

RECEPTION#: 630282, 06/28/2016 at 10:48:33 AM, 1 OF 7, R \$41.00
Janice K. Vos Caudill, Pitkin County, CO

RECORD AND RETURN TO:

Sherman & Howard, L.L.C.
730 East Durant Ave., Suite 200
Aspen, Colorado 81611
Attn: B. Joseph Krabacher

**SECOND SUPPLEMENT AND AMENDMENT
TO DECLARATION OF CONDOMINIUM
FOR PACIFIC AVENUE CONDOMINIUMS**

This SECOND SUPPLEMENT AND AMENDMENT TO DECLARATION OF CONDOMINIUM FOR PACIFIC AVENUE CONDOMINIUMS ("**Second Supplement**") is made as of the 21 day of June, 2016, by JET VIEW LLC, a Colorado limited liability company ("**Declarant**").

RECITALS

A. The Declaration of Condominium for Pacific Avenue Condominiums was recorded August 9, 2006 at Reception No. 527281 in the office of the Clerk and Recorder of Pitkin County, Colorado, (the "**Original Declaration**"). The Original Declaration, as it has and may in the future be amended and supplemented, is hereinafter referred to as the "**Declaration**."

B. Any capitalized terms used herein, unless specifically defined herein, shall have the meaning provided in the Declaration.

C. By Assignment of Declarant Rights recorded March 7, 2014 at Reception No. 608476, Declarant is the Assignee of the Declarant Rights under the Original Declaration pursuant to the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes (the "**Act**") and Sections 2.1 and 17.9 of the Original Declaration.

D. Declarant's predecessor in interest developed, subdivided and condominiumized "Unit A" ("**Original Horizontal Unit A**") as depicted on the Condominium Map of Pacific Avenue Condominiums recorded on August 9, 2006 in Plat Book 80, Page 79, Reception No. 527282 (the "**Original Map**") into nine (9) affordable housing Condominium Units, and recorded a First Supplemental Declaration (the "**First Supplement**") to the Original Declaration on November 20, 2008 at Reception No. 554419 and the First Supplemental Condominium Map of Pacific Avenue Condominiums recorded on November 20, 2008 in Plat Book 89, Page 19, Reception No. 554418 ("**First Supplemental Map**"), designating the Units created thereby as Units A, B, C, D, E, F, G, H and I.

E. Pursuant to Section 2.1 of the Original Declaration, by this Second Supplement, and the Second Supplemental Condominium Map recorded contemporaneously herewith as Reception No. 630282 (the "**Second Supplemental Map**"), Declarant wishes to further condominiumize "Unit B" as shown on the Original Map ("**Horizontal Unit B**") into eight (8) affordable housing Condominium Units in two Buildings, numbered 313 and 317, and to establish Common Elements within Unit B, which will be exclusively Limited Common

Elements for the use and enjoyment of Horizontal Unit B Owners, and the cost of which will be apportioned pursuant to Section 4.5(a) of the Declaration to Horizontal Unit B Owners.

F. Due to the distinct and separate nature of the buildings, Common Elements and Condominium Units on Horizontal Unit A and Horizontal Unit B, in order to fairly apportion Project costs, Declarant desires to implement a separate and distinct budget for Horizontal Unit B by converting the areas described on the First Amended Map as General Common Elements to Limited Common Elements for the benefit of Horizontal Unit A, the cost of which will be apportioned pursuant to Section 4.5(a) of the Declaration to Unit A Owners. The Playground General Common Element depicted on the Original Map will remain a General Common Element and a shared expense between the two neighborhood communities.

G. The Original Declaration reserved for Declarant various Special Declarant Rights, which authorize Declarant to implement its intended actions herein, including:

i. The right to amend the Condominium Map pursuant to Section 1.9 of the Original Declaration for any reason recited therein, including, but not limited to, establishing and designating any General Common Elements as Limited Common Elements.

ii. The right under Sections 2.1 and 17.2 of the Declaration to complete further development in phases and to further divide, develop and condominiumize Original Horizontal Unit B.

iii. The right under Sections 2.4 and 17.2 of the Declaration to designate and redesignate General Common Elements and Limited Common Elements by way of amendment of the Condominium Map or Declaration by Declarant's sole signature and without the requirement of approval of any Owner or the Association.

iv. Reserved Development Rights and Special Declarant Rights described in Article 17 of the Declaration, including but not limited to the right in Section 17.2 to record supplemental Maps and separate Supplemental Declarations to re-condominiumize Unit B into air-space units within Buildings to be created thereon.

SUPPLEMENT AND AMENDMENT

In accordance with the foregoing, and the covenants and conditions contained herein, Declarant hereby declares that the Declaration shall be supplemented and amended as follows:

1. **Units Created.** Horizontal Unit B is hereby further divided and condominiumized into air-space Condominium Units B-1, B-2, B-3, B-4, B-5, B-6, B-7 and B-8, Pacific Avenue Condominiums, as depicted and described on the Second Supplemental Map. The underlying land, parking area and spaces, walkways, dumpster, fence and any other improvements now or in the future located on or within Horizontal Unit B that are not designated under the Declaration or Map to be a Limited Common Element appurtenant to a particular Unit or Units, including but not limited to the structural elements of the Buildings on Horizontal Unit B, are hereby declared to be Limited Common Elements of and appurtenant to Horizontal Unit B, the costs of which will be apportioned on a pro rata basis pursuant to Section 4.5(a) of the Declaration to all Horizontal Unit B Owners.

2. **Effect.** The Owner of each Unit within Horizontal Unit B shall be deemed to be a Member of the Association in accordance with the terms of the Declaration and the Bylaws. Pursuant to the Declaration, Common Assessments for the Units within Horizontal Unit B shall commence as of the date of this annexation and shall be prorated as of such date.

3. **Amendment of Horizontal Unit A Common Elements.** Pursuant to Section 17.2 of the Declaration, Declarant hereby converts all land, structures, parking area and spaces, walkways, and any other improvements now or in the future located on or within Horizontal Unit A or depicted as General Common Elements on the First Supplemental Map, and not depicted as Limited Common Elements designated for the use of a particular Unit or Units, as Limited Common Elements of and appurtenant to Horizontal Unit A, the costs of which will be apportioned pursuant to Section 4.5(a) of the Declaration to Horizontal Unit A Owners.

4. **The Playground General Common Element.** The Playground General Common Element depicted on the Original Map will remain a General Common Element, the costs of which will continue to be allocated amongst all Units in accordance with the Allocated Interests set forth on attached Exhibit A, pursuant to Section 4.5(a) of the Declaration.

5. **Allocated Interests.** The allocated interests of the Units are set forth and identified on Exhibit A, attached hereto and incorporated herein by reference, in accordance with Section 17.2 of the Declaration.

6. **Horizontal Unit B Budget.** The Association shall establish the initial Assessments for the Horizontal Unit B neighborhood (the "**Horizontal Unit B Neighborhood**" or "**Neighborhood**") by calculating the amount needed to meet the financial needs of the Neighborhood for the fiscal year and dividing by the number of Lots or Units in that Neighborhood as of the first day of the fiscal year. The Board shall prepare a separate budget for the Horizontal Unit B Neighborhood covering the estimated expenses for Horizontal Unit B during the coming year, within the time frame for preparation, adoption and distribution of budgets set forth in Section 7.7 of the Declaration and the Act. Such budget shall include, without limitation, any costs for additional services or a higher level of services which the Owners in the Horizontal Unit B Neighborhood have approved and any services determined by the Board to be provided to the Horizontal Unit B Neighborhood, and any contribution to be made to reserve funds for that Neighborhood. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments levied against the Units, and the amount to be generated through the levy of Neighborhood Assessments against the Units in the Horizontal Unit B Neighborhood. The Board shall send a summary of the Neighborhood budget for the coming year to each Owner in the Neighborhood for consideration by such Owners in the same manner as provided in Section 7.7 of the Declaration, except that the proposed Neighborhood budget does not require approval from Owners in the Neighborhood and is deemed approved by the Owners of Units in the Neighborhood in the absence of a veto at the meeting by the Owners of Units in the Neighborhood to which at least sixty-seven percent (67%) of the votes in the Neighborhood are allocated, whether or not a quorum of such Owners is present. The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised

budget as set forth above. All amounts the Association collects as Horizontal Unit B Neighborhood Assessments shall be held for and expended solely for the benefit of the Horizontal Unit B Neighborhood, except any portion of such Neighborhood Assessments as are specifically designated in the budget as Common Expenses or Capital Reserves related to the Horizontal Unit B Neighborhood Owners proportionate interests in the Playground General Common Element, which may be deposited in a joint account for the purposes of maintenance and repairs to the Playground General Common Element. All other Horizontal Unit B Neighborhood Assessments or other income shall be accounted for separately from the Association's general funds.

7. **Horizontal Unit B Special Assessments.** Special Assessments may be levied against the Horizontal Unit B Neighborhood Owners, if each such Special Assessment is for Common Expenses benefitting the Horizontal Unit B Neighborhood Limited Common Elements, or against those individual Units or groups of Units in the Horizontal Unit B Neighborhood that will benefit from the purpose of the Special Assessment in accordance with Section 7.8 of the Declaration. Any Special Assessment against the Horizontal Unit B Neighborhood Owners shall require the affirmative vote or written consent of Owners representing at least two-thirds (2/3) of the votes of Owners in the Neighborhood who are present in person or by proxy at a meeting of the Owners at which a quorum is present. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8. **Horizontal Unit B Reserves.** The Board shall establish such reserves for Horizontal Unit B as it may determine to be necessary or appropriate from time to time to provide for the maintenance, repair, replacement or restoration of Horizontal Unit B Units or Limited Common Elements B (the "**Horizontal Unit B Reserve Fund**"), and the funding of such reserves will be apportioned pursuant to Section 4.5(a) of the Declaration to Horizontal Unit B Owners. All amounts the Association collects as Horizontal Unit B Reserve Funds shall be held for and expended solely for the benefit of the Horizontal Unit B Neighborhood. The Horizontal Unit B Reserve Fund shall be accounted for separately from the Association's general funds.

9. **Duty as to Horizontal Unit B Reserves.** Within one (1) year from the date this Supplemental Declaration is recorded, the Association shall ensure that a reserve study is conducted by a qualified professional to examine those improvements in the Horizontal Unit B Neighborhood for which the Association is responsible. The reserve study shall include a physical analysis which shall provide an inventory of all improvements in the Horizontal Unit B Neighborhood, which the Association is responsible for repairing, replacing, or improving and a visual inspection of those items to determine their existing condition. The reserve study shall also include a financial analysis which shall provide an evaluation of the estimated remaining life of improvements for which the Association is responsible, the adequacy of existing reserve funds, projected future reserve income, projected future reserve needs and the ability to meet future reserve needs through utilization of contributions to reserves from reserve fund contributions at the time of closing pursuant to Section 10 below and funding of reserves through contributions from Regular Assessments. At a minimum, every five (5) years the reserve study for the Horizontal Unit B Limited Common Elements shall up updated by a qualified professional which shall include a physical and financial analysis as more fully described above.

Within seven (7) years from the date this Declaration is recorded, the Board shall ensure that the Association has caused to be deposited into the Association's Horizontal Unit B reserve account seventy percent (70%) of the recommended funds set forth in the initial reserve study conducted by a qualified professional. At all subsequent times, unless in the exercise of its business judgment the Board determines that it is impossible to do so, the Association shall maintain its reserve fund in an amount equaling at least 70 percent (70%) of the funding recommended in its most recently updated reserve study. On a yearly basis, the Association shall submit to the Aspen Pitkin County Housing Authority the most recent version of the reserve study, the balance of the reserve account and an accounting of whether the Association has updated its reserve study and maintained its reserve account as required by this Subsection. The cost of the Horizontal Unit B Reserve Study shall be allocated to the Horizontal Unit B Owners.

10. **Capitalization of the Association and Contributions to Horizontal Unit B Reserves.** The Association shall require each Owner of any Horizontal Unit B Unit (other than Declarant) upon the purchase of the Unit to make a nonrefundable contribution to the Association in the amount equal to one (1) month of the Annual Assessments attributable to Horizontal Unit B Units at the time of purchase (regardless of whether or not assessments have commenced as provided herein). This contribution shall be collected and transferred to the Association at the time of closing of the purchase of each Horizontal Unit B Unit and shall be deposited into a working capital fund established for the benefit of Horizontal Unit B (the "**Horizontal Unit B Working Capital Fund**"), which may be used for the benefit of the Horizontal Unit B Limited Common Elements and related operations as the Board deems appropriate, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. The Horizontal Unit B Working Capital Fund shall be accounted for separately from the Association's general funds. Contributions to the Horizontal Unit B Working Capital Fund shall not relieve an Owner from making regular payments of assessments as the same become due. In addition, each Owner of any Horizontal Unit B Unit (other than Declarant), upon the purchase of the Unit shall make a contribution to the Horizontal Unit B Reserve Fund in an amount equal to two (2) month of Horizontal Unit B Annual Assessments. This contribution shall be collected and transferred to the Association at the time of closing of the purchase of the Horizontal Unit B Unit and shall be deposited into the Horizontal Unit B Reserve Fund. Such contribution shall not relieve an Owner of the responsibility for making regular payment of assessments as such may become due.

11. **Horizontal Unit B Vehicle Parking.** The Horizontal Unit B Limited Common Elements include eighteen (18) individual vehicle parking spaces, as depicted on the Plat, which are allocated as follows: (i) four (4) parking spaces, as depicted on the Plat, and designated as "Handicapped Access" which are limited common elements associated with whichever Unit(s) that are occupied by Owner(s) with a disability recognized by the Aspen Pitkin County Housing Authority under the Americans with Disabilities Act; (ii) two (2) parking spaces designated for Horizontal Unit B visitor/guest use; and (iii) twelve (12) individual vehicle parking spaces, as depicted on the Plat for the use of the Horizontal Unit B Unit Owners only, and which may be re-assigned by the Board from time to time so that each Unit has two (2) designated parking spaces. No commercial vans, boats, off-road motorcycles, snowmobiles, ATVs, campers, trailers or other commercial or recreational vehicles of any type may be kept or parked in the parking area or in any parking space. No parking space may be used for repairing or undertaking any

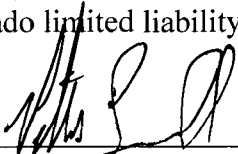
mechanical work on any vehicle. The Association may adopt reasonable Rules and Regulations relating to the use of the Horizontal Unit B parking area and spaces.

12. **Amendment of Declaration.** Except as specifically amended by this Second Supplement, the Declaration shall not be amended or modified hereby. As amended by this Second Supplement, the Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, Declarant has executed this Second Supplement effective as of the day and year first above written.

DECLARANT:

JET VIEW, LLC,
a Colorado limited liability company

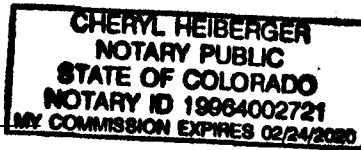
By: 
Peter Fornell, Manager

STATE OF COLORADO)
)ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me this 28th day of June, 2016, by Peter Fornell as Manager of JET VIEW, LLC a Colorado limited liability company, the Declarant.

Witness my hand and official seal.

My commission expires: _____





NOTARY PUBLIC

EXHIBIT A
Allocated Interests

| Unit | Fractional Interest in General Common Elements and in Common Expenses | Fractional Interest in Horizontal Unit A Limited Common Elements and Related Expenses | Fractional Interest in Horizontal Unit B Limited Common Elements and Related Expenses | Vote | |
|----------------------|---|--|--|-----------------------|---|
| Horizontal Unit A | A | 1/17 | 1/9 | 1 | |
| | B | 1/17 | 1/9 | 1 | |
| | C | 1/17 | 1/9 | 1 | |
| | D | 1/17 | 1/9 | 1 | |
| | E | 1/17 | 1/9 | 1 | |
| | F | 1/17 | 1/9 | 1 | |
| | G | 1/17 | 1/9 | 1 | |
| | H | 1/17 | 1/9 | 1 | |
| | I | 1/17 | 1/9 | 1 | |
| Horizontal Unit B | B-1 | 1/17 | | 1/8 | 1 |
| | B-2 | 1/17 | | 1/8 | 1 |
| | B-3 | 1/17 | | 1/8 | 1 |
| | B-4 | 1/17 | | 1/8 | 1 |
| | B-5 | 1/17 | | 1/8 | 1 |
| | B-6 | 1/17 | | 1/8 | 1 |
| | B-7 | 1/17 | | 1/8 | 1 |
| | B-8 | 1/17 | | 1/8 | 1 |
| Total Units: | Total Interests 17/17 | Total Interests 9/9 | Total Interests 8/8 | Total Votes: 17 | |