

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
RIO OESTE SUBDIVISION

A Declaration of Covenants, Conditions and Restrictions for
the Creation and Maintenance of a Planned Residential Development

RIO OESTE DEVELOPMENT LLC, DECLARANT

P.O. BOX 3671

ALBUQUERQUE, NM 87190



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Lots 1-P1 through 4-P1 in Block 2; the landscape areas within the Palacio Real right of way within adjacent to lot 6-P1 in Block 1, Lot 1-P1 in Block 2 and Lots 17-P1 through 21-P1 in Block 3. Also, the Public Access Easement in Lot 10-P1 in Block 3 is to be maintained as Common Area.

Section 1.07: Common Area Rules.

The term "Common Area Rules" means rules adopted by the Board which govern the use of the Common Area.

Section 1.08: Design Guidelines.

The term "Design Guidelines" means architectural guidelines adopted from time to time by the Architectural Control Committee, which regulate construction of improvements within the Subdivision.

The initial members of the Architectural Control Committee are Ronald D. Brown, Scott Grady and Juan M. Suarez.

Section 1.09: Easement Area.

The term "Easement Area" shall mean certain beneficial interests in real Property including improvements constructed thereon owned or controlled by the Association or owned by the Grantor, the City, County or the Lot Owners but maintained by the Association for the common use and enjoyment of or for the safety or benefit of the Association members. The Easement Areas to be maintained by the Association shall originally be limited to (i) the exterior surface of all Perimeter Walls adjacent to Coors Boulevard and Via Corte del Sur; (ii) the Landscape Easement Properties as to the extent not constituting Common Area, and to the extent that there are rights of enjoyment, and/or obligations reserved to the Owner pursuant to this Agreement; and (iii) Subdivision signage not located on Common Area.

Section 1.10: Eligible Mortgagee.

The term "Eligible Mortgagee" means any holder of a first mortgage lien against any Lot provided that such mortgagee has given the Association written notice of its mortgage setting forth its name and address and identifying the Lot, by legal description and address, which is subject to such first mortgage, and by providing a true copy of said mortgage to the Association

Section 1.11: Fiscal Year.

The term "Fiscal Year" shall be the calendar year; but, a different Fiscal Year may be adopted by the Association by By-Law of the Association or Board Resolution.



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Section 1.12: Grantor.

The term "Grantor" shall mean RIO OESTE DEVELOPMENT LLC, a New Mexico limited liability company and its assigns, who are assigned, in writing, all or part of Grantor's powers and responsibilities for all or a specific area or portion of the Subdivision and who accept such powers and responsibilities in writing. All such assignments and agreements to accept the obligations of Grantor shall be recorded, filed with the Board and placed with the records of the Association. Each person or entity named as Grantor in an assignment may exercise the rights of Grantor provided by these Restrictions for the area assigned, but no general power, such as the power to annex, shall be partially assigned, except for an assignment of all rights under this Declaration. The Grantor may also be referred to herein as the "Declarant", being the same party who declares these covenants, Conditions and Restrictions to be in force and binding upon and running with the Property.

Section 1.13: Improvements.

The term "Improvements" shall include, without limitation, buildings, out-buildings, (including sheds and storage buildings), roads, driveways, parking areas, fences, retaining walls, privacy walls or fences, Subdivision exterior walls or fences, stairs, decks, windbreaks, poles, antennas, signs, utility or communication installations (whether above or underground) landscaping, trails, street lights and any structure and excavating of any type or kind.

Section 1.14: Lot.

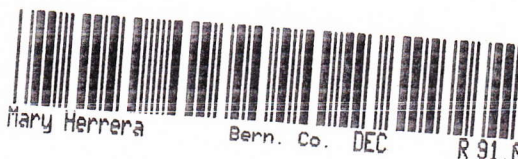
The term "Lot" shall mean each of the forty seven (47) lots designated as 1-P through 6-P1, Block 1, Lots 1-P1 through 8-P1, Block 2, and Lots 1-P1 through 21-P1, Block 3, Lots 1-P1 through 12-P1, Block 4, on the Plat, together with the Improvements located on each such Lot.

Section 1.15: Mortgage.

The term "Mortgage" shall mean a deed of trust, as well as a mortgage, and the term "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust, as well as a Mortgagee.

Section 1.16: Owner.

The term "Owner" shall mean the persons or entities, including Grantor, holding the beneficial ownership of the fee of one or more Lots, including the purchaser under a contract of sale, and shall not include persons holding only a security interest or a seller under a contract of sale.



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For the purposes of the Article entitled, "Permitted and Prohibited Uses of Property" below, unless the context otherwise requires, "Owner" shall include the family, invitees, licensees and tenants of any Owner.

Section 1.17: Perimeter Walls.

The term "Perimeter Walls" shall mean the Subdivision walls adjacent to Coors Boulevard and Via Corta del Sur and the walls constructed along the exterior boundaries of the Subdivision.

Section 1.18: Plat.

The term "Plat" shall mean the plat of Rio Oeste Subdivision as recorded in the Bernalillo County, New Mexico real property records on December 10, 2003 in Book 2003C Page 371 as Document #2003220427.

Section 1.19: Subdivision.

The term "Subdivision" shall mean the Planned Residential Development subdivision created by and subject to this Declaration.

Section 1.20: Subdivision Restrictions.

The terms "Subdivision Restrictions" or "Restrictions" shall mean, with respect to all Property within the Subdivision, the limitations, easements, restrictions, covenants, and conditions set forth in this Declaration, as this Declaration may from time to time be amended. The term "This Declaration" and the title to this Declaration shall have the same meaning as "Subdivision Restrictions".

ARTICLE 2

Property Subject to Subdivision Restrictions

Section 2.01: Initial Development.

The Property described in the introductory paragraph to this Declaration and these Restrictions.

ARTICLE 3

Permitted and Prohibited Uses of Property

Section 3.01: Permitted Uses of Property Within the Subdivision.

a. Improvements and development within the Subdivision shall be limited to residential single family dwellings, having a minimum of 1,500 square feet of heated living area, associated parking, garages, roads and access ways, landscaped areas, and all public or



private service and utility facilities related to such uses, including, but not limited to, drainage, sewer, gas, water, electric and communication facilities. No dwelling shall be used as a boarding house or divided into apartments or rooms for rental purposes. This subsection does not prevent the rental or lease of the whole dwelling by the Owner thereof, but any such rental or lease must be in the form of a written agreement which requires the tenant to observe and strictly comply with these Restrictions. No dwelling may be leased or rented for a period of less than thirty (30) days.

b. Grantor shall, so long as Grantor is the owner of any Lot, have all of the rights of use set out in the Article entitled, "Limitation of Subdivision Restrictions on Grantor," below.

Section 3.02: Prohibited Uses of Subdivision.

a. In no event shall any Lot be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, or be used in any other way inconsistent with the Subdivision Restrictions contained herein.

b. No illegal, noxious or offensive activity shall be carried on within the Subdivision. No light shall be omitted from any Lot which is unreasonably bright to cause unreasonable glare to any residence. No sound shall be emitted on or from any Lot which is unreasonably loud or annoying, including, but not limited to the continuous barking of dogs. No odor shall be emitted from any Lot which is noxious or offensive to others. Nothing shall be done or placed which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to Owners in the enjoyment of their dwellings.

c. No signs whatsoever, including, but without limitation, commercial or similar signs, visible from other Lots, shall be erected or maintained upon any Lot, except:

1. Such signs as may be required by legal proceedings or are useful for such proceedings, including safety or signs necessary for the public health and welfare.
2. During the time of construction of any structure or other improvements, job identification signs having a maximum face area of thirty two (32) square feet per sign, and of the type usually employed by contractors, subcontractors, and tradesmen.
3. Appropriate safety, directional, and identification and safety signs installed by Grantor, the Association, or required by law.



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4. Customary "for sale" or "for rent" signs having a maximum face area of five (5) square feet per sign or two signs having a maximum face area of ten (10) square feet per sign and of the same type usually employed by realtors or Property managers.

5. Such residential or commercial identification signs as Grantor has the right to maintain, or as are specifically approved by the Board in accordance with the rules adopted by the Board.

d. Except as provided otherwise by this Section, no mobile home, motor home, boat, recreational vehicle, motorcycle, camper, trailer, or similar facility, structure or equipment shall be kept, placed, or maintained within the Subdivision at any time, unless enclosed within the garage or screened or shielded from view from the streets or the ground floor of adjoining homes, as regulated by the Committee. Any such vehicle or equipment proposed to be stored on a Lot, but not within a garage must have a written plan submitted to and approved by the Architectural Control Committee in writing before the vehicle or equipment may be brought onto the Lot. The provisions of this subsection shall not apply to temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by this Declaration. No structure of a temporary character, trailer, double-wide, modulars, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

e. Any outside clothes lines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced yard in such a way as not to be visible or highly noticeable from the streets or the ground floor of neighboring dwellings. The location, length, height and materials of any such Improvement shall be submitted to and approved by the Architectural Control Committee in writing prior to such installation.

f. No garbage, clippings from trees, shrubs, or lawns, trash, ashes or other refuse may be thrown, dumped or allowed to accumulate on any land within the Subdivision. There shall be no burning of refuse out of doors, except for the burning of natural materials in connection with land clearance or fire control. No incinerators or other devices for the burning of refuse indoors shall be constructed, installed or used by any person except in conformity with law and approved by the Board, in writing, in advance of such use.



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g. No animals, livestock, horses, or insects of any kind shall be kept, raised or bred in the Subdivision. Dogs (not more than two (2), cats, and other household pets in reasonable numbers may be kept, provided they are not kept, raised or bred for commercial or hobby breeding purposes and provided that the total number of pets may not exceed four (4). Such household pets, must be restrained on a leash or in the fenced yard of the Owner when in the Subdivision.

h. All exterior spots or directional lighting of any sort, the light source of which is visible from neighboring Lots, shall be approved, in writing, by the Architectural Control Committee prior to installation.

i. No exterior antennae, or satellite dishes, any larger than 2.5 feet in diameter and/or which extend above the highest elevation of any dwelling structure by more than four feet shall be installed or maintained on any Lot or within the Subdivision, except those devices which are erected, installed, placed or maintained and used entirely under the eaves or enclosed within a building or structure or which are reasonably unobtrusive to the views from the ground level of other Lots as determined by the Committee. This provision shall remain enforceable even if enforcement action is not commenced within the time limitations otherwise provided by the Subdivision Restrictions.

j. No mechanical device shall be installed or maintained on the roof or exterior surface of any dwelling if such device is visible from the street or streets which the dwelling faces or from adjoining dwelling, unless screened or enclosed to the satisfaction of the Committee.

k. The number of vehicles permitted to be owned by the residents of a Lot and parked within the Subdivision shall be limited to the number of off-street parking spaces available on that Lot. A garage parking space converted to storage or other uses shall not constitute a parking space. Parking of vehicles overnight in the street by residents is not consistent with the intent of this declaration. No vehicles of any type shall be permanently or semi-permanently parked in any portion of the Subdivision which are visible from other Lots for purposes of repairs or reconstruction, or storage. A vehicle shall be deemed parked for storage if it is not driven out of the Subdivision for thirty (30) consecutive days.

l. No commercial trucks, other than standard pick-up trucks, or other commercial vehicles shall be kept or maintained in the Subdivision, except within garages, and except where customary or required for the limited purposes of building, repairing, refinishing, or maintaining the Subdivision or a dwelling, or for

the purpose of moving household goods or other necessary or customary furnishings, equipment or supplies in or out of the Subdivision.

m. Except temporarily during a construction period, all utility lines, including, but not limited to, electrical, gas, telephone, cable television, and other communications systems shall be underground, except for access ports, above ground transformers, and at points of transition of electrical and telephone distribution lines from off-site above ground lines.

n. No portion of the Subdivision shall be used for any purpose or in any manner which would increase the rate at which insurance against loss or damage by fire and the perils covered by extended coverage, bodily injury, Property damage liability insurance, covering any other dwelling may be obtained, or cause any other dwelling to be uninsurable or have such insurance cancelled or suspended.

o. No amateur radio antennae or other such outside equipment shall be permitted in the Subdivision without the advance written approval of the Architectural Control Committee.

Section 3.03: Water and Sewer Service Covenants.

The Subdivision is provided with water and sewer by the City of Albuquerque. The following restrictions shall encumber the Lots:

- (a) No Owner may drill a water well upon any Lot.
- (b) No Owner shall procure sanitary sewer service for his Lot by installation of a sewer septic system.

Section 3.04: Common Area.

The Common Area shall be reserved and maintained by the Association for the benefit of all Owners pursuant to this Declaration to enhance the value, safety and desirability of the Subdivision, the uses of which may include but are not limited to landscaping, public access easements, weed and litter control in Tract A, the outer surface of Perimeter Walls adjacent to Coors Boulevard and Via Corta del Sur, entry features, signs identifying the Subdivision, utility lines, necessary and such other uses as are desirable for the good of the Owners and the Association.

ARTICLE 4
Membership in the Association and
Voting Rights

Section 4.01: Membership.



a. Each record Owner, by virtue of being an Owner and during such time as such Owner remains an Owner, shall be a member of the Association, or, a member of the unincorporated association preceding the Association or succeeding to the Association. Every person who is the record owner in any Lot that is subject to this Declaration shall automatically be a member in the Association. No Owner, whether one or more persons, shall have more than one (1) membership per Lot. Members shall be entitled to one (1) vote for each Lot owned. Home Owners' Association fees are mandatory. Fees will be determined by the Home Owners Association. The Rio Oeste Home Owners Association will be activated after ten (10) lots are sold to individuals, not including the approved Subdivision builders. The Board of Directors will be formed within thirty (30) days after the Homeowners Association is formed. The Board of Directors will consist of three(3) members. The Grantor or its agent will appoint and chair the Architectural Control Committee and appoint and Chair the Board of Directors until final construction in the Subdivision is completed.

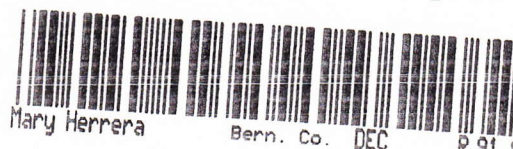
b. The rights, duties, privileges, and obligations of an Owner as a member of the Association or its proceeding or succeeding unincorporated association shall be those set forth in, and shall be exercised and imposed in accordance with the provisions of this Declaration and the Association's Articles of Incorporation and By-laws.

Section 4.02: Classes of Membership.

The Association shall have two (2) classes of membership, Class I and Class II.

Class I.

Class I members shall be all of the members with the exception of Rio Oeste Development LLC, a New Mexico limited liability company or its successor to whom it has assigned its rights pursuant to the terms of the Restrictions. For so long as there is a Class II Member, the Class I Members shall not have the right to vote, except on matters specifically providing for the vote of Class I Members pursuant to the Articles, By-Laws or the Restrictions. Class I members shall be entitled to one vote for each Lot in which they hold the interest required for membership as provided in Article VI of the Association's Articles. When more than one person or entity holds such interest, all such persons or entities shall be members, but only one vote shall be cast with respect to any Lot.



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Class II.

The Class II member shall be the Grantor, or its successors to whom it has assigned its rights pursuant to the terms of the Restrictions. The Class II member shall exist until such time as the sooner of the following: (i) the Grantor, or its assigns, no longer owns any Lots within the Subdivision, as that term is defined in the Restrictions, (ii) the Grantor relinquishes in writing the Class II Membership, or (iii) January 1, 2006, whichever occurs first.

Section 4.03: Voting Rights/Voting Rules.

Voting Rights and Voting Rules for the Association are established in the Association's By-Laws.

ARTICLE 5

Organization, Powers and Duties of the Association

Section 5.01: Organization.

a. The Association shall be organized as a New Mexico non-profit corporation charged with the duties and empowered with the rights set forth herein. The Association's affairs shall be governed by this Declaration, the Articles of Incorporation and the By-Laws.

b. In the event that the Association, as a corporate entity, is not formed or after formation loses its corporate powers or is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice, be formed and shall succeed to all the rights and obligations of the Association hereunder until a new qualified non-profit corporation is formed. Said unincorporated association's affairs shall be governed by the laws of the State of New Mexico, and to the extent not inconsistent therewith, by this Declaration, the Articles of Incorporation and the By-laws, respectively, as if they were created for the purpose of governing the affairs of an unincorporated association.

c. The President and Secretary of the Association, or any two (2) members of the Board of Directors, may execute, seal, acknowledge and record a certificate of identity stating the names of all of the members of the then current Board and the then current Committee, if any. The most recently recorded affidavit shall be conclusive evidence of the identity of the persons then composing the Board and Committee in favor of any person relying thereon in good faith.



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d. So long as there is a Class II member, the Board shall be appointed by the Class II Member. Thereafter the Board shall be elected as provided in the By-laws.

e. The affairs of the Association shall be managed by the Board of Directors, which shall exercise all of the rights and powers and perform all of the duties and responsibilities set out in this Declaration for the Association.

Section 5.02: Powers and Authority of the Association.

The Association shall have all of the powers set forth in its Articles of Incorporation, together with its general powers as a non-profit corporation, subject only to the Limitations upon the exercise of such powers as are expressly set forth in its Articles of Incorporation, its By-laws and in this Declaration, to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of the Subdivision Restrictions and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety, and general welfare of Owners.

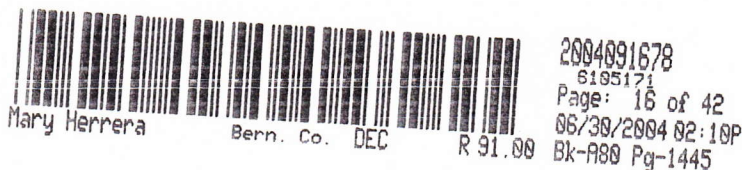
a. Any of the following actions by the Board shall require a majority vote or written assent of the members:

1. Entering into a contract for the furnishing of goods or services for Common Area and/or Easement Area of the Association for a term longer than one (1) year with the exception of prepaid casualty or liability policies of not to exceed three (3) years duration, provided that the policy permits short rate cancellation by the insured; and

2. Paying compensation to members of the Board or officers for services performed in the conduct of the Association's business, provided that the Board may cause a member or officer to be reimbursed for reasonable and necessary expenses incurred in carrying on the business of the Association.

b. In fulfilling any of its obligations or duties under the Subdivision Restrictions, including, without limitation, its obligations or duties for the maintenance, repair, operation, or administration of the Common Area and/or Easement Areas, the Association shall have the power and authority:

1. To contract and pay for, or otherwise provide for, the improvement, maintenance, restoration, and repair of the Common Area and/or Easement Area and all improvements located thereon;



2. To obtain, maintain, and pay for such insurance policies or bonds, whether or not required by this Declaration, as the Association shall deem to be appropriate for the protection or benefit of the Subdivision, the Association, the members of the Board, and the Owners;

3. To incur indebtedness; but any indebtedness in excess of the Association's estimate of its estimated gross revenue for the year incurred or any indebtedness to be repaid over a period longer than one (1) year must be approved by a two-thirds (2/3) vote of the Class I Members and approval of the Class II Member, so long as there is a Class II Member;

4. To contract and pay for, or otherwise provide for, such utility services, including, but without limitation, water, electrical, sewer and telephone services, as may from time to time be required for the Common Area and/or Easement Area;

5. To contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys, bookkeepers and certified public accountants, and such other professional and non-professional services as the Association deems necessary;

6. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment, and Labor as and to the extent the Association deems necessary;

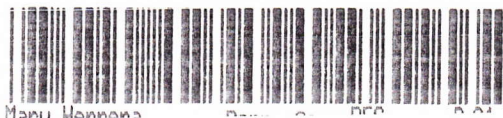
7. To pay and to discharge any and all Liens from time to time placed or imposed upon any Common Area, or on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation, or administration;

8. To place and maintain upon Common Area such signs as the Association may deem necessary for the identification of the Subdivision and/or roads, the regulation of traffic, including parking, for the health, welfare and safety of owners and other persons.

c. In fulfilling any of its obligations or in exercising any of its rights with respect to the development, construction, installation or acquisition of a capital improvement, the Association shall have the power and authority;

1. To contract and pay for such improvements upon such terms and conditions as the Association shall deem appropriate;

2. To obtain, maintain, and pay for such insurance policies or bonds as the Association may deem appropriate for the protection and benefit of the Association, the members of the Board, and Owners, including, but without limitation, builder's risk insurance, additional comprehensive liability



insurance, workman's compensation insurance, and performance and fidelity bonds;

3. To incur indebtedness under terms and conditions as provided by this Article; and

4. To contract and pay for the services of architects, engineers, attorneys, and certified public accountants, and other professional and non-professional services.

d. With respect to the Common Area and the Easement Area, the Association shall exercise control over the Common Area and the Easement Areas, but only for the purpose of carrying out the purposes of these Restrictions. The Association shall have no authority to mortgage, sell or convey Common Area or Easement Area or any part thereof.

e. The Association may, from time to time and upon such terms and conditions as it may deem appropriate, agree with the governing body of another subdivision to jointly manage the affairs of the Subdivision, to jointly hire a manager, or jointly to engage in other activities not inconsistent with the Subdivision restrictions.

f. The Association shall have the right from time to time to pay, compromise, or contest any and all taxes and assessments levied against all or any part of the Common Area, any income of or assessed to the Association, and upon any personal Property belonging to or assessed to the Association.

g. The Association shall have the power and authority from time to time, in its own name, on its own behalf, and on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Subdivision Restrictions and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration.

h. The Association shall have the power, but not the duty, to enter upon and maintain, or provide for the maintenance of, any Lot or Improvement which is not maintained by the Owner thereof in accordance with the requirements of these Restrictions and Common Area Rules, at the expense of any such Owner.

Section 5.03: Liability of Members of Board.

No member of the Board shall be personally liable to any Owner, or to any other person, including Grantor, for any error or omission of the Association, its representatives and employees, provided, however that such member has, with the actual knowledge possessed by him, acted in good faith.



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Section 5.04: Duties and Obligations of the Association.

a. The Association shall have the obligation and duty, subject to the Subdivision Restrictions, to do and perform each and everything set out in this Section, for the benefit of the Owners and for the maintenance and improvement of the Subdivision.

b. The Association shall accept all Owners as members of the Association.

c. The Association shall accept from Grantor the Common Areas and maintenance responsibilities in all Easement Areas which shall be deemed transferred to it upon recording of these Restrictions, subject to the reservations of all easements, licenses and rights to use and rights to Grantor.

d. The Association shall maintain, or provide for the maintenance of, the Common Area, the Easement Areas and all Improvements thereon.

e. The Association shall maintain or provide for the maintenance of all landscaping and vegetation (including without limitation, grass, mass plantings, shrubs and trees) on Common Area and Easement Area and shall keep such vegetation properly trimmed, mowed, cut, watered, fertilized, planted, to the extent appropriate based upon the type of landscaping, and replaced so that it provides an attractive appearance.

f. The Association may employ the services of a corporate or individual manager to manage the affairs of the Association and, upon such conditions as are otherwise advisable by the Association, the Association may delegate to the manager any of its powers under the Subdivision Restrictions. No management agreement entered into between the Association and any professional management company (whether or not such professional management company is owned or controlled by the Grantor) shall provide for a term in excess of two (1) year and all such agreements shall permit the Association to terminate for cause upon not more than thirty (30) days' prior written notice and all such agreements shall provide for termination by either party without cause and without payment of a termination fee, on ninety (90) days or less written notice.

g. The Association shall obtain and maintain in force the following policies of insurance to the extent policies with the required provisions are economically available:

1. Fidelity Bond: The Association shall procure and maintain a fidelity bond naming the Association as obligee in an amount equal to the estimated maximum amount of funds to be in the custody or control of the Association or



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its professional management company, including reserves for replacement and working capital, at any given time during the term of such bond, but in any event in an amount at least equal to three (3) months' aggregate monthly assessments on all lots plus the sum of all reserve funds. Such fidelity bond shall cover all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including the officers, directors, employees and agents of the professional management company employed by the Association pursuant to these Restrictions. Provided, however, that the fidelity bond to be procured by the association need not cover the professional management company and its officers, directors, employees and agents. If such professional management company provides a sufficient fidelity bond naming the Association as an additional obligee or loss payee, such bond shall contain a waiver of any defense or exclusion based upon the exclusion of persons serving without compensation from the definition of "employees" or other similar terms or expressions. Such bond shall require at least ten (10) days prior written notice to the Association of cancellation or substantial modification (including cancellation for non-payment of premiums). The cost of such fidelity bond (except for premiums on any fidelity bond provided by the professional management company which the Board determines to be satisfactory and in compliance with the provisions of this Section) shall constitute a common expense of the Subdivision.

2. Liability Insurance: The Association shall procure and maintain comprehensive public liability insurance in the amount of at least one million dollars (\$1,000,000) per single occurrence for bodily injury, death and Property damage suffered by the public or any Owner and his family, guests, agents, employees or invitees occurring in, on or about the Common Area. Such policy shall insure the Owners and the Association and its officers, directors, employees and agents, including expressly the professional management company and its officers, directors, employees and agents and shall further expressly cover legal liability arising from lawsuits related to employment contracts of every nature to which the Association is a party. Such policy shall be issued by insurers of recognized responsibility authorized to do business with the State of New Mexico and shall require at least ten (10) days' prior written notice of cancellation or substantial modification (including cancellation for nonpayment of premiums) to the Association and to any mortgagee having a first lien against any Lot which is listed as a scheduled holder of such a first mortgage in the policy.

The cost of such policy shall constitute a common expense of the Association. Such insurance must not provide for



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contribution with regard to any policies of liability insurance carried individually by any Owner.

3. Additional Insurance: The Board shall have the authority to obtain such other insurance, including Directors or officers insurance, and including the authority to increase the scope or amount of any insurance required by this Article 5, as the Board shall determine to be necessary or advisable.

The cost of such additional insurance shall constitute a common expense of the Association.

i. The Association shall prepare an annual operating statement reflecting the money received by the Association and the expenditures of the Association for each fiscal year and distribute such statement to each member and each eligible mortgagee upon request.

j. The Association shall take such action, whether or not expressly authorized by the Subdivision Restrictions, as may reasonably be necessary to enforce or carry out the purposes of the Subdivision Restrictions and the Subdivision Rules if any are promulgated.

Section 5.05: Common Area Rules.

The Association shall have the right to establish from time to time rules which govern the use of the Common Area and the Easement Areas by members and third persons, which rules shall be "Common Area Rules". The Common Area Rules shall be adopted by the Board at a meeting called pursuant to the terms of these Restrictions and the By-Laws in which all members were given notice that the Common Area Rules will be considered and adopted. The current Common Area Rules shall be kept with the Association's records.

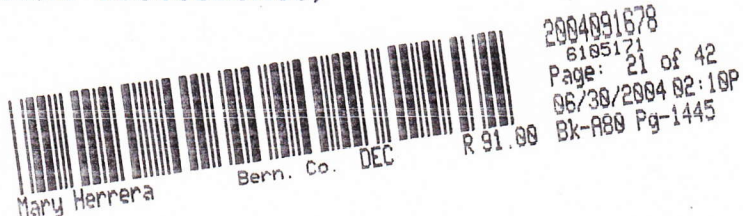
ARTICLE 6

Funds, Assessments and Delinquency

Section 6.01: Creation of Lien and Personal Obligation for Assessments.

Grantor for each Lot owned by it hereby agrees to pay, and each Owner of any Lot by the acceptance of a deed or contract of sale therefore, whether or not so expressed in any such deed or contract or other conveyance, is deemed to agree to pay to the Association:

a. Maintenance assessments;



- b. Compliance assessments;
- c. Assessments for Capital Improvements;
- d. All other fees or other moneys due to the Association from such Owner.

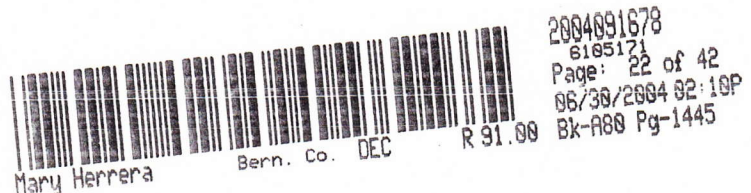
1. The maintenance assessment, compliance assessment, and assessment for capital improvements, plus interest, late charges, costs and attorney's fees, shall be a charge against the Lot and shall be a continuing lien upon the Lot against which each such assessment is made, and shall also be the personal obligation of the Owner or Owners of such Lot on the assessment date. The personal obligation to pay assessments accrued prior to the transfer of the Lot shall not pass to successors in title unless expressly assumed by them. Assessments shall commence as to a Lot on the earlier of (a) the date of closing for occupancy of the Lot for residential purposes, or (b) ninety (90) days from the date a Certificate of Occupancy is issued by The City of Albuquerque, New Mexico for a residence construction on the Lot. The Declarant or a builder, or Developer who purchases a Lot for the purpose of construction of a residence and resale of the Lot and residence shall not be responsible for the payment of any type of assessment, except as provided above. The first annual common assessment shall be adjusted according to the number of days then remaining in the fiscal year.

Section 6.02: Operating Fund.

There shall be an operating fund, into which the Association shall deposit all monies paid to it and from which the Association shall make disbursements in performing the functions for which the foregoing assessments are levied.

Section 6.03: Maintenance Assessment.

a. Not less than thirty (30) days prior to the commencement of each fiscal year the Association shall estimate the costs and expenses to be incurred by the Association during such year, including a reasonable provision for contingencies, and reserves for major repair and replacement, and shall subtract from such estimate an amount equal to the anticipated balance, exclusive of any reserves for contingencies and reserves for major repair and replacement, in the operating fund at the start of such year. The sum or net estimate so determined shall be assessed to all Owners in shares: one (1) share for each Lot owned.



- b. Compliance assessments;
- c. Assessments for Capital Improvements;
- d. All other fees or other moneys due to the Association from such Owner.

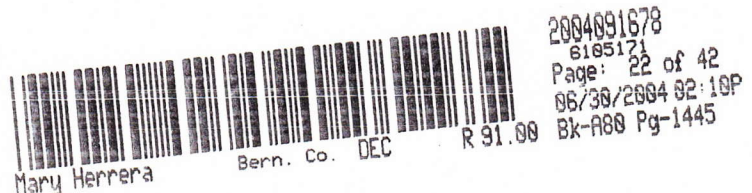
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b. If, at any time and from time to time during any fiscal year, the maintenance assessment proves or appears likely to prove inadequate for any reason, including non-payment of any Owner's share thereof, the Association may levy a further maintenance assessment in the amount of such actual or estimated inadequacy, which shall be assessed to all Owners apportioned as provided in subsection a, if approved by a two-thirds (2/3) vote of the Class I members and consented to by the Class II member, so long as there is a Class II Member.

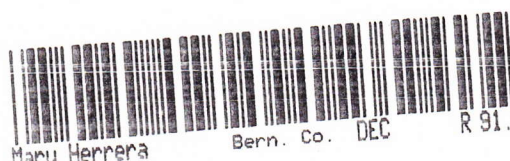
c. Maintenance Assessments shall be due and payable to the Association when levied or in such installments during the year, and on such due dates as the Board shall designate.

d. The Board shall not levy assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year and which are not part of such budgeted gross expenses, without the majority vote of the Class I Members, and the consent of the Class II Member, so long as there is a Class II Member.

e. From and after the December 31st immediately following the conveyance of the first Lot by Grantor, the maximum maintenance assessment may be increased each year not more than the greater of (i) an increase equal to the percentage increase in the Consumer Price Index from the previous year; or (ii) ten percent (10%) from the previous year's assessment, without a vote of two-thirds (2/3) of the Class I Members and approval of the Class II Member, so long as there is a Class II Member. The percent of increase shall be cumulative from year to year so that an increase not used in one year may be used in a subsequent year, without a vote of the members.

Section 6.04; Compliance Assessment.

The Association shall levy a compliance assessment against any Owner or Owners as a result of whose acts, or failure or refusal to act, or otherwise comply with the Subdivision Restrictions, or the Common Area Rules, monies were expended from the operating fund by the Association. Such assessment shall be in the amount so expended, together with a reasonable sum established by the Board to reflect the time and cost of the Association in performing the Owner's obligations, and shall be due and payable to the Association when levied, or in such installments as the Association shall designate. Prior to the levy of a delinquency assessment the Board shall hold a hearing to determine the validity and amount of the assessment upon at least thirty (30) days notice to the Owner to be assessed at which hearing such Owner shall be given an opportunity to be heard.



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Section 6.05: Assessments for Capital Improvements and Indebtedness.

The Association may also levy in any year an assessment for paying or returning, in whole or in part, the cost or proposed cost of acquisition and construction of a described capital improvement (whether the improvements constitute real or personal Property) in an amount greater than can be included in the maintenance assessment, provided it has been approved by a two-thirds (2/3) vote of the Class I Members and consented to by the Class II Member, which assessment shall be assessed to Owners as provided for in Section 6.03.

Section 6.06: Reserves as Trust Funds.

Reserves for major repairs and replacements and for capital improvements to be built or acquired shall be kept segregated, by accounting, from the other monies held by the Association and shall be withdrawn and used only for the purpose of major repairs and replacements or for capital improvements respectively, unless a difference to other use is authorized by a majority vote of the members.

Section 6.07. Commencement of Annual Assessments.

The maintenance assessments provided for in this Article shall commence as to each Lot on July 1, 2004. The first such annual assessment shall be prorated for each Lot for the period from the commencement as provided in this section to the start of the next fiscal year following such commencement.

Section 6.08: Delinquency.

Each assessment under this Article shall be the separate, distinct and personal debt and obligation of the Owner against whom it is assessed, and shall also be a lien upon and shall be binding upon and run with the Lot. Any assessment provided for in this Article, which is not paid when due, shall be delinquent. With respect to each assessment not paid within ten (10) days after its due date, the Association may, at its election, require the Owner to pay a sum (late charge) to be determined by the Association, to pay the costs of handling the delinquent sum. Such a charge shall be considered an additional assessment and collectible with the assessment for which it was charged. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at a rate set from time by the Association, however not greater than twenty percent (20%), and the Association may, at its option, bring an action at law against the Owner or Owners personally obligated to pay the same, and upon compliance with the provisions of this

Article to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest at the rate provided herein and a reasonable attorney's fee, together with the costs of action. Each Owner vests in the Association, or its assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or other Owners for the collection of such delinquent assessments.

Section 6.09: Notice of Lien.

No action shall be brought to foreclose an assessment lien less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the Bernalillo County Clerk; said notice of claim must recite a good and sufficient legal description of any such Lot, the record owner or reputed owner thereof, the amount claimed (which shall include the interest charges, costs and attorney's fees recoverable by an action at law) and the name and address of the Association.

Section 6.10: Foreclosure Sale.

Any such sale provided for above is to be conducted in accordance with the customary practice of the court of the State of New Mexico, applicable to the foreclosure of mortgages, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

Section 6.11: Curing a Default.

Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a fee, to be determined by the Association, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

Section 6.12: Cumulative Remedies.

The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may



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have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 6.13: Certificate of Payment.

The Association shall, upon demand, furnish to any Owner liable for assessments, a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

ARTICLE 7

Duties and Responsibilities of Owners

Section 7.01: Owner's Responsibility to Repair.

Each Owner shall be responsible for the maintenance and repair of his dwelling, his Lot and his landscaping.

Section 7.02: Joint Maintenance by Owners.

a. Each wall which is built as part of the original construction of the Subdivision and placed on the dividing line between Lots shall constitute a party wall. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for Property damage due to negligence or willful acts or omission shall apply.

b. The cost of reasonable repair, maintenance and replacement of a party wall, common structure or joint utility shall be shared by the Owners who make use of the wall in proportion to such use.

c. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes a party wall or common structure to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

d. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to and run with the Lot and shall pass to such Owner's successors in title.

e. In the event of any dispute arising under the provisions of this section, the Board of Directors shall arbitrate the dispute and its decision shall be final.

Section 7.03: Perimeter Walls.

Each Owner shall maintain the structural integrity of the Perimeter Walls on his Lot at his sole expense; except the exterior surface of Perimeter Walls identified as Common Area in Section 3.04 above.

Section 7.04: Maintenance of Landscaping.

Each Owner shall maintain the landscaping on his Lot in a neat and attractive manner. All grass, and other plantings shall be mowed, trimmed and cut as necessary, at regular intervals.

Section 7.05: Observance of Subdivision Restrictions.



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Each Owner shall comply with the Subdivision Restrictions and will cause and be responsible for Owner's family, agents, guests, contractors, employees and any person renting or leasing Owner's dwelling to do likewise.

Section 7.06: Grading and Drainage Plan.

The grade and drainage for improved yards and along easements reserved for that purpose shall not be altered or obstructed by Lot Owners or Owners unless said alteration is in accordance with a plan of a professional engineer, architect or landscape architect which provides adequate pipe or drainage structures as needed for the disposition of storm water. Nor shall such alterations be allowed unless agreed to in writing by the Owner or Owners of the adjoining lots or those directly affected in this Subdivision.

Section 7.07: Rights of Action.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real Property situated in said subdivision, to prosecute any proceedings at law or in equity against the person or persons violating any such covenants and either to prevent him or them from so doing, or to recover damages or other dues for such violation. Each Owner and the Association shall have a right of action against any Owner for failure to comply with the provisions of this Article 7 of the Subdivision Restrictions.

ARTICLE 8

Construction and Architectural Control

Section 8.01: Architectural Control Committee.

An Architectural Control Committee for the Subdivision is hereby established initially consisting of the following three persons:

Ronald D. Brown
Scott Grady
Juan M. Suarez

At least one Board member shall serve on the Committee at all times. The Committee shall serve at the pleasure of the Grantor so long as there is a Class II Membership. Upon the termination of the Class II Membership, the Board shall have the right to appoint,



reappoint and discharge members of the Committee at will. A majority of the members of the Committee may appoint one member of the Committee to act on and for the Committee.

Section 8.02: Construction of Improvements.

(a) Before anyone shall commence on any Lot within the Subdivision the installation of construction of, remodeling of, addition to, or alteration of any Improvement of whatsoever nature; and before anyone shall paint, texture, repaint or retexture the exterior surfaces of any Improvement, there shall be submitted to the Committee plans and specifications as follows:

(i) Preliminary or tentative plans and specifications which shall clearly show the nature of the work or installation proposed and the location thereof, on the Lot, which such preliminary or tentative plans shall include sufficient description of materials, colors, textures, etc. together with a landscaping plan as shall enable the Architectural Control Committee to evaluate whether the proposed construction, alteration, installation, etc. will harmonize with the motif and style of the Subdivision; and be compatible with surrounding homes; and

(ii) After approval of the preliminary or tentative plans, including therein any requirements made by the Architectural Control Committee in the due and proper exercise of its discretion and powers, two (2) complete sets of the final plans and specifications.

(iii) No Improvement of any kind, installations, painting or texturing, shall ever be, or permitted to be, erected, constructed, installed, placed or maintained on any Lot within the Subdivision, unless and until the final plans, specifications and elevations therefore shall have received written approval of the Architectural Control Committee. All such final plans shall include plot plans showing the location on the Lot of all improvements proposed to be constructed and/or installed, planted, placed or maintained on the Lot and shall further include elevations, together with the proposed color scheme and textures for roofs and exteriors thereof, indicating the materials for same, and an application check list, in a form promulgated by the Committee.

(iv) A landscaping plan which shall include information regarding the type of sodding, the type of seeding, the types of trees, hedges and shrubs and information regarding other customary landscape treatment of the entire site, including fences, walls and screening. All landscaping plans shall also



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include an underground irrigation system and accessible shutoff valves for the irrigation system.

The Architectural Control Committee is authorized to charge up to \$100 for an administrative fee to cover its review of plans and specifications. Payment of the required charge shall be a part of, and condition to, the submittal of plans and specifications for Committee approval.

(b) The Architectural Control Committee shall approve or disapprove within twenty-one (21) days after receipt thereof plans and specifications which have been submitted to it. One set of plans and specifications, with the Committee's approval or disapproval and requirements endorsed thereon, shall be returned to the applicant and the other copy thereof, with a duplicate endorsement thereon corresponding to the first set, shall be retained in the Architectural Control Committee's files.

In the event that the Architectural Control Committee shall fail to approve or disapprove the plans, specifications and other information within thirty (30) days after receipt thereof by the Architectural Control Committee, then such approval shall not be required, provided that no structure, building or other improvement shall be installed, erected, painted, textured, altered or modified which violates any of the Restrictions.

The Architectural Control Committee shall have the right and power to disapprove any plans, specification or details submitted to it. If the Architectural Control Committee shall find that the plans and specifications are not in accord with all provisions of this Declaration, or if a design or color scheme submitted is not in harmony and accord with the Subdivision, or surrounding homes, or if the plans and specifications are incomplete.

(c) If any Improvement or work is completed or done without compliance with this Article, such Improvement or work shall be deemed to have been done in compliance with this Article if no action has been commenced to enforce the provisions of this Article against such Improvement or work within one (1) year of its completion.

(d) The Architectural Control Committee may consider the effect of proposed Improvements upon the views from surrounding Lots, however, the Committee shall be under no obligation in granting or denying approval to Improvements to preserve views from surrounding Lots.

Section 8.03: Design Guidelines.

The Architectural Control Committee may from time to time adopt, readopt, repeal, revise, supplement modify design



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guidelines. The Architectural Control Committee may grant variances from its design guidelines. The Architectural Control Committee design guidelines may include landscape guidelines.

Section 8.04: Landscaping.

All landscaping shall be undertaken, completed and maintained in accordance with the approved plan and the plan may not be altered, amended or revised without submitting the revised landscaping plan for prior written approval by the Architectural Control Committee.

Any and all landscaping within the landscape Easement Area is subject to maintenance, alteration, modification or removal by the Association, for any reason, including what may be necessary for safety, drainage control or street maintenance purposes.

All landscaping required hereunder or otherwise to be provided on any lot, including sidewalks, shall be completed within ninety (90) days after the final inspection by the City of the Improvements on the Lot, provided, however, if weather conditions do not at such time permit, then such landscaping shall be completed as soon thereafter as weather conditions do permit. If any Owner fails to undertake and complete his landscaping with the time limits previously set forth herein, the Grantor, its agents or the Association may, at its option, after giving the Owner ten (10) days written notice forwarded to Owner, undertake and complete the landscaping of the Lot in accordance with the landscaping plan. If Grantor undertakes and completes such landscaping because of the failure of Owner to complete the same, the costs of such landscaping shall be assessed against the Owner, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Declarant, said assessment will constitute a lien on the Lot and may be enforced as set forth in Article 6 hereof.

Section 8.05: Lot Walls.

Perimeter Walls may be constructed by the Grantor. The costs incurred with such construction may be included in the cost of the Lot, or a cost to be paid independent of the Lot or as an assessment against the Lot. The Owner of said adjacent Lot shall be responsible for the maintenance, repair, replacement, graffiti removal and upkeeping the same manner as if the wall was constructed by the Owner as part of their building plans; except for the surface of the Perimeter Walls facing Coors Boulevard and Via Corta del Sur which shall be maintained by the Association. Perimeter Walls shall be a uniform masonry wall with pilasters or further established by Grantor. All return walls shall be finished with stucco to match the exterior of the associated home.



Section 8.06: Estoppel Certificate.

Within thirty (30) days after written demand is delivered to the Architectural Control Committee by any Owner, and upon payment therewith to the Association of a reasonable fee to cover costs from time to time to be fixed by the Association, the Architectural Control Committee shall provide Owner with an estoppel certificate executed by an officer of the Association and acknowledged, certifying with respect to any House owned by said Owner, that as of the date thereof either (1) all improvements and other work made or done upon or within said Lot by the Owner, or otherwise, comply with this Declaration, or (2) such Improvements or work do not so comply, in which event the certificate shall also (a) identify the non-complying Improvements and work and (b) set forth with particularity the cause or causes for such noncompliance. Any purchaser from the Owner or mortgagee or other encumbrancer shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between Grantor, the Association, and all Owners and such purchaser, and mortgagee.

Section 8.07: Liability.

Neither the, Architectural Control Committee, the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of:

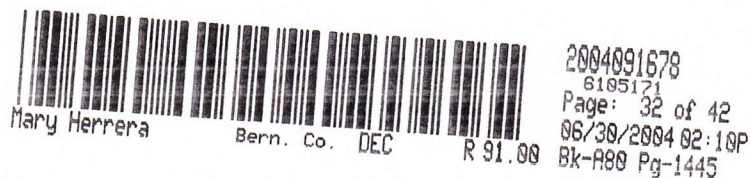
a. The approval of any plans, drawings, and specifications, whether or not defective,

b. The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications,

c. The development or manner or development of any Property within the Subdivision, or

d. The execution and recording of an estoppel certificate whether or not the facts therein are correct; provided, however, that the officer executing the certificate, with the actual knowledge possessed by him, has acted in good faith.

Without in any way limiting the generality of the foregoing, the Architectural Control Committee, Board, or any member thereof, may, but is not required to, consult with or hear any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to it.



ARTICLE 9
Protection of Security Interests

Section 9.01: Application of Assessments to Mortgagees.

The Liens created under the Subdivision Restrictions upon any Lot shall be subject and subordinate to, and shall not affect the rights of a mortgagee under any recorded first mortgage upon a Lot made in good faith and for value, provided that after the foreclosure of any such mortgage the amount of all maintenance and special assessments, and all delinquent assessments to the extent such delinquent assessments relate to expenses incurred after such foreclosure, assessed hereunder to the purchaser at foreclosure sale, shall automatically become a lien upon such lot upon recordation of a notice thereof with the County Recorder.

Section 9.02: Right to Notice.

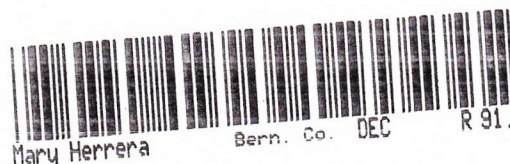
The Association shall provide all mortgagees with timely written notice of any delinquency in the payment of monthly assessments, special assessments or other charges due the Association by the Owner of a Lot which is subject to a first mortgage held, by any mortgagee and which delinquency remains uncured for a period of sixty (60) days or more.

Section 9.03: Limitation of Enforcement Against Mortgagee.

No violation by an Owner of the Subdivision Restrictions or enforcement of the Subdivision Restriction against an Owner shall defeat or render invalid the lien of any mortgagee made in good faith and for value against the Property of such Owner, but, the Subdivision Restrictions shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee's sale, voluntary conveyance, or otherwise.

Section 9.04: Rights of Mortgagee to Information.

A mortgagee shall, upon written request, be entitled to inspect the Declaration, By-Laws, Subdivision Rules, books and records of the Association on the same basis as a Member. If a mortgagee furnishes the Association, in writing, with its address, it shall be entitled to receive within a reasonable time a financial statement for the immediately preceding fiscal year, free of charge and shall receive notice of meetings on the same basis as members.



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Section 9.05: Application of Subdivision Restrictions.

Except as provided in this Article or specifically provided elsewhere in the Subdivision Restrictions, all mortgagees and mortgagors are bound by the provisions of the Subdivision Restrictions.

Section 9.06: Collection of Assessments.

The mortgagees shall be under no obligation to collect assessments, but may be under an obligation to pay same to the Association.

ARTICLE 10

Limitation of Subdivision Restrictions on Grantor

Section 10.01: Limitation of Subdivision Restrictions on Grantor.

Grantor is undertaking the work of constructing the Subdivision. The completion of that work and the sale, rental and other disposition of the Lots is essential to the establishment of the Subdivision. In order that said work may be completed and said Property be established and fully occupied as rapidly as possible, nothing in this Declaration shall be understood or construed to:

a. Prevent Grantor or its agents, employees, and contractors from doing on the properties whatever is reasonably necessary or advisable in connection with the completion of the work; or

b. Prevent Grantor or its agents, employees, and contractors from erecting, constructing and maintaining on any part or parts of the Subdivision, such structures as may be reasonably necessary for the conduct of its business of completing the work and establishing the Subdivision, including, without limitation, sales offices, model units, general business offices for its staff, employees and contractor, and storage and parking facilities for materials and equipment, and disposing of the Subdivision in parcels by sale, lease or otherwise; or

c. Prevent Grantor from conducting on any part of the property its business of completing the work, and of establishing and disposing of the Subdivision;

d. Prevent Grantor from maintaining such sign or signs on the Subdivision as may be necessary for its sale, lease, or disposition, or the sale, lease or disposition of any Lot, including the right to put a "for sale" or "Sold" sign on each Lot in the Subdivision.



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Section 10.02: Use of Subdivision Name.

Grantor may use the name of the Subdivision and the Subdivision Restrictions in other subdivisions or projects, whether located adjacent to the Subdivision or not, provided such names have a distinctive number or other designation so that they are not identical with the names of the Subdivision and Association. Consent is hereby given to Grantor and Grantor's assigns to use such names and upon request of Grantor the Association agrees to execute a written consent authorizing Grantor to use the same or similar name which Consent will be filed with the Public Regulation Commission.

Section 10.03: Architectural Control.

Improvements by Grantor and declarants to the Subdivision do not require approval of the Architectural Control Committee.

Section 10.04: No Amendment or Repeal.

The provisions of this Article may not be amended or repealed without the consent of Grantor.

ARTICLE 11
Miscellaneous Provisions

Section 11.01: Amendment or Repeal; Duration.

a. These Restrictions and any provisions thereof which are in effect with respect to all or part of the Subdivision, may be amended or repealed in the following manner:

1. The approval by seventy-five percent (75%) vote or written consent of the voting power of the Class I Membership in the Association and the consent of the Class II Member so long as there is a Class II Member; and

2. The recordation of a certificate of the Secretary or an Assistant Secretary of the Association setting forth, in full, the amendment or amendments so approved, including any portion or portions of this Declaration repealed, and certifying that such amendment or amendments have been approved by the required vote or consent of the Owners, and if necessary, by the required percentage of Owners or a particular class of Property or Lots.

At any time during which Grantor is the only owner of Property within the Subdivision, Grantor may amend or correct these Restrictions by a recorded instrument or correction.



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b. All of the provisions of these Restrictions shall continue and remain in full force and effect at all times with respect to all Property, and each part thereof, included within the Subdivision, to the Owner and to the Association subject, however, to the right to amend and terminate as provided for in this Article, through December 31, 2053; provided that these Restrictions shall terminate if, within one (1) year prior to December 31, 2053, there shall be recorded an instrument directing the termination of these Restrictions signed by two-thirds (2/3) of the Owners of record title. These Restrictions in effect immediately prior to the expiration date shall, subject to the provisions of Section 11.01.a., be continued automatically without any further notice, for additional consecutive periods of ten (10) years each unless within one (1) year prior to expiration of such period these Restrictions are terminated as set forth in this Section.

Section 11.02: Enforcement; Non-Waiver; No Forfeiture.

a. Except to the extent otherwise expressly provided herein, the Association or any Owner or Owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions upon other Owners, or upon any Property within the Subdivision.

b. Except to the extent otherwise expressly provided herein, any Owner or Owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions upon the Association.

c. Every act or omission whereby any restriction, condition, or covenant of the Subdivision Restrictions is violated, in whole or in part, is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association or by an Owner or Owners, as provided for in this Section. Any provisions to the contrary notwithstanding, only the Association or its duly authorized agents may enforce by self-help any limitation, restriction, covenant, condition, or obligation herein set forth.

d. Each remedy provided for in the Subdivision Restrictions is cumulative and not exclusive.

e. The failure to enforce the provisions of any limitation, restriction, covenant, condition, obligation, lien, or charge of the Subdivision Restrictions shall not constitute a waiver of any right to enforce any such provision or any other provision of the Subdivision Restrictions.



f. No breach of any of the provisions of the Subdivision Restriction shall cause any forfeiture of title or reversion or bestow any rights of re-entry whatsoever.

g. Reasonable attorney's fees and costs may be awarded in any action brought to enforce the provisions of the Subdivision Restrictions.

Section 11.03: Construction; Compliance with Laws; Severability; Singular and Plural; Titles.

a. All of the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be liberally construed, together, to promote and effectuate the beneficial operation of the Subdivision.

b. No provision of the Subdivision Restrictions shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over such person or the Subdivision.

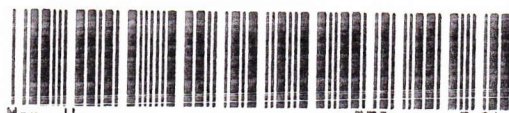
c. Notwithstanding other provisions in this Section, the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, of any such limitations, restrictions, covenants, or conditions shall not effect the validity or enforceability of any other provision.

d. The singular shall include the plural and the plural, the singular, unless the context requires the contrary, and the masculine, feminine and neuter, as the context requires.

e. The table of contents and all titles used in the Subdivision Restrictions, including those of Articles and Sections, are intended solely for convenience of reference and the same shall not, nor shall any of them effect that which is set forth in such Articles, Sections, nor any of the terms or provisions of the Subdivision Restrictions. Any numbered or lettered subdivision of a Section is referred to as "subsection" or "subsections" and any indented portion of this Declaration which is unnumbered and unlettered shall be referred to as "Paragraph".

Section 11.04: Lot Splitting: Consolidation.

a. No Lot within the Subdivision shall be split unless the Board of Directors shall have given its written consent.



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b. No two or more lots within the Subdivision shall be consolidated into one Lot unless the Board shall have given its written consent.

c. Nothing contained in this Section shall apply to the splitting of any Lots by Grantor or the consolidation of two or more Lots into one Lot by Grantor.

d. The Association can require a change in the voting rights and assessment obligation in any Lot split or consolidation to keep the assessment and voting rights the same after the split or consolidation as they were before.

Section 11.05: Obligations of Owners; Avoidance; Termination.

a. No Owner, through the abandonment of his Lot, may avoid the burdens or obligations imposed on him by the Subdivision Restrictions by virtue of his being an Owner.

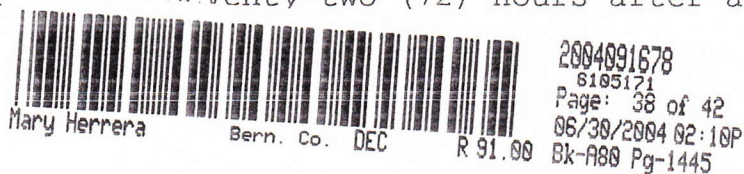
b. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such Lot after the date such transfer is recorded, provided such transferring Owner notifies the Association of the transfer as provided by the Subdivision Restrictions, and no person, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under the Subdivision Restrictions following the date of such termination.

Section 11.06: No Partition or Severance of Interests.

There shall be no partition or severance of any Lot, from the Subdivision and the Grantor, Board, Association and Owners shall not seek to partition or sever any part of a Lot from the Subdivision, nor shall they have any right to maintain an action for judicial partition in connection with the Subdivision unless such right is expressly given by the Subdivision Restrictions. This provision shall not prevent the partition of any Lot or Lots held in joint ownership as long as no physical partition takes place and there is no severance from any incident of the Subdivision Restrictions. No owner shall sever his Lot from his interest in the Association.

Section 11.07: Notices; Documents; Delivery.

Any notice or other document permitted or required by the Subdivision Restrictions to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy



of the same has been deposited in the United States mail, postage prepaid, addressed as follows:

If to an Owner: At any House within the Subdivision owned by the Owner or at such other address given by owner to the Association, in writing.

If to Grantor or to the Association:

Rio Oeste Development LLC
PO Box 3671
Albuquerque, NM 87190

Any such address may be changed from time to time by any Owner, or by Grantor by notice in writing, delivered to the Association, or by the Association, by notice in writing, delivered to all Owners.

Section 11.08: Ownership of Property.

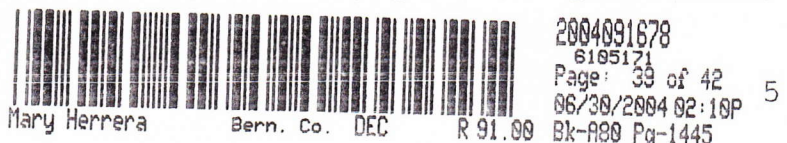
All funds and facilities provided for by the Subdivision Restrictions and all Property of any kind held by the Association and derived from assessments of members, proceeds of insurance carried or obtained by the Association, proceeds of bonds payable to the Association or payment received for damages to the Subdivision, and any right to interest in any such Property shall belong to the Owners in proportion to each Owner's share of the maintenance assessment, and no assessment or the proceeds of any assessment shall be considered income to the Association. No person has any right to appropriate or make use of such Property, except as provided by the Subdivision Restrictions until and unless there has been a partition or distribution of such Property. All such Property shall be appurtenant to each Lot in proportion to each Lot's share of the maintenance assessment and may not be severed or separated from any house, and any sale, transfer, or conveyance of the beneficial interest of the fee of any house shall operate to transfer the Owner's rights to such Property without the requirement of any express reference thereto.

Section 11.09: Transfer of Common Area.

By the Recording of this Declaration, Grantor shall transfer and convey to the Association, and the Association shall accept, the Common Area. The Common Areas may be subject to any or all of the following exceptions, liens, and encumbrances:

a. The lien of Property taxes and assessments not delinquent;

b. Such easements and rights of way as may have been offered for dedication to a political subdivision or public organization, or public utility corpora



c. Such easements and rights of way, licenses or rights or use on, over, or under all or any part of any such Property or structures or improvements thereon as may be reserved to Grantor or granted to any Owner for the use thereof in accordance with the provisions of these Restrictions;

d. Obligations imposed, directly or indirectly, by virtue of any statutes, law, ordinance, resolution, or regulation of the United States of America, the State of New Mexico, or any other political subdivision or public organization having jurisdiction over such Property, or by virtue of any organization or body politic created pursuant to any such statute, law, ordinance or regulation; and

e. Any other lien, encumbrance, or defect of title of any kind whatsoever (other than of the type which would, at any time, or from time to time, create a lien upon such Property to secure an obligation to pay money) which would not materially and actually prejudice Owners in their use and enjoyment of such Property.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

DECLARANT:

RIO OESTE DEVELOPMENT LLC,
a New Mexico limited liability company

By Juan M. Suarez
JUAN M. SUAREZ, Managing Member

By Ronald D. Brown
RONALD D. BROWN, Member

HELIOS HOME BUILDERS LTD. CO.
a New Mexico Limited Liability Company

By Juan M. Suarez
JUAN M. SUAREZ, President

RAYLEE HOMES, INC.,
a New Mexico Corporation

By Scott Grady
Scott Grady, President



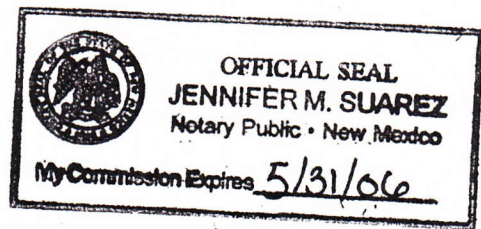
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STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)



On May 17, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared JUAN M. SUAREZ, known to me to be the Managing Member of Rio Oeste Development LLC., a New Mexico limited liability company, the person that executed the within instrument, and acknowledged to me that such executed the same, as Managing Member of Rio Oeste Development LLC., a New Mexico company, on behalf of said limited liability company.

WITNESS my hand and official seal.

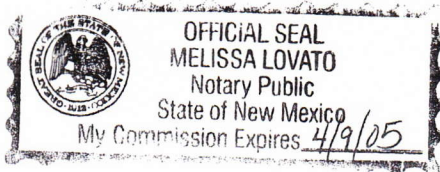
Jennifer M. Suarez
Notary Public in and for said
County and State

STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)

On June 30, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Ronald D Brown, known to me to be a Member of Rio Oeste Development LLC, a New Mexico limited liability company, the person that executed the within instrument, and acknowledged to me that such executed the same, on behalf of said limited liability company.

WITNESS my hand and official seal.

Melissa Lovato
Notary Public in and for said
County and State



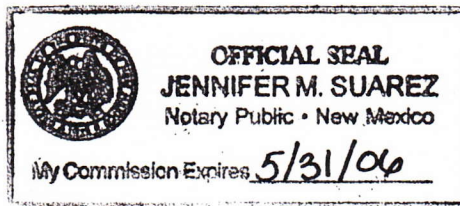
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STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)



On May 17, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Juan M. Suarez, known to me to be President of Helios Home Builders LTD. CO. a New Mexico limited liability company, the person that executed the within instrument, and acknowledged to me that such executed the same, on behalf of said limited liability company.

WITNESS my hand and official seal.

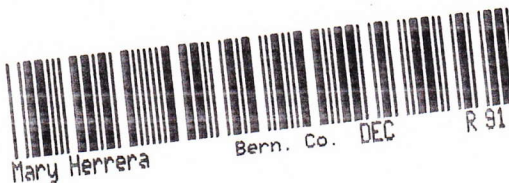
Jennifer M. Suarez
Notary Public in and for said
County and State

STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)

On June 25, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Scott Grady known to me to be President of Raylee Homes, Inc., a New Mexico Corporation, the person that executed the within instrument, and acknowledged to me that such executed the same, on behalf of said limited liability company.

WITNESS my hand and official seal

Brenda Teller-Waters
Notary Public in and for said
County and State



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