (A Colorado Nonprofit Association) dated August 28, 1991 is silent on Member meetings. The Paragraphs of Incorporation filed with the Colorado Secretary of State on September 3, 1991 are also silent on Member meetings.
7. There are 23 Members in the Association, therefore, the affirmative vote of 12 Members is required.
8. The Certificate of Amendment executed by both the President and the Secretary of the Association attached hereto as Exhibit A confirms that the affirmative vote of the requisite percentage of Members have been obtained to amend the Declaration by this Amendment.
9. The purpose of this Amendment is to amend the provisions of the Declaration that relate to construction plans, design guidelines and restrictions.

NOW THEREFORE, for and in consideration of the premises and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, from and after the execution of this Amendment by the Association and the recording hereof in the Office of the Clerk and Recorder of Eagle County, Colorado, the Declaration shall be deemed and hereby is amended as follows:

1. Paragraphs 6 through 7 of the Declaration are repealed in their entirety and replaced as follows:

6. APPROVAL OF CONSTRUCTION PLANS:

1. No building or other structure shall be constructed, erected, or maintained on any Lot, nor shall any addition thereto or alteration or change therein be made until complete plans and specifications (including, but not limited to, a color rendering, a model ~~and/~~or an electronic rendering, floor plans, elevations, site and grading plans, provisions for off street parking and locations of driveway access, landscaping plan, the specification of principal exterior materials, color schemes and the location and the method of utilization of all utilities and the TOV Joint Property Owner Written Approval Letter) have been submitted to the Grand Traverse at Vail Association for approval prior to submittal to the Town of Vail for approval and approved by both entities in writing. In addition, each owner that builds or modifies a structure on a Lot and all plans submitted pursuant to this paragraph 6 shall comply with the design guidelines as outlined hereunder.

The Town of Vail shall have the right to enforce the covenants and all requirements within paragraphs 6 and 7 herein. The covenants and requirements contained in paragraphs 6 and 7 herein and the design guidelines may not be amended or deleted without Town of Vail approval.

1. Owners are encouraged to consult with the Grand Traverse at Vail Association and the Town of Vail prior to and during the preparation of such plans and specifications for compliance with the Design Guidelines in order to avoid withholding or delay in approval.

7. DESIGN GUIDELINES:

a. All criteria and requirements as set forth in the Municipal Code of the Town of Vail including but not limited to Chapter 18.54 shall be complied with.

1. The Town of Vail Design Review Board (“DRB”) in addition to the requirements of Chapter 18.54 shall take into consideration the suitability of the proposed building, building modification or other structure and the materials of which it is to be built to the Lot upon which it is to be erected, and the harmony thereof with the surroundings.
2. The goal of these guidelines and the interpretation of Chapter 18.54 of the Town of Vail Municipal Code shall be to create, for the entire Subdivision, a compatible and homogeneous architectural quality harmonious with the character of the area.

d. The following specific restrictions shall govern construction on and use of any Lot.

1. Architectural. At the time of review of specific architectural plans provided for any development of single family structures, or modification thereof, within Special Development District #22, the Town of Vail Design Review Board shall, in addition to the Design Guidelines set forth in Chapter 18.54 of the Vail Municipal Code, consider the following guidelines in the review and approval process. The architectural design of the building, and modifications to existing buildings, upon the site shall be such that buildings relate harmoniously to each other. This is not to imply that each building must look exactly similar to those around it, but that compatibility is achieved through the use of scale materials and colors and building shape and form. The overriding concern is that, upon completion, the Special Development District, because of the clustered nature of the small single family lots situated around common open space should appear to be an integrated development possessing a common architectural quality, character and appearance. To this end the following general design criteria shall be followed:
2. A palette of colors shall be as set forth below and presented to the Grand Traverse at Vail Association for their review and approval and the Town of Vail Design Review Board. Colors are indicated for ~~the~~ use on different types of building materials and elements such as stucco colors, siding colors, metal flashing, windows, accent colors, etc. The palette of colors indicates a range of acceptable colors in order to encourage similarity on one hand, but also diversity within the acceptable range. It is intended that no two adjacent buildings be substantially similar in appearance.
3. The following building forms and materials shall be adhered to:
4. Roof. The roof pitch shall be a minimum of 8/12 and a maximum of 12/12. A clipped or hipped gable roof shall be mandatory. The roofing material shall be as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board. Standing seam and/or corrugated metal roofing is expressly disallowed.

1. Chimneys. The chimneys shall be stucco or stone with chimney caps of weathered copper or as approved by the Grand traverse at Vail Association and the Town of Vail Design Review Board.
2. Flues. All flues shall be galvanized or “Paint Loc” sheet metal, painted to match the roof. Thru-wall HVAC flues and vents may be PVC or ABS as required by the device manufacturer and painted to match existing siding.
3. Main Fascia. The main fascia shall be a solid body stain as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board.
4. Secondary Fascia and Metal Railings above the First Floor. The secondary fascia and metal railings above the first floor may be an accent trim color as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board.
5. Walls. Walls shall be of stucco and horizontal wood siding. Stucco colors shall be gray, tin or off-white. Wood siding colors shall be stained as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board. Metal siding of any kind is expressly disallowed.

1. Stone. Walls will have a minimum of a two foot high stone wainscot in rainbow mix with a sandstone cap except under bays, decks, or cantilevers. Other stone types or colors may be used as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board.
2. Windows. Windows shall have a sandstone sill. Metal-clad wood windows or painted wood window colors shall be white, taupe or brown or as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board. Mirror-like window tinting is prohibited. Vinyl windows by any manufacturer are prohibited.

1. Outdoor Lighting. Outdoor lighting shall be indirect with a concealed source. All exterior lighting shall meet the requirements of the International Residential Code and shall be “Dark Sky compliant” as required by the Town of Vail.

1. Garages. No garage doors except Lot 24 shall directly face the street. Garage doors and replacement garage doors shall substantially match existing garage doors or as approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board guidelines.
2. Landscape: At the time of review of landscape plans provide for any development of single family structures within the Special Development District #22 the Town of Vail shall, in addition to the landscape guidelines set forth in Chapter 18.54 of the Vail Municipal Code, observe the following guidelines in the review and approval process:
3. Entry Landscaping and Lighting: A plan indicating the landscape treatment of the main project entry shall be submitted and approved. The goal of such a plan shall be the following:
4. Present an identifiable entry point to the subdivision containing plant materials, lighting and signage of a scale appropriate for the size of the development.

1. Provide appropriate screening to the rear yards (along Lion’s Ridge Loop) of Lots 20-24 which blends in with the entry treatment.
2. Provide appropriate screening along the western edge of Tract C.

1. When individual landscape plans are presented for individual lots, special care shall be taken in the design of side yard landscaping in order to provide adequate screening between structures. Active outdoor use areas should be located within front and rear yards.

Because of the potential for blockage of views and sun/shade considerations on adjacent properties, no plantings shall be allowed or maintained which are in excess of five feet in height in areas southeast of the main structure to the ridge line on any lot, nor in areas located south of a line connecting the south facing exterior wall of two adjacent structures to the ridge line. This restriction shall not apply to Lots 13 through 24, inclusive.

1. For areas south or southeast of the ridge line, no plantings shall be allowed or maintained which are in excess of five feet above the ridge line at the nearest point on the ridge line.

1. For Lots 1 and 2, the screening of improvements to be located on the adjacent property south of Solar Crest Condominiums, is an equally valid concern as view blockage and sun/shade consideration, so trees in excess of five feet in height, but in no event higher than twelve feet in height, shall be allowed if such plantings are necessary to screen the improvements on the adjacent property as described above.

If a member violates such restrictions by allowing plantings to exceed such height, the Association may deem such violation “improper maintenance” under Section 4(j) above and take all action under such section to correct the violation.

1. The concern of the ~~Committee~~ Grand Traverse at Vail Association shall be to improve the natural appearance of the Subdivision and the maintenance of such appearance. Owners and their representatives or builders will be required to:

(i) Minimize disruption from grading.

(ii) Revegetate and restore ground cover for erosion and appearance reasons.

(iii) Use drought tolerant, indigenous species of plant materials as required and set forth by the Town of Vail guidelines.

(iv) Select the man-made elements that blend and are compatible with the land.

(v) Use existing or natural drainage paths whenever possible.

(vi) Conserve and protect topsoil, rock formations and unique landscape features.

1. Patios, decks, hot tubs, saunas or other site-placed equipment or improvements shall be fully within the Building Envelope. Such equipment shall be screened from view of adjacent properties by approved screening methods. Placement of such equipment or improvements and screening devices shall be approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board prior to installation.
2. Water and Sanitation: Each structure designed for occupancy or use by human beings shall connect with water and sanitation facilities made available by the Eagle River Water and Sanitation District or any other similar governmental or quasi-governmental entity. No private wells shall be used as a source of water for human consumption or irrigation.

1. Electrical and telephone Service: All electrical and telephone service to the Lots will be placed underground.

7.A. Rights and Restrictions.

* 1. Easements: Easements and rights of way are hereby reserved as shown or described on the final plan for the Subdivision and shall comply with guidelines as set forth by the Town of Vail.
  2. Signs: No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any Building Envelope for any purpose whatsoever, except no fence shall exceed 4 feet in height.
  3. Fences: Design and location of fencing shall be submitted to and approved by the Grand Traverse at Vail Association and the Town of Vail Design Review Board prior to installation and shall conform to Town of Vail requirements except no fence shall exceed 4 feet in height.
  4. Trash: No trash, ashes or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning or other disposal of refuse out of doors. Each Owner shall provide suitable wildlife resistant receptacles for the temporary storage and collection of refuse and all such receptacles shall be placed in enclosures attached to the buildings so that such receptacles shall be screened from the public view and protected from disturbance.

1. Livestock: No animals, livestock, horses or poultry of any kind (except dogs, cats and other domesticated pets for household enjoyment, not for commercial purposes and not to exceed two in number may be kept by an Owner so long as such pets are not a nuisance to any other Owner) shall be kept, raised or bred in the Subdivision.

1. Pets: Household pets, such as dogs and cats, must be contained upon an Owner’s Lot. Owners may not construct a fenced run on their Lot. Pets shall not be allowed to remain tied or chained anywhere in the Subdivision, any pet so tied or chained may be removed. Pedestrians accompanied by dogs within the Subdivision must have said dogs under their direct control by use of a leash not to exceed ten feet in length.

1. Temporary Structures: No temporary structure, such as a ~~basement~~ trailer, mobile home or tent shall be permitted in the subdivision, except as may be determined to be necessary during construction and specifically authorized by the Town of Vail in writing and in accordance with the regulations of the appropriate governmental entities.

1. Television Antenna: Exterior mounted, exposed television or radio antenna will not be permitted within the Subdivision. (1) Residential satellite dish may be installed in a location as approved by The Grand Traverse at Vail Association and the Town of Vail Design Review Board.

1. Outdoor Lighting: All outdoor lighting comes under the jurisdiction of the Town of Vail and shall comply with all requirements set forth in their Design Guidelines to limit light pollution.

1. Repair of Vehicles: No work of automotive repair shall be performed anywhere within the Subdivision except within private garages.

1. Accessory Structures and Greenhouses: No accessory structures, such as free-standing sheds shall be allowed. Greenhouses must be constructed of permanent materials, must be a part of the residential structure or garage, may not be a free standing building and must be compatible with the architecture of the residential structure and be approved by The Grand Traverse at Vail Association and the Town of Vail Design Review Board prior to installation.

1. Continuity of Construction: All structures commenced in the Subdivision shall be prosecuted diligently to completion and shall be completed within ~~the~~ twelve months of commencement unless exception is granted in writing by The Grand Traverse at Vail Association and the Town of Vail. This requirement is inclusive of all additions, remodels and any rehabilitation of existing structures.
2. Nuisance: No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.
3. Storage of Materials and Equipment: Owners and contractors are permitted to store construction materials and equipment on the approved construction site during the construction period. It shall be neatly stacked, properly covered and secured and is the responsibility of the Owner and the contractor. Owners and contractors will not disturb, damage, trespass or store materials or equipment on other Owners’ Lots, on the Open Space Tract or on the Road Tract. The Grand Traverse at Vail Association may approve the temporary storage of construction materials on the Open Space Tract or Road Tract with prior, written consent of the Grand Traverse at Vail Association.

1. Debris and Trash Removal: Owners and contractors shall clean up all trash debris on the construction site at the end of each day. Trash and debris shall be removed from the site at least once a week to the closest solid waste disposal site approved by Eagle County. Owners and contractors are prohibited from dumping, burying or burning trash anywhere in the Subdivision.

1. Sanitary Facilities: Each Owner and contractor shall be responsible for providing adequate, temporary sanitary facilities for their construction workers. Said facility shall be properly screened from view as required by the Town of Vail guidelines.

1. Restoration or Repair of Other Property Damaged: Damage or scarring to other property, including but not limited to other Lots, the Open Space Tract, the Road Tract and improvements thereon, driveways or other improvements is not permitted. If any such damage occurs, it will be repaired promptly at the expense of the person causing same and shall be the responsibility of the Owner making improvements.
2. Conduct and Behavior: All Owners shall be responsible for the conduct and behavior of their agents, representatives, invitees, builders, contractors and subcontractors.

1. The Declaration, as amended hereby, remains in full force and effect. In the event of any conflict or inconsistency between the provisions of this Amendment and the Declaration, the provisions of this Amendment shall govern and control.
2. This Amendment will be governed by and interpreted in accordance with the laws of the State of Colorado.

**IN WITNESS WHEREOF**, the Association has executed this Amendment on the day and year first above written.

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|  | GRAND TRAVERSE AT VAIL ASSOCIATION, a Colorado nonprofit corporation      By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  President |

State of Colorado )

)ss.

County of Eagle )

The foregoing Amendment to Declaration of Protective Covenants for Dauphinais-Mosely Subdivision, Filing #1 was acknowledged before me this day of \_\_\_\_\_\_\_\_\_\_\_, 2021 by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, President of the Grand Traverse at Vail Association.

My commission expires:

Witness my hand and official seal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

EXHIBIT A

**CERTIFICATION OF AMENDMENT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, President and I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Secretary of the Grand Traverse at Vail Association hereby certify that the requisite number of votes were made in favor of amending and restating the declaration as follows:

Members/Owners FOR: \_\_\_\_ AGAINST:

GRAND TRAVERSE AT VAIL ASSOCIATION,

a Colorado nonprofit corporation

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

President

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary

STATE OF COLORADO )

)ss.

COUNTY OF Eagle )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, by \_\_\_\_\_\_\_\_, as President and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as Secretary of the Grand Traverse at Vail Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public