

FOURTH SUPPLEMENTAL DECLARATION TO DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR HIGH DESERT RESIDENTIAL PROPERTIES  
(Unit 2 the Highlands/Tract 15B)

THIS THIRD SUPPLEMENTAL DECLARATION is made this 29th day of August, 1995, by High Desert Investment Corporation, a New Mexico corporation ("Declarant").

BACKGROUND STATEMENT

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 93-36, Pages 1-87, in the Office of the County Clerk of Bernalillo County, New Mexico, which was amended (i) by the First Amendment to Declaration of Covenants, Conditions, and Restrictions for High Desert Residential Properties, which was recorded on February 24, 1995, 1995, as Document 95018895 in Book 95-5, Pages 2271-2274, in the Office of the County Clerk of Bernalillo County, New Mexico and (ii) by 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 and which was supplemented (i) by the Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert 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) by the Second Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert Properties (Tract 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, and (iii) by the Third Supplemental Declaration to Declaration of Covenants, Conditions, and Restrictions for High Desert 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 ("Declaration").

Pursuant to the terms of Section 9.1 of the Declaration, until all property described on Exhibit "B" of the Declaration has been subjected to the Declaration or 30 years after the recording of the Declaration, whichever is earlier, Declarant may unilaterally submit all or any portion of the property described on Exhibit "B" of the Declaration to the terms of the Declaration with the consent of the owners of such property (if other than Declarant). The Declaration also provides in Section 3.4 that each Supplemental Declaration filed

to subject additional property to the Declaration shall initially assign the property described therein to a specific Village (as defined in the Declaration) by name, which Village may be then existing or newly created.

The Declaration also provides in Section 9.4 that the Declarant may unilaterally subject any portion of the property submitted to the Declaration initially or by Supplemental Declaration to additional covenants and easements.

Declarant is the owner of the property described on Exhibit "A" (the "Annexation Property") attached hereto and by this reference incorporated herein, and the Annexation Property is a portion of the property described on Exhibit "B" of the Declaration. Declarant desires to submit to the provisions of the Declaration the Annexation Property, to assign the Annexation Property to a Village within the Properties and to subject the Annexation Property to the additional covenants set forth in this Fourth Supplemental Declaration.

W I T N E S S E T H:

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

1. Declarant hereby subjects the Annexation Property to the provisions of the Declaration and this Fourth Supplemental Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of the Declaration and this Fourth Supplemental Declaration, all of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Fourth Supplemental Declaration shall be binding upon the High Desert Residential Owners Association, Inc., (the "Owners Association") in accordance with the terms of the Declaration.

2. The Annexation Property is hereby established as a Village under the Declaration. The name of the Village shall be "Unit 2, Highlands at High Desert," and Declarant hereby assigns the Annexation Property to said Village.

3. Each Owner's responsibilities for maintenance set forth in Section 5.2 of the Declaration are expanded as set forth in this Fourth Supplemental Declaration. Notwithstanding the easements for cross-drainage set forth in Section 13.6 of the Declaration, each Owner of a Unit within the Annexation Property shall be responsible for storm water drainage on and from its

Unit so as to avoid damage or injury to property outside its Unit. Such responsibility shall include responsibility for any damage, construction, maintenance and repair resulting from, necessitated by or associated with storm water drainage from Owner's structure or improvements on the Unit. Provided however, that such responsibility shall not include responsibility for damage, construction, maintenance or repair resulting from storm water drainage from the adjacent public right-of-way, which responsibility shall be that of the Owners Association, except to the extent that the damage, construction, maintenance or repair is caused by concentration or deviation of storm water drainage due to Owner's structures or improvements on the Unit, which shall be the Owner's responsibility.

4. Notwithstanding any review or approval of any structures or designs or measures related to or taken in connection with this Fourth Supplemental Declaration or the Declaration by any Owner, neither the NCC nor the MC shall bear any responsibility for ensuring (i) the effectiveness, integrity or soundness of any structure, design or measure, (ii) compliance with any building code or other governmental requirement of any structure, design or measure or (iii) the appropriateness of grading, drainage plans and features, or site work on Units within the Annexation Property.

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

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, have executed this Supplemental Declaration and affixed the corporate seal as of the day and year first written above.

DECLARANT: HIGH DESERT INVESTMENT CORPORATION,  
a New Mexico corporation

ADDRESS: 13000 Academy Boulevard, N.E.  
Albuquerque, New Mexico 87110

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

By: /s/ Richard G. Elkins  
Name: Richard G. Elkins  
Title: Treasurer

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

          This instrument was acknowledged before me on August  
29, 1995, by Douglas H. Collister of High Desert Investment  
Corporation, a New Mexico corporation.

                                  /s/Hope M. Wynn  
                                  \_\_\_\_\_  
                                  Notary Public

My commission expires:  
January 24, 1996

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

          This instrument was acknowledged before me on August  
29, 1995, by Richard G. Elkins of High Desert Investment  
Corporation, a New Mexico corporation.

                                  /s/Hope M. Wynn  
                                  \_\_\_\_\_  
                                  Notary Public

My commission expires:  
January 24, 1996

**EXHIBIT "A"**

Description of Annexation Property

UNIT 2 OF THE HIGHLANDS AT HIGH DESERT, Albuquerque, New Mexico as the same is shown and designated on the Plat of Unit 2 of the Highlands at High Desert, filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 23, 1995, in Vol. 95C, Folio 319