

FIRST AMENDED DECLARATION
OF
COVENANTS AND RESTRICTIONS
FOR
ALTAMIRA HOMEOWNERS' ASSOCIATION

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THIS AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made this day by THE MARK JONES CORPORATION, a New Mexico corporation ("Declarant"), with reference to the following:

RECITALS:

A. Declarant owns twenty-five of the thirty-one lots in the ALTAMIRA PASSIVE SOLAR COMMUNITY (the "Property") , as shown on that certain plat recorded in the office of the Clerk of Santa Fe County, New Mexico (Book 116, pages 1 and 26), on June 8, 1982.

B. Declarant has previously recorded that certain DECLARATION OF COVENANTS AND RESTRICTIONS FOR ALTAMIRA HOMEOWNERS' ASSOCIATION in the office of the Clerk of Santa Fe County, New Mexico (Book 442, pages 369-392) on June 11, 1982.

C. In order to give effect to Declarant's intention that neither the ALTAMIRA PASSIVE SOLAR COMMUNITY nor the ALTAMIRA HOMEOWNERS' ASSOCIATION shall be subject to the condominium law of the State of New Mexico, Sections 47-7A-1 to 47-7D-20 NMSA 1978, Declarant hereby amends and restates that original Declaration, and portions of Arti-

cles III and IV thereof, in accordance with Section 9.2 of that original Declaration.

D. Except as expressly amended and restated herein, all covenants, restrictions, rights and responsibilities set forth in the original Declaration shall be and remain in full force and effect.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be owned, held, transferred, sold, conveyed, encumbered, used, occupied and improved subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth or referred to. This Declaration is established to further a plan for the subdivision, improvement and sale of the Property and for the purpose of enhancing the value, desirability and attractiveness of the Property and every part thereof. All of the covenants, conditions, restrictions, easements, charges, and liens contained or referred to herein are equitable servitudes and shall run with the title to the real property subject hereto and every part thereof, and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in any portion of the Property.

Declarant hereby delegates and assigns to the

ALTAMIRA HOMEOWNERS' ASSOCIATION the ownership, maintenance and administration of the Tract Common Area and the right and obligation to administer and enforce this Declaration, to exercise the management responsibilities and the rights and duties specified herein or hereafter delegated to it, to collect assessments and disburse funds for the benefit of the Property, and to promote the recreation, health, safety and welfare of all owners and residents thereof; provided, however, that upon default by such Association with respect to any of its obligations under this Declaration, Declarant expressly acknowledges the residual right of the Estancia Primera Community Service Association (the "Master Association") to perform such obligations in accordance with the terms and conditions of that certain Declaration of Covenants and Restrictions recorded in the office of the Clerk of Santa Fe County, New Mexico, on January 8, 1982, in Book 433 at pages 614 through 660 and any amendments thereto.

ARTICLE III
POWERS AND DUTIES
OF
ALTAMIRA HOMEOWNERS' ASSOCIATION

§3.1 (a) Ownership, Management and Maintenance.

The ALTAMIRA HOMEOWNERS' ASSOCIATION shall own, manage, maintain, operate, replace and repair the Tract Common

Area, and all facilities and improvements located thereon, and all personal or real property acquired by the Association.

ARTICLE IV
TRACT COMMON AREA

§4.1 Establishment and Ownership of Tract Common Area. The Tract Common Area is defined in Section 2.4 of this Declaration and is reflected on the final plat of the Property. Save and except the private streets and appurtenant structures, the entire Tract Common Area is intended to be and shall remain as unimproved open space over which Declarant and all subsequent Owners shall have a scenic easement in gross in perpetuity. Ownership of the Tract Common Area, in fee simple, shall be vested in the Altamira Homeowners' Association, of which each Owner shall be a member, which membership shall necessarily pass upon a subsequent conveyance of any Lot. Declarant, the Association and/or Owners are expressly prohibited from constructing improvements within the unimproved open space of Tract Common Area; subject, however, to such easements of use as are reflected on the final plat of the Property, for purposes of maintaining utility systems, or the right of the Association or Master Association to perform such tasks as

may be required to maintain stable and adequate drainage of the Property.

EXECUTED this 10th day of November, 1982, in Santa Fe, New Mexico.

THE MARK JONES CORPORATION:

By: Mark M. Jones
Mark M. Jones, President

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

The foregoing Amended Declaration was acknowledged before me this 10th day of November, 1982, by MARK M. JONES, the President of THE MARK JONES CORPORATION, on its behalf.

Fred W. Schwendeman
NOTARY PUBLIC

My commission expires:

7-7-84

My Commission Expires 7-7-84

COMMERCIAL RECORDS DEPT. 155
5305 70 2
Instrument was filed for
recording on the 10th day of November, 1982 at 4:03 P. M.,
and was duly recorded in Vol. 451
page 43-433 of the County.

Witness my hand and seal of office this 10th day of November, 1982.
County Clerk, Santa Fe County, N.M.

Barbara B. Salazar
Deputy



DECLARATION OF COVENANTS AND RESTRICTIONS
FOR ALTAMIRA HOMEOWNERS' ASSOCIATION



497,683
STATE OF NEW MEXICO)
COUNTY OF SANTA FE) SS
Witness my Hand and Seal of Office
CAROLINA R. GONZALES
County Clerk, Santa Fe County, N.M.

I hereby certify that this instrument was filed
for record on the 11th day of June A.D.
1982 at 10:33 o'clock A.M.
and was duly recorded in book 442
page 369-392 of the records of Santa Fe County
Margaret LeBow
County Clerk

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR ALTAMIRA HOMEOWNERS' ASSOCIATION

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made this day by THE MARK JONES CORPORATION, a New Mexico corporation ("Declarant"), with reference to the following:

RECITALS:

A. Declarant is the owner of Tract R of ESTANCIA PRIMERA, a planned residential community as defined in PRC Zoning Ordinance 1981-3 of the City of Santa Fe, New Mexico, which Tract R is more fully described in that certain plat of Estancia Primera, Phase 1-A, recorded in the office of the Clerk of Santa Fe County, New Mexico, on October 21, 1981, in Plat Book 107, page 22 ff.

B. Declarant has caused Tract R to be subdivided into thirty-one (31) lots, in accordance with the approved final development plan for Estancia Primera, Phase 1-A, together with tract common area and community common area, all as reflected on that certain final plat for the ALTAMIRA PASSIVE SOLAR COMMUNITY, which has been recorded in the office of the Clerk of Santa Fe County, New Mexico, on June 8, 1982, at 10:13 a.m., as Document

Nos. 497-513, and 497-514. That subdivision (the "Property") under the planned residential community zoning ordinance is the specific real property which is subject to this Declaration.

C. Declarant intends to establish the covenants, restrictions, terms and conditions contained herein as a general scheme for the management of the Property in order to enhance and protect the value, desirability and attractiveness of the Property and all subsequent development thereon for the benefit of Declarant and all owners thereof.

D. Declarant has incorporated the ALTAMIRA HOMEOWNERS' ASSOCIATION (the "Association") under the laws of this state in order to administer, enforce and achieve the purposes of this Declaration and to meet the requirements of the City of Santa Fe.

DECLARATION

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be owned, held, transferred, sold, conveyed, encumbered, used, occupied and improved subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth or referred to. This Declaration is established to further a

plan for the subdivision, improvement and sale of the Property and for the purpose of enhancing the value, desirability and attractiveness of the Property and every part thereof. All of the covenants, conditions, restrictions, easements, charges, and liens contained or referred to herein are equitable servitudes and shall run with the title to the real property subject hereto and every part thereof, and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in any portion of the Property.

Declarant hereby delegates and assigns to the ALTAMIRA HOMEOWNERS' ASSOCIATION the maintenance and administration of the Tract Common Area and the right and obligation to administer and enforce this Declaration, to exercise the management responsibilities and other rights and duties specified herein or hereafter delegated to it, to collect assessments and disburse funds for the benefit of the Property, and to promote the recreation, health, safety and welfare of all owners and residents thereof; provided, however, that upon default by such Association with respect to any of its obligations under this Declaration, Declarant expressly acknowledges the residual right of the Estancia Primera Community Service Association (the "Master Association") to perform such obligations in

accordance with the terms and conditions of that certain Declaration of Covenants and Restrictions recorded in the office of the Clerk of Santa Fe County, New Mexico, on January 8, 1982, in Book 433 at pages 614 through 660 and any amendments thereto.

ARTICLE I

AFFIRMATION

§1.1 Covenants and Restrictions of Master Association Binding on the Property. Declarant hereby affirms and declares that all of the terms and conditions of that certain Declaration of Covenants and Restrictions for Estancia Primera Community Services Association, as recorded in the records of Santa Fe County on January 8, 1982, in Book 433, at pages 614 through 660, shall apply to the Property and all portions thereof. To the extent that there is any conflict between the terms and conditions of the Declaration of the Master Association and this Declaration, then the more restrictive provision shall prevail.

ARTICLE II

DEFINITIONS

§2.1 Incorporation by Reference. All definitions

contained in Article I of the Declaration of Covenants and Restrictions for Estancia Primera Community Service Association are hereby incorporated by reference, to be supplemented by the following definitions.

§2.2 Declarant. For purposes of this Declaration, the term Declarant shall mean The Mark Jones Corporation. Declarant is a Merchant Builder, within the meaning of the definitions referred to in Section 2.1, but has all rights and duties of a Declarant until such time as all lots within the Property have been sold to third parties.

§2.3 Association. For purposes of this Declaration, the term Association shall mean the Altamira Homeowners' Association. The Association is a Cluster Association, a Tract Association and a Local Association within the meaning of the definitions referred to in Section 2.1, and shall have all rights, duties, powers and responsibilities which are specified in this Declaration, its Articles of Incorporation and its By-laws.

§2.4 Master Association. For purposes of this Declaration, the term Master Association shall mean the Estancia Primera Community Services Association and its successors and assigns. The Master Association is the Community Association under the definitions referred to in

Section 2.1.

§2.5 Property. For purposes of this Declaration, the term Property shall mean all of the Altamira Passive Solar Community, a subdivision of Tract R of Estancia Primera, Phase 1-A, under PRC Zoning Ordinance 1981-3 adopted by the City of Santa Fe, New Mexico.

§2.6 Tract Common Area. For purposes of this Declaration, the term Tract Common Area shall mean all of the Property, save and except the thirty-one (31) lots reflected on the final plat thereof, and the Community Common Area (within the meaning of the definitions referred to in Section 2.1). Specifically, the only Community Common Area is an easement of use and maintenance over the 5-foot wide jogging trail and 10-foot wide jogging trail, both of which are shown on the final plat of the Property. Tract Common Area includes all private streets within the Property and is subject to such easements of use and maintenance as are reserved or provided for on the final plat.

ARTICLE III

POWERS AND DUTIES OF

ALTAMIRA HOMEOWNERS' ASSOCIATION

§3.1 Powers and Duties of Association. The

Association shall have all the powers of a non-profit corporation organized under the laws of the State of New Mexico. The Association shall have the power to do any and all acts which are authorized, required or permitted under this Declaration and any and all acts which may be reasonable and necessary for, or incidental to, the exercise of any express powers and duties granted to the Association. Without limiting the generality of the foregoing, the Association shall have the following powers and duties which, unless expressly provided otherwise, shall be exercised by its Board of Directors or by such committees, persons or agents expressly designated by its Board of Directors.

(a) Management and Maintenance. The Association shall maintain, manage, operate, replace and repair the Tract Common Area and all facilities and improvements located thereon and all personal property acquired by the Association.

(b) Local General Assessments. The Association shall determine, levy, collect, and enforce all Local General Assessments pursuant to Article V.

(c) Right of Entry. The Association and its agents and representatives shall have the power and right to enter upon any portion of the Property, to the

extent necessary, without liability to any Owner or Occupant, for the purpose of enforcing any of the provisions of this Declaration or for the purpose of performing maintenance and repair duties imposed herein on the Association. Such right of entry upon Lots owned by Owners other than Declarant shall be exercised so as to interfere as little as reasonably possible with possession, use and enjoyment of such portion and shall be preceded by reasonable notice whenever the circumstances permit.

(d) Right of Enforcement. The Association, in its own name and on its own behalf or on behalf of any Owner or Owners who consent, shall have the power and authority to commence and maintain legal or equitable actions or proceedings to recover damages or to restrain and enjoin any actual or threatened breach of any provision of this Declaration or to enforce any such provision by mandatory injunction or otherwise.

(e) Delegation of Duties. The Association shall have the right to delegate any of its powers under this Declaration.

(f) Insurance. The Association shall contract for and maintain such policy or policies of insurance as may be required to protect the interests of the Association and its Members.

(g) Taxes. The Association shall pay any real and personal property taxes and other charges assessed against the Tract Common Area or any facilities or improvements located thereon, unless the same are separately assessed to the Owners.

(h) Rules. The Association may, from time to time, subject to this Declaration, adopt and enforce rules and regulations pertaining to the management, operation, and use of the Tract Common Area and any facilities and improvements thereon and any other subject within the jurisdiction of the Association.

(i) Inspection of Drainage System. The Master Association shall annually, upon a random sample basis, select, inspect and test French Drains of Lots within the Property, in accordance with the Guidelines for checking the drainage control system at Estancia Primera, Phase 1-A, adopted by the Santa Fe City Planning Commission on June 3, 1982, or any subsequently approved Guidelines. If any defects in said selected French Drains are observed by qualified agents or employees of the Master Association, it shall cause the same to be corrected by the Owner of the affected Lot by a Restoration Assessment. In addition, the Master Association shall, at least annually, cause the checkdams to be inspected by qualified agents or employees

of the Master Association and shall cause any necessary repairs to said structures to be made in a timely fashion, at the expense of the Master Association; provided, however, that upon default of such obligations by the Master Association, the Association shall have the residual right to perform such obligations in accordance with the Guidelines referenced herein. The Association shall inspect and maintain all other erosion control and drainage structures within the Property, in accordance with the Guidelines referenced herein.

ARTICLE IV

TRACT COMMON AREA

§4.1 Establishment of Tract Common Area. The Tract Common Area is defined in Section 2.4 of this Declaration and is reflected on the final plat of the Property. Save and except the private streets and appurtenant structures, the entire Tract Common Area is intended to be and shall remain as unimproved open space over which Declarant and all subsequent Owners shall have a scenic easement in gross in perpetuity. Upon Declarant's conveyance of any Lot within the Property to one or more Owners, Declarant shall also convey an undivided one-thirty-first (.032258) interest in the Tract Common Area,

in fee simple, provided that the ownership of such an undivided interest may not be severed from ownership of the Lot itself, and that all subsequent conveyances of such Lot shall be coupled with a conveyance of the undivided interest in the Tract Common Area. Declarant, the Association and/or Owners are expressly prohibited from constructing improvements within the unimproved open space of Tract Common Area; subject, however, to such easements of use as are reflected on the final plat of the Property, for purposes of maintaining utility systems, or the right of the Association or Master Association to perform such tasks as may be required to maintain stable and adequate drainage of the Property.

§4.2 Owner's Easement of Use. Every Owner shall have a right and easement of enjoyment in and to the Tract Common Area, subject to the provisions of Section 4.1.

§4.3 Liability of Owners for Damage. Each Owner shall be liable for all damage to Tract Common Area caused by such Owner, his invitees, licensees or tenants.

ARTICLE V

ASSESSMENTS

§5.1 Agreement to Pay Assessments; Creation of Lien and Obligation. By acceptance of a deed for his

respective Lot, each Owner hereby covenants and agrees to pay to the Association all Local General Assessments to be established and collected as provided herein. The lien for the first such Assessment shall attach as of the commencement date provided in Section 5.5(b). All of the Assessments, together with interest at ten percent (10%) per annum, costs and reasonable attorneys' fees shall be both: (a) a charge on the land and a continuing lien on the Lot against which each such Assessment is made; and (b) the personal obligation of the Owner of such Lot at the time the Assessment became due and payable. If more than one person or entity is the Owner of a Lot, the personal obligation to pay each such assessment shall be joint and several.

§5.2 No Waiver by Non-Use. No Owner may exempt himself from payment of Assessments by waiver of the use or enjoyment of all or any portion of the Tract Common Area or by waiver of the use or enjoyment of, or by abandonment of his Lot.

§5.3 Purpose of Assessments. The Assessments shall be used exclusively for the following purposes: (a) to promote the recreation, health, safety and welfare of the Members; (b) to meet the expenses, including, but not limited to the improvement, maintenance and operation of

the Tract Common Area, thereby preserving and enhancing the value of the Property as a whole for the benefit of all Owners thereof; and (c) to accomplish the purposes, perform the duties and exercise the powers of the Association as provided herein.

§5.4 Subordination of Lien. The lien for Local General Assessments shall be subordinate to the liens of first mortgages or first deeds of trust on the assessed Lots.

§5.5 Local General Assessment. The Local General Assessment shall be an annual assessment fixed and levied by the Association in an amount based upon the estimated expenses, payable in quarterly installments, or as determined by the Association.

(a) Method of Determining Assessment. Prior to the beginning of each fiscal year, the Association shall prepare a budget of the total estimated operating expenses of the Association for said fiscal year. The budget shall estimate all expenses, based upon the actual services to be undertaken by the Association, and each Owner shall be assessed a proportionate amount of the total required.

(b) Date of Commencement of Local General Assessments. The first annual Local General Assessment for the Property subject to this Declaration shall commence

on the first day of the month following recordation of this Declaration, and annually thereafter.

(c) Obligation of Declarant. Until such time as all Lots have been sold by Declarant to third parties, Declarant shall be responsible for paying the excess of the amount of any actual expense incurred by the Association over the amount of Association funds available to meet such expense.

§5.6 Effect of Non-Payment of Assessments; Remedies of Community Association. Any Assessment, including any installment thereof, which is not paid when due shall be delinquent and shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. In the event of a default or defaults in payment of any Assessment, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation as follows:

(a) Lawsuit. The Association may commence a suit or suits at law to enforce such obligation. Any judgment rendered in any such action shall include a sum for reasonable attorneys' fees and costs.

(b) Notice of Claim of Lien. Within thirty (30) days after the delinquency of any Assessment, the Association shall give a notice to the defaulting Owner

which shall identify the Assessment, the date of the delinquency, the amount of the delinquency, and the interest charge for such delinquency, and make a demand for payment thereof. If such delinquency and interest is not paid within ten (10) days after the effective date of delivery of such notice, the Association may elect to file a Notice of Claim of Lien against the Lot of such delinquent Owner. Such Notice of Claim of Lien shall state: (1) the name of the delinquent Owner(s); (2) a description of the Lot against which the claim of lien is made; (3) the amount claimed to be due and owing; (4) that a claim of lien is made by the Association pursuant to the provisions of this Declaration; and, (5) that a lien is claimed against said described Lot in an amount equal to the amount of the stated delinquency, plus interest and attorneys' fees, together with the amount of any further delinquencies incurred by such Owner. Any such Notice of Claim of Lien shall be signed and acknowledged by an authorized officer of the Association and shall be recorded in the Office of the Clerk of Santa Fe County, New Mexico. Each delinquency shall constitute a separate basis for a claim of lien.

(d) Curing of Lien. Upon the timely curing of any default for which a Notice of Claim of Lien was

filed by the Association, officers of the Association are hereby authorized to record an appropriate release of such Notice, upon payment by the defaulting Owner of a reasonable fee, to be determined by the Association, to cover the cost of preparing and filing or recording such release.

(e) Additional Rights and Remedies. The Assessment liens and the rights to foreclosure and sale hereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid Assessments as provided in Section 5.6(a).

(f) Delegation and Waiver of Owners. Each Owner hereby vests in and irrevocably delegates to the Association or its duly authorized representatives the right and power to bring all actions at law or equity and lien foreclosures, whether judicially or by the power of sale or otherwise, against any Owner for the collection of delinquent Assessments as provided herein, and hereby expressly waives any objection to the enforcement of their obligation to pay Assessments in accordance with the provisions of this Declaration.

§5.7 Rights of First Mortgages and First Trust Deed Holders. Each holder of a first mortgage lien or

first Deed of Trust lien on a Lot that comes into possession of such Lot by virtue of foreclosure of such mortgage or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, takes such Lot free of any claims for unpaid assessments and charges against the Lot which accrued prior to the time such holder comes into possession, except for claims for a share of such assessments or charges resulting from a reallocation of such assessment among all Lots within the Property, including the mortgaged Lot.

ARTICLE VI

USE RESTRICTIONS

§6.1 Incorporation by Reference. Declarant hereby incorporates by reference all use restrictions contained in Article VI of the Declaration of Covenants and Restrictions for Estancia Primera Community Service Association, and expressly adopts such use restrictions with respect to all Lots and the entire Tract Common Area; provided, however, that rights reserved to Declarant in the Declaration for the Master Association shall inure to the benefit of Declarant herein.

§6.2 Limitation on Use of Tract Common Area. Neither Declarant, the Association nor any Owner shall be

entitled to exercise the right to use and enjoy Tract Common Area in such a manner as to impair or otherwise diminish the exercise of such right by any and all other Owners.

ARTICLE VII

EASEMENTS

§7.1 Declarant's Reservation of Easements.

Declarant reserves an easement and right-of-way through, over, under and across all portions of the Property for the purpose of completing its development and improvement work on the Property. In addition, Declarant reserves the right to continue to use the Property and any sales offices, model homes, signs and parking spaces located on the Property in its efforts to develop and market portions of the Property. This Section may not be amended without the prior written consent of Declarant.

ARTICLE VIII

RIGHT OF INSTITUTIONAL LENDERS AND PUBLIC AGENCIES

§8.1 Interest Subject to Lender's Rights. It is anticipated that part or all of the Lots may be financed or the loans therefor insured or guaranteed for the Owners through special agencies, such as the Federal Mortgage

Agencies and others. The interest of the Association and each of the Owners (other than Declarant) is and shall be subject to and subordinate to the rules, regulations and requirements of such agencies purchasing, insuring or guaranteeing mortgages or deeds of trust for portions of the Property, as amended from time to time. Notwithstanding prior acquisition of title to any portion of the Property by any Owner, amendments to this Declaration shall be binding upon all Owners and the Association.

§8.2 Access to Financial Records. Institutional Lenders holding first mortgages or deeds of trust on Lots within the Property shall, upon written request to the Association, be entitled to inspect the books and records of the Association during normal business hours, to receive a copy of an audited financial statement of the Association (the cost of the audit to be at the expense of said Institutional Lenders) or, in the alternative, to receive an annual financial statement of the Association prepared in accordance with standard accounting practices.

§8.3 Notice to Lenders. Institutional Lenders holding first mortgages or deeds of trust on Lots within the Property that have filed written notice of same with the Association shall be entitled to: (a) written notice of all meetings of the Association and the right to

designate a representative to attend all such meetings;
(b) written notice of any material amendment to this Declaration, the Bylaws or Articles of Incorporation.

ARTICLE IX

TERM, AMENDMENTS, DECLARANT'S RIGHTS

§9.1 Term of Declaration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and every part thereof, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, his respective legal representatives, heirs, successors and assigns, for a term of fifty-five (55) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by at least seventy-five percent (75%) of the Owners, has been recorded within the year preceding the beginning of any such ten-year period agreeing to terminate or revise this Declaration.

§9.2 Amendment Procedure. This Declaration may be amended at any time by the affirmative vote of the Owners of twenty-one (21) of the thirty-one (31) Lots in the property, provided that no such amendment may contra-

vene the purposes or intent of the final development plan for the Property.

§9.3 Rights of Declarant. For so long as the Declarant shall own any portion of the Property, its rights and interest shall not be prejudiced by any amendments to this Declaration, the Articles of Incorporation or the Bylaws (unless Declarant gives its prior written consent) which have the following effects:

(a) Discriminate or tend to discriminate against Declarant's rights as an Owner.

(b) Change the Definitions in Article II in a manner which alters Declarant's rights or status.

(c) Alter previously recorded or written agreements with public or quasi-public agencies or utilities with respect to easements and rights-of-way.

(d) Alter the basis for assessments, as provided in Article V.

(e) Alter the provisions of the use restrictions set forth in Article VI.

(f) Alter the Declarant's easement rights, as provided in Article VII.

(g) Alter the Declarant's rights provided under this Article IX.

ARTICLE X

MISCELLANEOUS PROVISIONS

§10.1 Controlling Law. This Declaration shall be construed and enforced according to the laws of the State of New Mexico.

§10.2 Successors in Interest. This Declaration shall be binding upon and inure to the benefit of the Owners, their heirs, personal representatives, assigns or other successors in interest whatsoever.

§10.3 Severability. If any provision of this Declaration should be held invalid or unenforceable, such holding shall not affect the other provisions hereof, and this Declaration shall thereupon be construed and enforced in accordance with its valid and enforceable provisions.

§10.4 Headings. The headings and captions herein are provided for reference and convenience only.

§10.5 Gender and Number. Except where otherwise clearly indicated by context, the masculine and neuter genders shall include the feminine and neuter, the singular shall include the plural, and vice-versa.

EXECUTED this 11TH day of June, 1982, in Santa Fe, New Mexico.

THE MARK JONES CORPORATION

BY: Mark M. Jones
Mark M. Jones, President

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

The foregoing Declaration was acknowledged before me this 14th day of June, 1982, by MARK M. JONES, the President of THE MARK JONES CORPORATION, on behalf of said corporation.



OFFICIAL SEAL

Fred W. Schenkman
 NOTARY PUBLIC FRED W. SCHENKMAN

NOTARY PUBLIC - STATE OF NEW MEXICO

My Commission Expires 7-7-84

My commission expires:

7-7-84

Sept. 29, 2008

**SECOND AMENDMENT OF THE DECLARATION
OF
COVENANTS AND RESTRICTIONS**

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made this 29 day of September, 2008 in accordance with that certain Declaration of Covenants and Restrictions for Altamira Homeowners' Association filed in the office of the Clerk of Santa Fe County, New Mexico in Book 442 at pages 369-392, on June 11, 1982.

RECITALS

WHEREAS, the Declaration was previously amended on November 10, 1982 and such amendment was filed of record in book 451 at pages 428-433;

WHEREAS, Article 9.2 provides that the Declaration may only be amended upon 21 or more affirmative votes of the owners of record; and

WHEREAS, the following amendment to the Declaration was adopted by written approval of not less than 21 of the owners of record.

NOW, THEREFORE, the undersigned being the President of the Altamira Homeowners' Association hereby files the foregoing amendments to the Declaration on behalf of the Owners.

1. Article V, paragraph 5.5 (a) is hereby deleted in its entirety and the following is substituted therefore:

§5.5 (a) Method of Determining Assessment. Prior to the beginning of the each fiscal year, the Association shall prepare a budget of the total estimated operating expenses of the Association for said fiscal year. The budget shall estimate all expenses, based upon the actual services to be undertaken by the Association, plus any reserve amounts deemed appropriate by the Association. Each Owner shall be assessed a proportionate amount of the total required to satisfy the budgeted amounts ("the Full Assessment"); provided, however, the Owners of vacant lots shall be assessed at ten percent (10%) of the Full Assessment amount.

