

**THIRTY-EIGHTH SUPPLEMENTAL DECLARATION TO DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR HIGH DESERT RESIDENTIAL PROPERTIES
(Desert Mountain at High Desert)**

THIS THIRTY-EIGHTH SUPPLEMENTAL DECLARATION is made this 28th day of November, 2000, by High Desert Investment Corporation, a New Mexico corporation ("Declarant").

BACKGROUND STATEMENT

A. On December 22, 1993, Declarant executed that certain Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on December 22, 1993, as Document 93145417 in Book 93-37, Pages 1-87, in the Office of the County Clerk of Bernalillo County, New Mexico which was amended by (i) the First Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on February 24, 1995, as Document 95018895 in Book 95-5, Pages 2271-2274, in the Office of the County Clerk of Bernalillo County, New Mexico; (ii) the Second Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on March 8, 1995, as Document 95023420 in Book 95-6, Pages 2332-2334, in the Office of the County Clerk of Bernalillo County, New Mexico; (iii) Third Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on December 4, 1995, as Document 95123873 in Book 95-29, Pages 4886-4891, in the Office of the County Clerk of Bernalillo County, New Mexico; (iv) Fourth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on March 26, 1996, as Document 96034023 in Book 96-8, Pages 7743-7745, in the Office of the County Clerk of Bernalillo County, New Mexico; (v) Fifth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on September 12, 1997, as Document 97095103 in Book 97-25, Pages 2445-2463, in the Office of the County Clerk of Bernalillo County, New Mexico; and (vi) the Sixth Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on June 8, 1999, as Document 1999075608 in Book 9908, Page 5423, in the Office of the County Clerk of Bernalillo County, New Mexico and which was supplemented by (i) the Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15A), which was recorded March 14, 1995, as Document 95025598 in Book 95-6, Pages 6854-6858, in the Office of the County Clerk of Bernalillo County, New Mexico, (ii) the Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C), which was recorded June 19, 1995, as Document 95060324

in Book 95-14, Pages 6088-6092, in the Office of the County Clerk of Bernalillo County, New Mexico, (iii) the Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 3A), which was recorded August 18, 1995, as Document 95082948 in Book 95-19, Pages 8921-8925, in the Office of the County Clerk of Bernalillo County, New Mexico, (iv) the Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Unit 2 the Highlands/Tract 15B), which was recorded August 29, 1995, as Document 95087321 in Book 95-20, Pages 8831-8836, in the Office of the County Clerk of Bernalillo County, New Mexico, (v) the Fifth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C, Trillium Village), which was recorded December 12, 1995, as Document 95126995 in Book 95-30, Pages 1868-1874, in the Office of the County Clerk of Bernalillo County, New Mexico, (vi) the Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1A-1), which was recorded February 1, 1996, as Document 96012264 in Book 96-3, Pages 7513-7519, in the Office of the County Clerk of Bernalillo County, New Mexico, (vii) the Seventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Lots 1 through 36 inclusive, Solterra Subdivision Unit 1 at High Desert), which was recorded May 20, 1996, as Document 96056432 in Book 96-14, Pages 2006-2010, in the Office of the County Clerk of Bernalillo County, New Mexico, (viii) Eighth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1B-1, Tierra Del Oso Village), which was recorded May 30, 1996, as Document 96060081 in Book 96-15, Pages 673-677, records of Bernalillo County, New Mexico, (ix) Ninth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 4B), which was recorded September 4, 1996, as Document 96098319 in Book 96-24, Pages 2814-2818, records of Bernalillo County, New Mexico, (x) Tenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 14B/Unit 2A, the Highlands), which was recorded September 5, 1996, as Document 96099282 in Book 96-24, Pages 4841-4845, records of Bernalillo County, New Mexico, (xi) Eleventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tracts 3B and 3C, Trillium Village), which was recorded November 6, 1996, as Document 96121693 in Book 96-29, Pages 9094-9098, records of Bernalillo County, New Mexico, (xii) Twelfth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Lot 44, Desert Sky Village), which was recorded January 9, 1997, as Document 97002124 in Book 97-1, pages 5053-5060, records of Bernalillo County, New Mexico, (xiii) Thirteenth Supplemental Declaration to Declaration of Covenants,

Conditions, and Restrictions for High Desert Residential Properties (Tract 3A, Desert Sky Village) which was recorded June 11, 1997, as Document 97059451 in Book 97-15, pages 9383-9422, records of Bernalillo County, New Mexico, (xiv) Fourteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 4B, Chamisa Trail Village), which was recorded January 9, 1997, as Document 97020850 in Book 97-5, pages 9673-9691, records of Bernalillo County, New Mexico, (xv) Fifteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15C/Unit 3, the Highlands), which was recorded May 10, 1997, as Document 97049849 in Book 97-13, pages 4210-4214, records of Bernalillo County, New Mexico, (xvi) Sixteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Solterra Subdivision Unit 1, Lots 1-36), recorded June 20, 1997 as Document 97062870, records of Bernalillo County, New Mexico, (xvii) Seventeenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9A) which was recorded June 19, 1997, as Document 97062084, records of Bernalillo County, New Mexico, (xviii) Eighteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract A, Solterra Subdivision/Unit 2) which was recorded June 30, 1997, as Document 97065755, in Book 97-17, pages 5953-5958 records of Bernalillo County, New Mexico, (xix) Nineteenth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9A, Sunset Ridge Village) which was recorded December 19, 1997, as Document 97133979, in Book 97-37, pages 6637-6646 records of Bernalillo County, New Mexico, (xx) Twentieth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 9B) which was recorded December 23, 1997, as Document 97134922, in Book 97-35, pages 9642-9647 records of Bernalillo County, New Mexico, (xxi) Twenty-First Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 8C) which was recorded March 13, 1998, as Document 1998030112, in Book 9806, page 8629 records of Bernalillo County, New Mexico, (xxii) Twenty-Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1A-2) which was recorded July 16, 1998, as Document 1998089079, in Book 9812, page 7379 records of Bernalillo County, New Mexico, (xxiii) Twenty-Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15D-1A/Desert Highlands) which was recorded July 20, 1998, as Document 1998090384, in Book 9812, page 8673 records of Bernalillo County, New Mexico, (xxiv) Twenty-Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract

14A/The Overlook at High Desert) which was recorded January 4, 1999, as Document 1999000462, in Book 9901, page 456 records of Bernalillo County, New Mexico, (xxv) Twenty-Fifth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 11A) which was recorded January 15, 1999, as Document 1999006283, in Book 9901, page 6257 records of Bernalillo County, New Mexico (the "**Twenty-Fifth Supplemental Declaration**"), (xxvi) Twenty-Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (The Canyons at High Desert Phase I) which was recorded February 16, 1999, as Document 1999020725, in Book 9903, page 668 records of Bernalillo County, New Mexico, (xxvii) Twenty-Seventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (The Canyons at High Desert, Phase I) which was recorded February 16, 1999, as Document 1999020727, in Book 9903, page 670 records of Bernalillo County, New Mexico, (xxviii) Twenty-Eighth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Chaco Ridge Village) which was recorded April 16, 1999, as Document 1999051867, in Book 9906, page 1754 records of Bernalillo County, New Mexico, (xxix) Twenty-Ninth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 5A-1A-1) which was recorded May 24, 1999, as Document 1999068181, in Book 9907, page 8025 records of Bernalillo County, New Mexico, (xxx) Thirtieth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 2A-1C-2A-1) which was recorded June 4, 1999, as Document 1999074085, in Book 9908, page 3907 records of Bernalillo County, New Mexico, (xxxi) Thirty-First Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Chaco Compound Village) which was recorded September 7, 1999, as Document 1999115959, in Book 9912, page 5595 records of Bernalillo County, New Mexico, (xxxii) Thirty-Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Enclave Village) which was recorded November 3, 1999, as Document 1999138715, in Book 9914, page 8289 records of Bernalillo County, New Mexico, (xxxiii) Thirty-Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 15D-1B-2/Unit 2 Desert Highlands) which was recorded December 6, 1999, as Document 1999149924, in Book 9915, page 9466 records of Bernalillo County, New Mexico, (xxxiv) Thirty-Fourth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Desert Mountain at High Desert, Tract 11A) which was recorded July 11, 2000, as Document 2000067159, in Book A7, page 6894 records of Bernalillo County, New Mexico (the "**Thirty-Fourth Supplemental Declaration**"), (xxxv) Thirty-Fifth Supplemental Declaration to Declaration of

Covenants, Conditions, and Restrictions for High Desert Residential Properties (Piñon Point Village) which was recorded April 14, 2000, as Document 2000036364, in Book A4, page 6210 records of Bernalillo County, New Mexico, (xxxiv) Thirty-Sixth Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (Tract 11B, High Desert) which was recorded May 11, 2000, as Document 2000046065, in Book A5, page 5885 records of Bernalillo County, New Mexico (the "**Thirty-Sixth Supplemental Declaration**") and (xxxv) Thirty-Seventh Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties (The Canyons at High Desert) which was recorded October 13, 2000, as Document 2000101492, in Book A11, page 1094, records of Bernalillo County, New Mexico (the "Declaration").

B. Pursuant to the Twenty-Fifth Supplemental Declaration and the Thirty-Sixth Supplemental Declaration, the property described in Exhibit "A" (the "Initial Property") and that described in Exhibit "B" (the "Additional Property", and together with the Initial Property, the "Desert Mountain Village Property") were subjected to the Declaration and assigned by Declarant to the Desert Mountain and High Desert Village. Declarant desires to confirm the boundaries of the Desert Mountain at High Desert Village.

C. The Initial Property is subject to the terms of the Thirty-Fourth Supplemental Declaration. Pursuant to the terms of Section 9.4 of the Declaration, the Declarant may unilaterally subject any portion of the property submitted to the Declaration initially or by Supplemental Declaration to additional covenants or easements including covenants obligating the Association to maintain such property and obligating the Owners of the property to pay the cost of such maintenance through Village Assessments. Declarant desires to subject the Additional Property to the Thirty-Fourth Supplemental Declaration.

D. Declarant, for the efficient management of the Additional Property, desires that the Association assume certain maintenance responsibilities relating to the Additional Property as set forth in the Thirty-Fourth Supplemental Declaration and the Association agrees to assume such responsibilities (as indicated by its signature below).

E. Sivage-Thomas Homes, Inc., a New Mexico corporation ("Sivage") is the owner of the Additional Property, which is a portion of the property described in Exhibit "B" of the Declaration. Sivage desires to subject the Additional Property to the Thirty-Fourth Supplemental Declaration and this Thirty-Eighth Supplemental Declaration.

F. Capitalized terms not otherwise defined herein are as defined in the Declaration.

W I T N E S S E T H:

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration:

1. Confirmation of Village Boundaries. Declarant hereby confirms the boundaries of the Desert Mountain at High Desert Village to be the boundaries of the Initial Property and Additional Property.

2. Subjection to Additional Covenants. Pursuant to Section 9.4, the Declarant subjects the Additional Property to the terms of the Thirty-Fourth Supplemental Declaration upon recordation of this Thirty-Eighth Supplemental Declaration. The Additional Property shall be held, sold, used and conveyed subject to easements, restrictions, covenants, and conditions (including the Village Assessments), contained in the Thirty-Fourth Supplemental Declaration, which are for the purpose of protecting the value and desirability of and which shall run with the Additional Property. This Thirty-Eighth Supplemental Declaration and the Thirty-Fourth Supplemental Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Additional Property or any part thereof, their heirs, successors, successors-in title, and assigns.

3. Consent of Owner. Sivage, by its signature below, consents to the subjection of the Additional Property to the Thirty-Fourth Supplemental Declaration and this Thirty-Eighth Supplemental Declaration. This consent constitutes the written consent of the property owner as required under Section 9.4 of the Declaration.

4. Maintenance by Association. The maintenance obligations and commencement thereof by the Association set forth in the Thirty-Fourth Supplemental Declaration shall apply to the Additional Property, specifically including (i) the landscaping in the areas depicted as open space in the attached Exhibit "C" and (ii) the surface storm water drainage facilities depicted on the attached Exhibit "C".

5. Acknowledgment by the Association. The Association, by its signature below, acknowledges the maintenance obligations set forth in this Thirty-Eighth Supplemental Declaration and confirms the maintenance obligations set forth in the Thirty-Fourth Supplemental Declaration.

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, have executed this Thirty-Eighth Supplemental Declaration as of the day and year first written above.

HIGH DESERT INVESTMENT CORPORATION,
a New Mexico corporation

By: /s/ Douglas H. Collister
Name: Douglas H. Collister
Title: President

By: /s/ Jack Eichorn
Name: Jack Eichorn
Title: Vice President

Address: 13000 Academy Road, N.E.
Albuquerque, NM 87111

Date Signed: November 20, 2000

CONSENTED TO SIVAGE-THOMAS
HOMES, INC., a New Mexico
corporation:

By: /s/ John W. Hardin
Name: John W. Hardin
Title: Secretary/Treasurer
Date signed: November 28, 2000

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

This instrument was acknowledged before me on November 20, 2000 by Douglas H. Collister, President of High Desert Investment Corporation, a New Mexico corporation.

/s/ Edna B. Jones
Notary Public

My Commission Expires:
June 5, 2004

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

This instrument was acknowledged before me on November 20, 2000, by Jack Eichorn, Vice President of High Desert Investment Corporation, a New Mexico corporation.

 /s/ Edna B. Jones
Notary Public

My Commission Expires:
June 5, 2004

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

This instrument was acknowledged before me on November 28, 2000, by John W. Hardin, Secretary/Treasurer of Sivage-Thomas Homes, Inc., a New Mexico corporation.

 /s/ Debra E. Whitlock
Notary Public

My Commission Expires:
October 29, 2003

HIGH DESERT RESIDENTIAL OWNERS
ASSOCIATION, INC., a New Mexico
nonprofit corporation

By: /s/ Jack Eichorn
Name: Jack Eichorn
Title: President

Address: 13000 Academy, N.E.
Albuquerque, NM 87111

Date Signed: November 20, 2000

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

This instrument was acknowledged before me on November 20,
2000, by Jack Eichorn, President of High Desert Residential
Owners Association, Inc., a New Mexico nonprofit corporation.

/s/ Edna B. Jones
Notary Public

My Commission Expires:
June 5, 2004

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6/27/02

EXHIBIT "A"

Desert Mountain at High Desert, Unit One,
Albuquerque, New Mexico as shown on the Plat
for Desert Mountain at High Desert, Unit One
filed as document number 1999059157 in Book
99C, page 106, office of the County Clerk at
Bernalillo County, New Mexico on May 4, 1999.

EXHIBIT "B"

Desert Mountain at High Desert, Unit Two,
Albuquerque, New Mexico as shown on the Plat
of Desert Mountain at High Desert, Unit Two,
filed as document number 2000076141 in Book
2000C, Folio 203, Office of the County Clerk
of Bernalillo County, New Mexico on August 3,
2000.

EXHIBIT "C"

This Exhibit can be obtained from the
High Desert Residential Owners Association Office