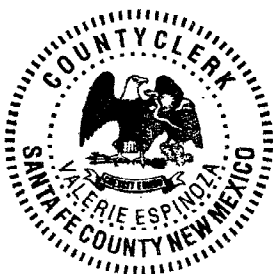


SFO CLERK RECORDED 06/02/2006

Declaration of Covenants
For

PLAZA BONITA
SUBDIVISION



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

DECLARATION COVENANTS
PAGES: 40

I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of June, A.D., 2006 at 14:21
and Was Duly Recorded as Instrument # 1436074
In The Records Of Santa Fe County

[Signature]
Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM

Dated: May 1, 2006
JRB

PLAZA BONITA SUBDIVISION

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**Declaration of Covenants
for
PLAZA BONITA SUBDIVISION**

This Declaration is made by L.B & B Properties, L.L.C, a New Mexico limited liability company (Declarant) and is effective as of the date of recordation hereof in the land records of Santa Fe County, New Mexico. Declarant is the owner of certain property in Santa Fe County, State of New Mexico, which is more particularly described as:

All that land depicted on the subdivision plat for PLAZA BONITA Subdivision filed for record on June 2, 2006 as Document No. 1436073 and recorded in Plat Book 675, pages 18 through 19 of the records of Santa Fe County (Property).

Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Article 1 - Definitions

- Association:** Plaza Bonita Subdivision Homeowners Association, Inc., a New Mexico nonprofit corporation, its successors and assigns.
- Board of Directors or Board:** the board of directors of the Association.
- Bylaws:** the Bylaws of the Association.
- Committee:** the Architectural Committee of the Association.
- Common Property:** the easements reserved or granted for the construction and maintenance of drainage facilities, including, without limitation, the storm water detention structures, erosion control structures, water harvesting and erosion control buffer walls or any improvements installed by Declarant, the bike and pedestrian trails and such other property that the Board elects to maintain as provided in Article 5.
- Declarant:** B & B Properties LLC, a New Mexico limited liability company, its associates, its successors and assigns, if such successors or assigns are assigned all or any portion of Declarant's rights under this Declaration.
- Declarant Control Period:** the period of time during which the Class B Member is entitled to appoint a majority of the members of the Board of Directors as provided in sec. 4.3 hereof.
- Declaration:** this Declaration of Covenants and any amendments thereto.

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- Development Plan:** development plan for Plaza Bonita Subdivision approved by the City of Santa Fe.
- Eligible Mortgagee:** An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association for any notices to be provided to Eligible Mortgagees under this Declaration and such request states the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates.
- Lot:** any residential lot or plot of land shown upon the Plat with the exception of the Common Property.
- Owner:** the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- Plat:** the subdivision plat for Plaza Bonita Subdivision, recorded at Plat Book 625, pages 18 through 19, records of Santa Fe County, New Mexico, as amended from time to time.
- Property:** that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Article 2 - Use and Occupancy Restrictions

2.1 **Antennae; Roof-Mounted Heating or Cooling System or Electrical.** No exterior antenna, satellite dishes, or exterior roof mounted heating or cooling or electrical systems and equipment shall be installed on the Property without the prior approval of the Committee as to the location, size, material, color and screening. When roof mounted items are allowed such items shall be screened from view.

2.2 **Trees and Landscaping.** The native growth of the property, including without limitation, piñon and juniper trees, shall not be destroyed or removed, except such native growth as it may be necessary to remove for the construction and maintenance of roads, driveways, dwellings and other approved structures unless written permission be first obtained from the Committee. Landscaping and planting of trees or shrubs shall adhere to guidelines as approved by the Architectural Committee or Declarant. Xeroxscape type landscaping with drought tolerant, Native trees, shrubs and plantings is encouraged. Non native plantings (fruit, willow, flowering trees, grasses) requiring large amounts of water will not be allowed.

2.2.1 All plantings shall be placed on a timed irrigation system (drip, sprinkler, other) for automatic watering of all plantings.

2.2.2 All Trees, Shrubs or other plantings as located in planter strip located adjacent to homeowners lot between sidewalk and street curb are conveyed to homeowner as subdivision improvements to lot, homeowner shall water and maintain all plantings. The Association shall afford the Owner reasonable notice and opportunity to cure or replace plantings noted as "homeowner responsibility" and may assess all costs incurred by the Association to replace or repair landscaping in accordance with 5.2-7.6.

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2.2.3 All temporary driveways and private roads shall be surfaced by Owners with gravel to prevent dust, and maintained so as to reduce erosion and eliminate unsightly conditions. No driveways or site grading will be constructed until plans have been approved by Committee.

2.2.4 All driveways shall be graded and sloped for proper drainage. All storm water will be contained on site during construction. All silt runoff from lot will be cleaned off of streets and sidewalks within 24 hours as applicable. All dirt and rock deposited or carried onto streets will be cleaned within 24 hours, concrete or other damaging materials will be cleaned immediately.

2.3 **Utilities.**

2.3.1 All electrical service and telephone lines shall be placed underground and installed in or adjacent to the driveway. All utility meters and/or utility boxes shall be placed at the residence.

2.3.2 Additional utility easements as shown and stated on the recorded plat of the subdivision are imposed on the Lots of the subdivision.

2.3.3 No electrical or telephone lines shall be maintained above ground except during construction. Any disturbance of ground cover and vegetation necessitated by the installation of utility service lines on a Lot shall be restored by the owner of the Lot. Replace concrete drives and sidewalks to new condition.

2.4 **Grading.** Disturbance of the natural ground surface is not permitted outside the limits of grading as shown on the plans approved by the Committee. Any disturbance of natural ground beyond the grading limits shown on the plans shall be re-vegetated. Re-vegetation of disturbed areas shall include planting of drought-tolerant grasses, shrubs, and trees as required to restore the graded area, as much as is practical, to its original condition. Refer to Trees and Landscaping sec. 2.2.

2.5 **Fences and Walls.** Subdivision walls and fencing are to be maintained in good repair by the lot owner upon which the wall or fence is constructed. No change in style or design of walls or fencing other than approved by architectural committee will be permitted. All walls and fences constructed within subdivision are subject to approval by the Committee.

2.5.1 **Design.** No fences or walls may be more than seventy-two (72) inches high, except as may be necessary to comply with the provisions of sec. 2.5.3 and when approved by committee. No wire or metal fencing is allowed, except with the permission of the Architectural Committee.

2.5.2 **Construction.** All walls shall be of good construction complementary to house and shall be finished with the same texture and color as the house, exposed brick or block will not be permitted except as accent and with approval of Committee. All fences shall be of Coyote design or other designs as approved by Architectural Committee, slat wood or similar fencing within the subdivision will not be permitted.

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2.5.3 Yard Walls. All residential units with lot lines along Calle Bonita, Calle Preciosa, Calle Volver, Calle Redondo, Calle de la Vuelta shall construct, at the time of house construction of the single family residence on such respective Lots, a front yard and/or retaining wall along the lot line of said lots abutting streets as noted, other than the portion thereof utilized for a driveway or sidewalk, which front yard or side yard when abutting street shall be constructed at 32 inches above sidewalk and shall approximate sidewalk grade. If separation yard wall CMU is color other than tan brown (same as perimeter and retain walls) then separation yard walls shall be plastered and stuccoed at the same time as house construction and with the same color (ref. 2.6.2 Walls/Fences), care shall be taken to prevent bleed through of structural base. Drainage openings as applicable shall be incorporated into wall construction at base of wall at sidewalk level.

Privacy yard walls or fences when built along noted streets shall be set back from front yard or retaining wall by five (5) feet. Privacy yard walls or fences when built along noted streets shall be set back from side yard three (3) feet. Area between yard wall or fence and retaining wall at property line shall be landscaped (ref. 2.2 Landscaping).

2.6 Construction. Construction work shall commence no earlier than 7:00 a.m. and cease by 6:00 p.m. weekdays. On Saturdays construction work shall commence no earlier than 9:00 a.m. and cease by 3:00 p.m. Each owner shall instruct contractors and subcontractors to refrain from permitting excessive noise or loud music. All construction traffic is prohibited from existing north on Galisteo Street and or using San Mateo Street. Limits of construction traffic are from San Mateo street south towards St. Michaels Drive, Galisteo Street west to St. Francis Drive.

2.6.1 Construction on all residences once started must proceed non stop and be complete within six (6) months. Remodel, fence, wall or other types of construction must be completed within 60 days.

2.6.2 All housing construction shall conform to applicable "Zoning and Building Codes" adopted by the City of Santa Fe and as per the approved Development Plan dated May 19, 2005.

2.7 Trash. No Lot shall be used for the storage or dumping of rubbish or debris of any kind, or for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition, or that will be visually offensive or obnoxious, and no substance, thing or material may be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will disturb the peace, quiet, comfort, or serenity of any occupants or Owners of Lots in the subdivision.

2.7.1 Before and after construction, the storage of construction material, supplies and equipment shall be prohibited unless screened and placed out of view of other Lot Owners in the subdivision. During construction, the builder shall erect a temporary fence, and the construction site shall be maintained in an orderly condition, and refuse shall be collected daily. Waste concrete and mortar shall not be dumped within the Property or subdivision. Streets and all other hard surfaces will be protected from construction related damage. Damage to streets, sidewalks or other surfaces will be replaced or repaired to the satisfaction of the association and subject to repair or replacement costs in accordance with sec. 5.2-7.6-8.1.

2.7.2 All clothes lines, clothes drying facilities, mechanical and other equipment, wood piles, storage piles shall be walled in and/or concealed at all times so they may not be seen by other lot owners. NO storage or parking of vehicles, campers, horse trailers, boat trailers, trailer homes,

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motor coaches, and similar vehicles, will be allowed within the subdivision. Vehicles not in operating condition and/or not in use for periods longer than fourteen (14) days shall be removed from the subdivision.

2.8 **Storage Tanks.** No elevated or surface tank of any kind shall be erected or permitted on lot. All underground water storage tanks shall comply with all local, state and national codes as applicable.

2.9 **Windmills.** No wind-driven machinery for the generation of power or other use or purpose shall be placed on any Lot.

2.10 **Animals.** Except as provided herein, no animal of any kind may be kept on any Lot, whether for personal or commercial purposes, without the prior written approval of the Board. Each Lot may have a maximum of two dogs more than sixteen (16) weeks old. No wolf, wolf hybrid or American Bull Terrier (Pit Bull) shall be kept within the Property. No farm animal, including without limitation, chickens, ducks, turkeys, sheep, goats, cattle or horses shall be kept on the Property. No animal may be kept or maintained on any Lot in any manner or number which is a nuisance or offensive to the neighboring Lots, including without limitation, pens or dog runs, whether by reason of aesthetics, noise, habits, odors, or otherwise. The Association reserves the right to order the removal of any animals which may be objectionable to residents of other Lots in the subdivision. Enclosures for animals shall be subject to approval by the Committee. Small household pets such as cats, caged birds, aquarium fish, guinea pigs, shall be allowed at the Lot Owner's discretion so long as the nuisance portions of this provision are not violated. All dogs within the Property shall be vaccinated against rabies as required by law.

2.11 **Billboards and Signs.** No billboard or advertising sign will be permitted on any Lot or on any building except for the nameplate of the occupant of any residence upon which his professional title may also be added, but no sign or nameplate shall exceed one (1) square foot in size. Provided, however, one sign board not more than six (6) square feet in area may be erected on a Lot during the construction of a new single-family dwelling and after its completion pending the sale thereof. Thereafter, one sign shall be allowed for the subsequent resale of any house.

2.12 **Exterior Lights.** All exterior lights must be located so as not to be directed toward surrounding Lots, Property, or roads, all exterior lighting shall have cut-off luminaries. No exterior floodlights or street lamps shall be installed, operated, or maintained on any Lot in such manner that light there from shall directly illuminate lands other than that Lot. Bright, glaring lights on rooftops and patio walls or elsewhere are prohibited. All light fixtures must be of matt finish and not finished aluminum or galvanized.

2.13 **Hunting and Firearms.** Hunting and the discharge of firearms is prohibited within the Property.

Article 3 - Architectural Control

3.1. **Approval Required.** Prior to application for a building permit from the appropriate regulatory agency, architectural approval from the Committee shall be required for the construction, exterior modification, or addition to any structure on any Lot. The owner of the Lot upon which the construction, modification, or addition is desired shall submit to the Committee two (2) sets of documents as set forth herein:

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- a. Site Plan, grading plan, utility plan, setbacks, drainage, driveways, sidewalks (including sidewalks and driveways within street right-of-way, to be constructed at time of house construction)---all dimensioned---minimum scale 1:20.
- b. Building plan, patios, portals---all dimensioned---minimum scale 1:1/4"
- c. Elevations---all dimensioned---minimum scale 1:1/4"
- d. Stucco color or colors.
- e. Exterior colors (wood beams, windows, doors, etc.)
- f. Landscape plan and irrigation plan, (landscape plan shall include landscaping of planter strip between sidewalk and street curb, per subdivision development plan or as amended)---minimum scale 1:20.
- g. Plan sheet size 36"x24"

3.2 Consideration by Committee. Upon receipt of Plan Review Fee sec. 3.7 and Performance Escrow sec. 3.8 and submission of architectural, site plans and other items as noted in sec. 3.1, the Architectural Committee shall proceed to examine and consider the same and to act thereon by approving or disapproving the same, in whole or in part, within thirty (30) days after receipt. If the Association fails to approve or disapprove within the time specified, the plans submitted shall be deemed finally approved. Except for members of the Committee who are representatives of the Declarant, no member of the Association shall participate in the consideration of his own application, nor in the consideration of an application relating to a Lot contiguous to any Lot owned by such member of the Committee. In such cases, the Committee shall appoint a temporary member for consideration of the application. For purposes of this section, a Lot shall be considered contiguous if separated from the Lot of a Committee member by a road.

3.2.1 Variances. The architectural Committee shall have the authority to consider approving variances if in their opinion the variance improves the subdivision appearance, reduces neighborhood impact with respect to noise, traffic and the variance does not reduce the quality of life or value of surrounding homes.

3.3 Approval of Plans. Should the proposed construction, modification, or addition comply with requirements and standards set forth in these covenants, in the opinion of a majority of the members of the Committee, the plans shall be finally approved by written report within the time specified above. The original of said report shall be furnished to the owner making the submission, indicating said final approval, and approval shall be endorsed on the plan submitted by the Owner. Approvals as provided by Committee are for architectural style, color and related issues, NO assurances, approvals or review of ordinances or building code issues will be addressed.

3.4 Disapproval of Plans. Should the proposed construction, modification, or addition, or any part thereof, violate, be in conflict with, or fail to meet any requirement or standard set forth in these covenants, in the opinion of the majority of the members of the Committee, the plans or the pertinent parts thereof shall be disapproved by written report within the time specified above and specifying all reasons for the disapproval, and the original of said report shall be furnished to the owner making the submission. Said notice shall specify if any portion of the said plans and specifications are finally approved, if any, for construction.

3.5 Appeal of Committee Decision. Disapproval of plans may be appealed by the Owner at the next annual or special meeting of the members of the Association and reversed, in whole or in part, by a favorable vote of at least two-thirds of the votes cast at said meeting at which a quorum is present.

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3.6 Architectural Standards. In addition to required compliance with all the provisions of these covenants, standards for architectural approval are:

3.6.1 The type of construction and architecture shall be based upon Pueblo Spanish Revival or Territorial Style architecture. Moderate modifications of the foregoing styles in reasonable, innovative, and creative ways are permitted and encouraged. The use of flat roofs with parapet walls and construction materials having the appearance of local, indigenous, and traditional building materials is encouraged and favored. Other materials may be used where their use will be in accordance with sound architectural practice and will be visually inoffensive in the sole discretion of the Declarant or the Committee, as the case may be.

3.6.1 (a) All masonry block structures (including walls) and frame structures shall be covered with waterproofing paper prior to lathing and plastering so as to control moisture “bleed-through” of masonry joint lines and sheathing joints.

3.6.1 (b) Approval of a building plan or structure or the determination of permissible or prohibited architectural styles shall be in the sole discretion of the Architectural Control Committee. The only requirement for the ACC shall be that it act in good faith for the benefit of all the Owners of all the Lots in the subdivision.

3.6.2 Exterior Colors. The color of all Structures, walls, or fence materials shall predominately be matte mid-range colors or earth tones within the Subdivision. “Chocolate” browns or white colors shall not be permitted as predominant colors. Stone surfaces shall be in their natural color and must be of local earth tones. Entries and portals may be emphasized by the use of matte off-white (yeso) or other colors or materials permitted hereunder. Painting or staining of the exterior of Structures with bold repetitive patterns is prohibited. Stucco colors are limited to mid range earth tones and must be approved by the Committee. Nonreflective, earth tone finishes are required for all exterior surfaces. The only requirement of Declarant or the Committee, in exercising its powers, shall be that it act in good faith for the benefit of all the owners and general subdivision best interest. Applicant must submit exterior paints and stain colors at application for construction approval on all items not of stucco or of a stone surface.

3.6.3 Structure Height. No structure placed on any Lot shall have a height that exceeds that permitted by approved Development Plan. Two-story residential units are allowed only on those lots noted on development plan.

3.6.4 Garage Doors/gates. Garage doors and gates must be designed as part of house plan, the garage doors must be installed. Garage doors cannot be removed for garage conversions and must be maintained for appearance. Garage doors and other gates must be painted or stained to the same color scheme as the main structure. Exterior colors must be approved.

3.6.5 Modifications/Additions. All construction, modification, or addition shown on plans submitted must comply with applicable zoning ordinance and regulations, and applicable building and safety regulations and codes. Approvals when given by the Committee are for general conformance with subdivision architectural standards and make no representations as to building or zoning codes.

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The construction, modification, or addition as shown on the plans submitted shall cause the least disturbance to, and change in the natural topography and vegetation of, the Lot, consistent with the reasonable use and enjoyment of the Lot. To that end, construction envelopes and setbacks designated on the Development Plan shall be shown on site plans and submittals to the committee, and construction activities shall be confined to this area.

3.7 Fee for Review of Plans. Each applicant for approval of plans shall pay to the Association a fee sufficient to pay the association's costs and expenses incurred in having plans and specifications examined by a person or firm designated by the association. The amount of the filing fee shall be as designated in the "Bylaws of the Association", and may be changed from time to time as determined by the Board of Directors. Plans will not be considered until filing or architectural fees have been received.

3.8 Performance Escrow. Prior to commencement of construction on any Lot the Lot Owner shall provide cash or other acceptable financial surety in the amount of One Thousand Dollars (\$1,000.00) to the Declarant, to be placed in escrow for the purpose of insuring compliance with the plans approved by the Architectural Committee and adherence to subdivision covenants and regulations. Or if the Lot Owner fails to install all improvements according to the plans and subdivision covenants/regulations, the Declarant shall have the right to complete such improvements using the \$1,000.00 held in escrow. Or if Lot Owner, his contractor or subcontractors damage subdivision infrastructure (ie. Streets, curb/gutters) and fail to repair or replace such damages, Declarant shall have the right to repair or replace such damages using the \$1,000.00 held in escrow, should repair or replacement costs exceed escrow amount declarant may seek additional damages, ref. sec. 8.1.2. Upon completion of all improvements installed by the Lot Owner or others and subdivision repairs or replacement as required, the Lot Owner will request a final inspection of improvements and make application for refund of escrowed money less deducted cost adjustments from the Declarant, or authorized representative. Declarant while maintaining a financial guarantee with the applicable public agency and retaining a majority of the Associations voting shares shall be exempt from providing a Performance Escrow.

Article 4 - The Association, Membership and Voting Rights

4.1 The Association. The **Plaza Bonita** Homeowners Association has been duly Incorporated and organized under New Mexico law, pursuant to the Articles of Incorporation (for nonprofit corporations), attached hereto as Exhibit C, and incorporated herein by this reference (hereinafter, as may be hereafter amended or replaced from time to time, collectively referred to as the "Articles"). The membership of the Association, powers and duties of members, and powers and duties of the Association are specified in the Articles and in the Bylaws of the Association, as they may be amended from time to time, and as supplemented herein.

4.2 Function of the Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Property within the subdivision. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board of Directors may adopt.

4.2.1 The Association shall appoint three (3) Architectural Committee members responsible for administering the architectural standards and controls set forth in this Declaration. The "Architectural Committee" (hereinafter sometimes referred to as the "Committee or ACC") for

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the subdivision is hereby established and consists initially of three (3) appointed persons and a representative of the Declarant.

4.3 **Membership.** Every Owner shall be a Member of the Association. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. All such co-owners shall be jointly and severally obligated to perform the responsibilities of Owners.

4.4 **Classes of Voting Membership.** The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Class B Member, if any, and shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2018.

Article 5 - Maintenance

5.1 Association's Responsibility.

5.1.1 The Association shall maintain and keep in good repair the Common Property. The Board shall contract with a licensed contractor to inspect, clean, and perform preventive maintenance on all improvements related to drainage on a semi-annual basis in the spring and fall.

5.1.2 There are hereby reserved to the Association easements over the Property as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the improvements within the Common Property in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless seventy-five percent (75%) of the Class A votes and the Class B Member agree in writing to discontinue such operation.

5.1.3 The Association shall maintain other property which it does not own, including, publicly owned property, as part of the Common Property, including all landscaping and other flora, structures, and improvements, bike and pedestrian pathways or trails shown on the Plat and landscaping and other flora within any public utility easements and the cultural properties preservation easements shown on the Plat and other property dedicated to public use.

5.1.4 Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Property, at the election of the Board, shall be a Common Expense to be allocated among all Lots in the manner of and as a part of the Base Assessment,

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without prejudice to the right of the Association to seek reimbursement from the Owners of, or other Persons responsible for, certain portions of the Common Property pursuant to this Declaration, other recorded covenants, or agreements with the Owners thereof.

5.2 **Owners Responsibility.** Each Owner shall maintain his or her Lot and all structures, parking areas, landscaping and other improvements comprising the Lot, adjacent planter strips and its improvements in a clean, orderly and safe condition. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with sec. 7.6. The Association shall afford the Owner reasonable or 30 day notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation constituting health and safety.

5.2.1 All Trees, Shrubs or other plantings as located in planter strip located adjacent to homeowners lot between sidewalk and street curb are conveyed to homeowner as subdivision improvements to lot, homeowner shall water and maintain all plantings. The Association shall afford the Owner reasonable notice and opportunity to cure or replace plantings noted as "homeowner responsibility" and may assess all costs incurred by the Association to replace or repair landscaping in accordance with sec. 5.2-7.6 (ref.2.2.1).

Article 6 - Insurance and Casualty Losses

6.1 **Association Insurance.** The Association, acting through its Board or its duly authorized agent, shall obtain:

6.1.1 Blanket all-risk property insurance, if reasonably available, for all insurable improvements on the Common Property. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to the Common Property, rights-of-way, medians, easements, and trails which the Association is obligated to maintain. If blanket all-risk coverage is not generally available at a reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief. The face amount of the policy shall be sufficient to cover the full replacement cost of the insured property. The cost of such insurance shall be a Common Expense to be allocated among all Lots subject to assessment as part of the annual Base Assessment.

6.1.2 Public liability policy on the Common Property, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at a reasonable cost, the public liability policy shall have at least a \$1,000,000.00 combined single limit as respect to bodily injury and property damage and at least a \$3,000,000.00 limit per occurrence and in the aggregate.

6.2 **Premiums.** Premiums for all insurance on the Common Property shall be Common Expenses and shall be included in the Base Assessment.

6.3 **Deductible.** The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the required coverage. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner

as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice to the Owner, that the loss is the result of the negligence or willful conduct of one or more Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Lot of such Owner or occupant, pursuant to sec. 7.6.

6.4 **Policy Form.** All insurance coverage obtained by the Association shall:

6.4.1 Be written with a company authorized to do business in New Mexico which holds a Best's rating of A or better and is assigned a financial size category of IX or larger as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

6.4.2 Be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members.

6.4.3 Vest in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

6.4.4 Not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

6.4.5 Have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Santa Fe County, New Mexico area.

6.5 **Provisions.** The Board shall use reasonable efforts to secure insurance policies containing endorsements that:

6.5.1 Waive subrogation as to any claims against the Association's Board, officers, employees, and its manager, if any, the Owners and their tenants, servants, agents, and guests.

6.5.2 Waive the insurer's rights to repair and reconstruct instead of paying cash.

6.5.3 Preclude cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure.

6.5.4 Exclude individual Owners' policies from consideration under any other insurance clause.

6.5.5 Require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

6.6 **Fidelity Bond.** To the extent such coverage is available at a reasonable cost, the Association also shall obtain, as a Common Expense, a fidelity bond or bonds, if generally available at reasonable cost, covering all persons responsible for handling Association funds. The Board shall determine the amount of fidelity coverage in its best business judgment but, if reasonably available, shall secure coverage equal to not less than one-sixth (1/6) of the annual Base Assessments on all Lots plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Article 7 - Assessments

7.1 Creation of Assessments.

7.1 **Mutual Covenants to Pay Assessments.** Each Lot Owner, excepting therefrom the Declarant, by acceptance of a deed to a Lot, covenants and agrees with each other and with the Association, to pay all assessments levied by the Board of Directors, as required in this Declaration, whether or not such covenant is contained in such deed. The Developer shall be exempt from paying assessments on those lots held for initial sale.

7.1.1 All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by New Mexico law), late charges, costs, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in sec. 7.8. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

7.1.2 Assessments shall be paid in such manner and on such dates as the Board may establish. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

7.1.3 The Association shall, within ten (10) business days, upon written request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

7.1.4 No Owner may exempt herself of himself from liability for assessments, by nonuse of the Common Property, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for

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inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

7.1.5 The Association is specifically authorized to enter into subsidy contracts or contracts for in kind contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

7.2 **Creation of Common Expenses Fund.** The Board shall establish a "Common expense Fund" to enable the Association and the Board to exercise the powers and perform the right, obligations and duties stated herein. Such fund shall be funded by assessments as hereinafter provided to be paid by all Owners including Declarant, provided, however, until the Association makes an assessment for the Common Expenses Declarant shall pay all Common expenses on unsold lots. Such fund shall be administered on a fiscal year basis. The first assessment shall be determined by the Board in accordance with this Declaration and the Bylaws of the Association and shall be prorated over the Association's fiscal year commencing with the date set by the Board for the first assessment.

7.3 **Computation of Base Assessment.**

7.3.1 At least ninety (90) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year and a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in sec.7.4. The budget shall include all estimated costs for the inspection and maintenance as provided in the Drainage Declaration.

7.3.2 The Base Assessment shall be levied equally against all Lots and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under sec. 7.7 on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

7.3.3 The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under sec. 7.2 above), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy and the nature thereof shall be conspicuously disclosed as a line item in the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

7.3.4 The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner at least sixty (60) days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Voting Members representing at least seventy-five percent (75%) of the total Class A votes in the Association and by the Class B Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on

petition of the Owners as provided for special meetings in the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the notice of assessments.

7.3.5 If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

7.4 **Reserve Budget.** The Board shall annually prepare reserve budgets for general purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. As part of establishing a reserve budget, the Board shall create a maintenance and repair plan for the Common Property. The Board shall set the assessments in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Assessments over the budget period.

7.5 **Special Assessments.** In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Owners representing at least fifty-one percent (51%) of the votes allocated to Lots, and the affirmative vote or written consent of the Class B Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

7.6 **Specific Assessments.** The Board shall have the power to levy Specific Assessments against a particular Lot or Lots constituting less than all Lots within the Property:

7.6.1 To cover costs, including overhead and administrative costs.

7.6.2 To cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the Bylaws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing before levying in Specific Assessments under this subsection 7.6.

7.6.3 To cover costs required for repair of common property when damaged by lot owner or replace and maintain landscape materials as defined in sec. 2.2.

7.7 **Date of Commencement of Assessments.** The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

7.8 **Lien for Assessments.**

7.8.1 All assessments authorized in this Article shall constitute a lien against the Lot against which they are levied until paid. The lien shall also secure payment of interest, late charges

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(subject to the limitations of New Mexico law), and costs of collection (including attorney's fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may enforce such lien, when delinquent, by suit, judgment, and foreclosure.

7.8.2 The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal *pro rata* share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

7.8.3 The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under sec. 7.7, including such acquirer, its successors and assigns.

7.9 **Failure to Assess.** Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

7.9 **Capitalization of Association.** Upon acquisition of record title to a Lot by a purchaser from the Declarant and each purchase thereafter, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) the annual Base Assessment per Lot for that year, or \$300.00, whichever amount is greater. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be paid to the Association from the closing, for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

7.10 **Exempt Property.** The following property shall be exempt from payment of Base Assessments and Special Assessments:

7.10.1 All Common Property.

7.10.2 Any property dedicated to and accepted by any governmental authority or public utility.

7.10.3 Any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Lot which is subject to assessment under sec. 7.7 (in which case the Lot shall not be exempt from assessment).

In addition, the Declarant shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in tax501(c).

Article 8 - Damage to Common Property or Maintained Property

8.1 Damage and Destruction.

8.1.1 Immediately after damage or destruction to all or any part of the Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

8.1.2 Any damage to or destruction of the Common Property shall be repaired or reconstructed unless at least seventy-five (75%) of the total Class A voters in the Association, and the Class B Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct.

8.1.3 If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Property shall be repaired or reconstructed.

8.1.4 If determined in the manner described above that the damage or destruction to the Common Property shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association in a neat and attractive, landscaped condition.

8.2 **Disbursement of Proceeds.** Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Eligible Mortgagees and may be enforced by the Eligible Mortgagees of any affected Lot.

Article 9 - General Provisions

9.1 **Term.** This Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, *in perpetuity*.

9.2 **Amendment.**

9.2.1 **By Declarant.** Until termination of the Declarant Control Period, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure or guarantee mortgage loans on the Lots; or (iv) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as the Declarant still owns any Lot, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

9.2.2 **By Owners.** Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of seventy-five percent (75%) of the total Class A votes in the Association, including seventy-five percent (75%) of the Class A votes held by Members other than the Declarant, and the consent of the Declarant, so long the Declarant has an ownership interest in a Lot or the Tract. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

9.3 **Validity and Effective Date of Amendments.** Amendments to this Declaration shall become effective upon recordation in the land records of Santa Fe County, New Mexico, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

9.3.1 **Owners' Consent.** If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

9.4 **Severability.** Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

9.5 **Arbitration.** Except as otherwise expressly set forth in this Declaration, any disputes arising under this Declaration shall be resolved in accordance with the rules of the American Arbitration Association as then in effect. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration; (b) proceedings involving challenges to *ad valorem* taxation; or (c) counterclaims brought by

the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

9.3 **Compliance.** Every Owner and occupant of any Lot shall comply with this Declaration, the Bylaws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Lot Owner(s).

9.4 **Notice of Sale or Transfer of Title.** Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

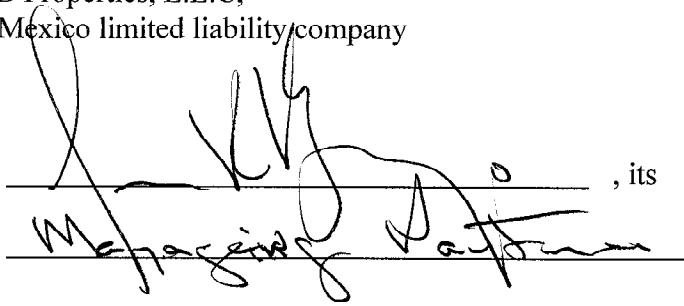
9.5 **Enforcement.** The Board, The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of litigation, the prevailing party shall be awarded costs and reasonable attorney's fees.

**Declaration of Covenants
For**

PLAZA BONITA SUBDIVISION

L.B & B Properties, L.L.C,
a New Mexico limited liability company

By

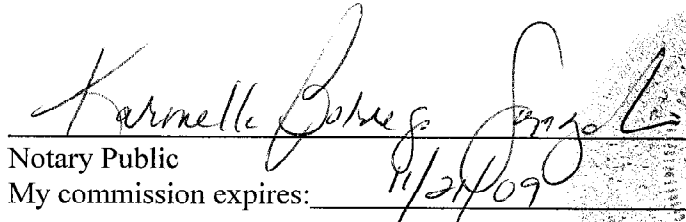

_____, its
Managing Director

State of New Mexico)

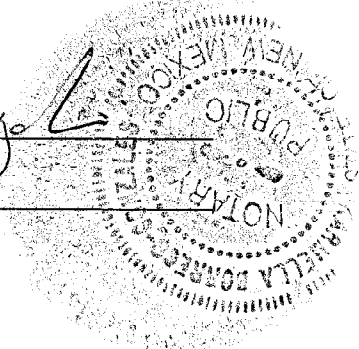
) ss.

County of Santa Fe)

This instrument was acknowledged on May 2, 2006 by James R. Boney
its Manager, for and on behalf of
L.B & B Properties, LLC.



Notary Public
My commission expires: 11/21/09



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**BYLAWS
OF
PLAZA BONITA HOME OWNERS' ASSOCIATION**

The affairs of the PLAZA BONITA Home Owners Association, a New Mexico non profit corporation, (hereinafter referred to as the "Association", shall be administered and regulated pursuant to the following Bylaws, to-wit:

ARTICLE I
Object

1.01 Purpose. The purpose for which this non-profit corporation is formed is to govern the real estate subdivision situated in the County of Santa Fe, State of New Mexico, which is known as the "Plaza Bonita Home Owners' Association", and which property is protected pursuant to the provisions of the Declaration of Protective Covenants for the Plaza Bonita Home Owners' Association (hereinafter referred to as the ("Declaration")) filed for record on June 2, 2006 in Book 625, Page 419. These Bylaws are subject to the provisions of the Declaration and, in the event any Bylaw adopted by the Association is or becomes inconsistent with the Declaration, the provisions of the Declaration shall control and such Bylaw shall be void ab initio.

1.02 Owners Subject to Bylaws. All present or future Owners, present or future Occupants, or any other person or entity that might use in any manner any improvement on or any portion of the Subdivision are subject to the regulations set forth in these Bylaws. The mere acquisition or rental by any person of any of the Lots of the Subdivision or the mere act of occupancy of any of said Lots will signify that these Bylaws are accepted, ratified and will be complied with by such person.

ARTICLE II
Definitions

2.01 Reference to Declaration. All definitions stated in the Declaration are incorporated herein by reference as if fully restated in these Bylaws.

ARTICLE III
**Membership, Voting, Majority of Owners,
Quorum, Proxies**

3.01 Membership. Ownership of a Lot is required in order to qualify for membership in the Association. Any person or persons on becoming an Owner of a Lot shall automatically become a member of this Association and be subject to these Bylaws and the Declaration. Such membership shall terminate without any formal Association action whenever such person ceases to own a Lot, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with this Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and member arising out of or in any way connected with Lot ownership, Association membership, and the Declaration or obligations incident thereto.

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3.02 Voting Rights: The Association shall have two classes of voting membership:

(a) Class A Class A members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with the respect to any Lot.

(b) Class B Class B member(s) shall be the Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall reduce to one vote per Lot owned, as is Class A membership, after the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership.

(c) Each Lot Owner or Owners shall be entitled to single vote as provided in this Article on all matters properly submitted for vote to the membership of the Association. Every Owner entitled to vote at any election of members of the Board may cumulate his votes and give any one or more candidates a number of votes equal to the number of votes to which the Owner is entitled, multiplied by the number of Directors to be elected. The right to vote may not be severed or separated from any Lot, and any sale, transfer or conveyance of the beneficial interest of the fee of any Lot to a new Owner shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto.

(d) If title to any Lot shall be held by two or more persons, then each such co-tenant shall be a member of this Association and shall be entitled to a vote equal in weight to such co-tenant's percentage of ownership of the Lot multiplied by the percentage of ownership within the Subdivision appurtenant to such Lot. The co-tenant's percentage of ownership of a Lot shall be determined by the title document for such Lot; in the absence of specific limitation, co-tenants shall be presumed to have equal undivided interests. Any one co-tenant owner of a Lot attending a meeting may, and shall be deemed to have, the authority to cast a single vote of all other co-owners of that Lot who are absent from such meeting and have not executed a proxy with respect to their vote thereat.

0.03 Definition of Percentage. When any provision of the Declaration or Bylaws calls for the vote or the consent of the members in any stated percentage, the following rules apply, unless the specific language of the provision provides to the contrary:

(a) whenever a vote of the members is required, it is sufficient to obtain the written consent of members having the same percentage of votes; and

(b) the percentage requirement shall be a percentage of the total voting power of the Association or of the total voting power of the required class or group and not a percentage of the number of members of the Association, class or group.

"Voting Power of the Association" means the total number of votes of all members at the time the pertinent vote is to be taken.

Any provision of this Declaration requiring a vote by the members shall be satisfied is the required percentage or number of members give their written consent. In any election held pursuant to the requirements of this Declaration, ballots may be transmitted to Owners in the manner provided for in Paragraph 4.05 of Article IV of these By Laws.

3.04 Notice by Lot Owner. It shall be the duty of the Owner of each Lot to give written notice to the Secretary of the Association of the name of the individual or Person

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authorized to vote on behalf of such Owner. In the event no such notice has been filed with the Secretary, such Owner shall thereby waive his right to vote on any Association matter until such notice is given.

3.05 Proxies. A vote may be cast in person or by proxy. Proxies shall be duly executed in writing and shall be valid only for the particular meeting designated therein.

3.06 Quorum. Except as otherwise provided, the presence in person or by proxy of Lot Owners of twenty percent (20%) or more of the votes in the Association shall constitute a quorum at meetings of the Association.

3.07 Conduct of Meetings. The President shall preside over all meetings of the Association and Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

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ARTICLE IV
Administration

4.01 Association Responsibilities. The Owners of the Lots will constitute the Home Owners' Association, which will have the responsibility of administering the Subdivision through a Board of Directors.

4.02 Place of Meeting. Meetings of the members of the Association shall be held at such place as the Board of Directors may determine within Santa Fe County, New Mexico.

4.03 Annual Meeting. The first annual meeting of the members of the Association shall be held on a date selected by the Board of Directors between September and December. Thereafter the annual meetings of the Association shall be held on a date selected by the Board of Directors between September and December of each year. At such meetings there shall be election, by ballot, for the members a Board of Directors subject to election in accordance with the requirements of paragraph 5.05 of Article V of these Bylaws. The members may also transact such other business of the Association as may properly come before the meeting.

4.04 Special Meeting. It shall be the duty of the President to call a special meeting of the members of the Association as directed by resolution of the Board of Directors or upon petition signed by members having at least twenty percent (20%) of the voting power of the Association, which resolution or petition shall be presented to the President. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of members having at least seventy-five percent (75%) of the voting power of the Association, either in person or proxy. Any such meeting shall be held within thirty (30) days after receipt by the President of such resolution or petition.

4.05 Notice of Meeting. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each member of the Association, at least fifteen (15) days and not more than sixty (60) days prior to such meeting or as otherwise provided herein. The mailing of a notice in the manner provided in this paragraph shall be considered notice served. The certificate of the Secretary that notice was properly given as provided in these Bylaws shall be prima facie evidence thereof. Notices of meetings shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, any Annual Budget changes and any proposal to remove the Director.

4.06 Adjourned Meetings. If any meeting of members of the Association cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time, for periods of no longer than a week, until a quorum is obtained or until a conclusion can be reached. For the purpose of this section a quorum will constitute a simple majority of the members present at the meeting. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

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4.07 Rules of Meetings. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and of the members of the Association and in the absence of such rules, Robert's Rules of Order shall be used.

ARTICLE V **Board of Directors**

5.01 Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. The number of directors may be increased by amendment of the Declaration and these Bylaws; provided, however, that the number of directors shall not be reduced to less than three (3). Until their initial terms expire, the Board of Directors shall consist of those individual's names as such in the Association's Articles of Incorporation. Such original Directors need not be members of the Association.

5.02 Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association. The Board of Directors may do all such acts and things as are not by law or by the Articles of Incorporation or these Bylaws or by the Declaration directed to be exercised and done by the Owners.

5.03 Other Powers and Duties. In addition to the powers and duties permitted by law, the Board of Directors shall be empowered and shall have the duties as follows:

(a) to administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration, the Articles and these Bylaws;

(b) to adopt, establish, make publish and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use and occupancy of the Subdivision with the right to amend same from time to time; a copy of such rules and regulations shall be delivered to or mailed to each member promptly upon adoption thereof;

(c) to keep in good order, condition and repair all of the private roadways within the Subdivision;

(d) to fix, determine, levy and collect periodically, the prorated assessments to be paid by each of the Owners towards the gross expenses of the entire Subdivision and to adjust, decrease or increase the amount of the assessments, and to credit any excess of assessments over the expenses and cash reserves to the Owners against the next succeeding assessment period; to levy and collect special assessment whenever in the opinion of the Board it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies; all assessments shall be in statement form and shall have set forth the detail of the various expenses for which the assessments are being made;

(e) to impose penalties and collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an Owner as is provided in the Declaration and these Bylaws;

(f) to establish a bank account for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors;

(g) to keep and maintain detailed, and accurate books and records showing in chronological order all of the receipts, expenses or disbursements pursuant to appropriate specificity and itemization and to permit examination thereof at any reasonable time by each of the Owners and Mortgagees, and upon affirmative vote of at least a majority of the Lot Owners, to cause a complete audit to be made of the books and accounts by a competent certified public accountant;

(h) to prepare and deliver annually to each Owner a statement showing all receipts, expenses or disbursements since the last statement;

(i) to foreclose the lien against a Lot for default in the payment of assessments for Association expenses;

(j) to designate and remove the personnel necessary to carry out the duties and responsibilities of the Association;

(k) to provide for reimbursement of expenses, if any, of directors and officers and for reasonable compensation of employees of the Association; this provision shall not preclude the Board of Directors from employing a director as an employee of the Association nor preclude the contracting with a director for the management of the Subdivision in accordance with the provisions of Section 5.16 of this Article;

(l) to declare the office of a member of the Board of Directors to be vacant in the event such director shall be absent from three (3) consecutive meetings of the Board of Directors;

(m) to suspend the voting rights of a member of the Association for failure to comply with these Bylaws or the Regulations of the Association or with other obligations of the Owners pursuant to the Declaration;

(n) to acquire, hold and dispose of Lots and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association; and

(o) in general, to carry on the administration of this Association and to do all of those things, necessary and reasonable and not inconsistent with the Act, the Declaration and these Bylaws, in order to carry out the governing and operation of the Subdivision.

5.04 Managing Agent. The Board of directors may employ for the Association a managing agent, at a compensation established by the Board of Directors, to perform such day-to-day management duties and services as the Board of Directors shall delegate and authorize. The term of any contract with a managing agent shall not exceed three (3) years.

5.05 Election and Term of Office.

(a) At the first annual meeting of the Association, the initial term of office of two (2) members of the Board of Directors shall be fixed at three (3) years. The initial term of one (1) director shall be two (2) years and of one (1) director one (1) year. As each such initial term expires, the next successive term shall be for three (3) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected.

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(b) Only persons qualified to be members of the Board of Directors may be elected.

5.06 Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the members of the Association shall be filled by decision of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the members of the Association.

5.07 Removal of Directors. At any regular or special meeting of the members of the Association duly called, any one or more of the directors, excepting any director named in the Articles of Incorporation, may be removed with or without cause by the vote of a majority of the Lot Owners, and a successor may then and there be elected to fill each vacancy thus created. Any director whose removal has been proposed by the members shall be given the opportunity to be heard at the meeting.

5.08 Organizational Meeting. The first meeting of newly elected Board of Directors shall be held within thirty (30) days of election at such place as shall be fixed by the directors at the meeting at which such directors were elected and no notice shall be necessary to the newly elected directors in order to legally constitute such meeting, providing a majority of the whole Board of Directors shall be present.

5.09 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, for time to time, by a majority of the directors but at least one such meeting shall be held each year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, or telephone at least seven (7) days prior to the day named for such meetings. There shall be a regular meeting of the Board of Directors immediately following the annual meeting of members of the Association held pursuant to paragraph 4.03 hereof, and notice of such annual meeting to members of the Association in accordance with paragraph 4.05 hereof shall be deemed notice to each director of such regular meeting.

5.10 Special Meetings. Special meetings of the Board of Directors may be called by the President on seven (7) days notice to each Director, given personally, or by mail, or telephone, which notice shall state the time, place (as herein provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

5.11 Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

5.12 Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the directors present shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time for periods of no longer than one week until a quorum is obtained or until a conclusion can be reached. At any such adjourned meeting, any

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business that might have been transacted at the meeting as originally called may be transacted without further notice.

5.13 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting that they could take at a meeting by obtaining the written approval of all of the directors. Any action so approved shall have the same effect as though taken at a meeting of the Board. Notwithstanding the foregoing, regular or special meetings of the Board of Directors may be held by telephone conference.

5.14 Compensation. The members of the Board of Directors shall serve without salary or compensation, but shall be reimbursed for out-of-pocket expenses authorized by the Board of Directors.

5.15 Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds, furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

5.16 Common of Interested Directors. Each member of the Board of Directors shall exercise his powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any of its directors, or between the Association and any corporation firm or association (including the Declarant) in which any of the directors of the Association are directors or officers or are pecuniary or otherwise interested is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(b) The fact of the common directorate or interest is disclosed or known to Owners having at least a majority of the voting power of the Association, and the Owners approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(c) The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

(d) Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such director were not such director or officer of such Association or not so interested.

ARTICLE VI
Officers

6.01 Designation. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors.

6.02 Election of Officers. The officers of the Association shall be elected annually, from the membership of the Association, by the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board. Vacancies in the officers of the Association shall be filled by the Board. One person may hold concurrently the office of Vice President and Secretary or Vice President and Treasurer, but the offices of Secretary and Treasurer shall not be held concurrently by one person. All officers, except the initial officers and the secretary, must be members of the Association or officers or directors of corporate owners, partners in any partnership or trustees of any trust owning a Lot, or other Persons similarly situated.

6.03 Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without the cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for that purpose.

6.04 President. The President shall be elected from among the Board of Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of president of a non-profit corporation, including but not limited to the preparation, execution, certification and recordation of amendments to the Declaration, the power to appoint committees from among the members from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the members of the Association at any regular or special meetings.

6.05 Vice President. The Vice President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President, or due to the President's inability for any reason to exercise such powers and functions or perform such duties.

6.06 Secretary. The Secretary shall keep all the minutes of the meetings of the Board of Directors and have minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of members and their last-known addresses as shown on the records of the Association.

Such list shall also show opposite each member's name the number or other appropriate designation of the Subdivision, the Lot owned by such member, and the number of votes assigned to such Lot. Such list shall be opened to inspection by members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

6.07 Treasurer. The Treasurer shall have the responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors, and shall pay all charges and obligations of the Association before the same shall become due.

ARTICLE VII
Indemnification and Liability

7.01 Indemnification. The Association shall indemnify every director and officer of the Association, and their heirs, executors, administrators, successors and assigns against all costs and expenses, including attorneys' fees, actually and necessarily incurred in connection with any action, suit or proceeding to which such person may be made a party by reason of being or having been a director or officer of the Association, except as to matters as to which such person shall be finally adjudged in such action, suit or proceeding to be liable for actual negligence or misconduct. In the event of a settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of actual negligence or misconduct in the performance of his duty as such director or officer in relation to the matter involved.

The foregoing rights shall not be exclusive of other rights to which such director or officer may be entitled. all liability, loss, damage, costs and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as Common Expenses. Nothing contained in this Section shall, however, be deemed to obligate the Association to indemnify any Owner who is or has been a director or officer of the Association with respect to any duties or obligations assumed or liabilities incurred as an Owner under or by virtue of the Declaration, or his ownership or a Lot, as distinguished from his conduct and activities as an officer or director of the Association.

7.02 Non-Liability of the Directors and Officers. No director or officer of the Association shall be personally liable to the members of the Association for any mistake of judgment or for any acts or omissions of any nature whatsoever as such director or officer, except for any acts or omissions found by a court to constitute actual negligence or misconduct. No director or officer shall be personally liable with respect of any contract made by them on behalf of the Association.

7.03 Liability of Owners. The liability of any Owner arising out of any contract made by the officers or Board of Directors, or out of the aforesaid indemnity in favor of the members of the Board of Directors or officers, or for damages as a result of injuries arising in connection with the Common Elements solely by virtue of his ownership of an undivided percentage interest therein or for liabilities incurred by the Association, shall be limited to the total liability multiplied by such undivided percentage interest. Every agreement made by the officers, the Board of Directors or managing agent on behalf of the Association shall, if obtainable, provide that the officers, the members of the Board of Directors or the managing agent, as the case may be, are acting only as agents for the Association and shall have no person liability thereunder (except as Owners), and that each Owner's liability thereunder shall be limited to the total liability thereunder multiplied by his Common Expense liability.

7.04 Non-Liability of Association. The Association shall not be liable for any service to be obtained by the Association or paid as a Common Expense. The Association shall not be liable to any Lot Owner for loss or damage, by theft or otherwise, of articles that may be stored upon any of the Lots. No diminution of abatement of any assessments, as provided in the Declaration or these Bylaws, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Easements or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other government authority.

ARTICLE VIII
Mortgages

8.01 Notice to Association. An Owner who mortgages his Lot shall notify the Association through the managing agent, if any, or the Secretary of the Association, giving the name and address of his Mortgagee. The Association shall maintain such information in a book entitled "Mortgage of Lots."

8.02 Notice of Unpaid Assessments. The Association shall, at the request of the Mortgagee of a Lot, report any unpaid assessment due from the Owner of such Lot upon the payment of such reasonable charge as may be determined by the Board.

ARTICLE IX
Evidence of Ownership and Registration of Mailing Address

9.01 Proof of Ownership. Except for those Owners who initially purchase a Lot from Declarant, any person on becoming an Owner of a Lot shall furnish to the managing agent or Board of Directors a photocopy or a certified copy of the recorded instrument vesting that Person with an interest or ownership which instrument shall remain in the files of the Association. Such Person shall neither be deemed to be a member of the Association in good standing nor shall he be entitled to vote at any annual or special meeting of members of the Association unless this requirement is first met.

9.02 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association upon becoming an Owner of a Lot. Except for regular periodic assessment statements, notices of annual and special meetings as provided in the Bylaws, and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. In the event an Owner fails to register his address with the Association in accordance herewith, the Association shall send all notices, statements, demands, etc. to such Owner at the address of his Lot.

All notices, demands, or other notices intended to be served upon the Board or the Association shall be sent certified mail, postage prepaid, to the Plaza Bonita Home Owners' Association, c/o New Mexico Building Products, Inc., agent for service, 3056 Agua Fria Street, Santa Fe, N.M. 87507, until such address is changed by a notice of address change duly recorded in the office of the County Clerk of Santa Fe County, New Mexico. All notices, demands, statements or other information shall be deemed furnished and delivered to an Owner, Mortgagee or Person other than the Association upon deposit thereof in the U.S. mail or at a telegraph office, postage or charges prepaid, addressed to the party in accordance with this subparagraph, and in any event, upon actual receipt by such party.

ARTICLE X
Contracts, Signatories, etc.

10.01 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Association, in addition to the officer so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of this Association. Such authority shall be confined to specific instances.

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10.02 Checks and Drafts, etc. All checks, drafts, other orders for the payment of money, notes or other evidence of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as from time to time shall be determined by written resolution of the Board of Directors.

10.03 Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, financial institutions or other depositories as the Board of Directors may select.

ARTICLE XI
Books, Records, and Inspection Thereof

11.01 Maintenance. The Association shall keep correct and complete books and records of account and shall also keep minutes of the meetings of the members of the Association, and of the Board of Directors, and shall keep at the registered or principal office a record giving their names and addresses of all members of the Association. All books and records of the Association shall be open for inspection by any Owner or holder of a bona fide lien of the record against any Lot Ownership, or any representative of either, duly authorized in writing, at such reasonable time or times as may be requested by such Owner, lien holder, or representative.

ARTICLE XII
Fiscal Year

12.01 Waiver of Notice. The fiscal year of the Association shall end on the 31st day of December of each year, unless another fiscal year shall be adopted by resolution of the Board of Directors.

ARTICLE XIII
Waiver of Notice

13.01 Whenever any notice whatever is required to be given under the provisions of the laws of the State of New Mexico or under their provisions of the Declaration, Articles of Incorporation or by these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIV
Assessments

14.01 Mutual Covenants to Pay Assessments. Declarant, as owner of the Subdivision, covenants, and each Owner, by acceptance of a deed to a Lot, covenants and agrees with each other Owner and with the Association, to pay all assessments levied by the Board, as required in this Declaration whether or not such covenant is contained in such deed.

14.02 Creation of Common Expense Fund. The Board shall establish a "Common Expense Fund" to enable the Association and the Board to exercise the powers and perform the rights, obligations and duties stated herein. Such fund shall be funded by assessments as hereinafter provided, to be paid by all Owners, including Declarant; provided however, until the Association makes an assessment for the Common Expenses, Declarant shall pay all Common Expenses. Such fund shall be

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administered on a fiscal year basis. The first assessment shall be determined by the Board in accordance with this Declaration and the Bylaws of the Association and shall be prorated over the Association's fiscal year commencing with the date set by the board for the first assessment.

14.03 Annual Budget. Each year, after the first year, and at least seventy-five (75) days prior to the end of the Association's current fiscal year, the Board shall prepare and adopt a proposed estimate of the total amount it deems necessary for the Association's next fiscal year (hereinafter referred to as "Annual Budget") to pay the Common Expenses to be incurred to maintain and repair the roads and drainage structures, park and landscaping within the Easements. Within thirty (30) days after such adoption of the Annual Budget, the Board shall furnish each Owner an itemized copy thereof, together with notification of the date, time and place of the Association's annual meeting at which meeting the Owners will consider ratification of the Annual Budget. The annual meeting of the Association shall be set within the period set forth in the Declaration and shall be not less than fourteen (14) not more than thirty (30) days after mailing of the Annual Budget to the Owners described herein above. The Annual Budget shall be deemed ratified unless Owners having seventy-five percent (75%) of the voting power of the Association reject the Annual Budget at the annual meeting, regardless of whether or not a quorum is present at the annual meeting.

The Annual Budget shall be based upon the cash requirements deemed to be such aggregate sum as the managing agent or Board shall from time to time determine is to be paid by all of the Owners, including Declarant, to provide for the payment of all estimated Common Expenses which sum may include, among other things, expenses of management; premiums for all insurance in the amounts and types required hereunder; maintenance of private roadways, storm water management improvements, landscaping and care of grounds; common lighting; legal and accounting fees; management fees; expenses and liabilities incurred by the managing agent or Board under or by reason of this Declaration; for any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the Association's affairs and duties.

14.04 Assessments. Effective the first day of each such fiscal year after the first assessment made by the Association, each Owner, including Declarant if it is then an Owner, shall be assessed a sum equal to his percentage of Lot ownership of the total Subdivision Lots multiplied by the Annual Budget, which sum shall be paid by the Owner in quarterly installments on the first day of each of the quarters of each fiscal year, continuing until a new assessment is made by the Board. Assessments shall be limited to the phases of the SkyWest Business Park Owners' Association where infrastructure improvements have been installed by the Declarant. Each Owner is responsible for the monthly payment of water and sewer fees to the City of Santa Fe. The managing agent or Board shall prepare and deliver or mail to each Owner an itemized quarterly statement showing the various estimated or actual expenses for which the assessments are made and which vary from the itemized Annual Budget ratified by the Owners.

Contributions for quarterly assessments shall be prorated if the ownership of a Lot commences on a day other than the first day of a quarter. The omission or failure of the managing agent or Board to fix the assessment for any quarter shall not be deemed a waiver, modification or a release of the Owners from their obligations to pay the assessment for that period.

If the amount of the Annual Budget proves inadequate for any reason including, without limitation, non-payment of any Owner's assessment, the Board may at any time levy a

further assessment by increasing the Annual Budget and each Owner shall be assessed a sum equal to his percentage of ownership of Subdivision Lots multiplied by such increase; provided, however, extraordinary expenses omitted from the Annual Budget, which may become due during the fiscal year, shall first be paid from the replacement and contingency reserve; and provided further, if replacement and contingency reserve; and provided further, if inadequate funds exist during a fiscal year, the Association may borrow sufficient funds from Declarant or otherwise, but Declarant shall not be obligated to loan any funds to the Association. The Board shall give written notice of any such increase, and the reasons therefor, to each Owner, and shall state the date and terms of payment of such increase.

All such assessments collected shall be paid and expended for the purposes authorized herein, and (except for such special assessments as may be levied against less than all the Owners and for such adjustments as may be required to reflect delinquent or unpaid assessments) shall be deemed to be held for the benefit, use and account of all Owners in the same percentages as their percentage ownership of the total Subdivision Lots. Notwithstanding any other provision contained herein, no Owner shall have the right to demand that more than his pro rata share of the assessments collected be used to benefit his Lot.

14.05 Special Expenses. In the event any of the Easements, landscape or signage are damaged in any way through the intentional or negligent act or omission of any Owner or his agents, employees, or invitees, the expense incurred by the Association for the repair of such damage shall be deemed a Special Expense. Such Special Expenses shall be levied by the Board and assessed only to the Owner whose act or omission resulted in the aforementioned damage, and shall be paid by the Owner together with his next quarterly assessment due the Association.

Special Expenses shall include amounts assessed to any Owner for road damage or other subdivision infrastructure or subdivision improvements.

14.06 Architectural and Construction Filing Fees. . These Architectural and Construction Filing Fees may be amended by pursuant to section 17.01 of these Bylaws. No consideration of plans or specifications on any construction, additions or modifications to constructed items will be considered until all Architectural and Construction Fees have been submitted. Non payment of Architectural or Construction fees will be considered a Denial of Architectural Approvals.

a. Architectural Committee Review Filing Fee. The filing fee pursuant to Article III, Section 3.03 of the Covenants and Restrictions for Plaza Bonita Subdivision shall be initially established at one thousand dollars (\$1,000.00) and may be amended from time to time by the Members of the Association pursuant to section 17.01 of these Bylaws.

b. Construction Escrow Deposit. The Construction Escrow Deposit pursuant to Article

14.07 Annual Accounting. Together with the notice of the annual meeting of members, the Board shall furnish to all Owners, for the preceding fiscal year, an itemized accounting of all the Common Expenses actually incurred, paid or accrued, together with a statement of the total assessments collected, showing the net operating loss or gain. Any such gain, in excess of the amount required for incurred or accrued expenses and replacement and contingency reserves, shall be apportioned according to each Owner's percentage of ownership in the total Subdivision Lots as a credit against the next quarterly

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assessment(s), until exhausted; any such loss shall be apportioned according to each Lot Owner's percentage of ownership in the total Subdivision Lots, and added one-half (1/2) to each of the next two quarterly assessments.

14.08 Books of Account. The Board shall maintain current, detailed books of account in accordance with generally accepted accounting principles and procedures, which reflect all receipts, disbursements, assets and liabilities of the Association. Such books, records, purchase orders and payment vouchers shall be available for inspection by any Owner, or any duly authorized representative of any Owner, at reasonable times during normal weekday business hours. Any Owner's Mortgagee(s) shall be deemed an authorized representative of Owner. Upon ten (10) business days' notice to the Board and payment of a reasonable fee established by the Board, any Owner or his Mortgagee(s) may demand and be furnished a statement of his account reflecting the amount of any unpaid assessments or other charges due and owing from such Owner.

14.09 Lien for Non-payment of Common and/or Special expenses. All sums assessed and fines imposed by the Association, but unpaid, for the share of Common Expenses, including, without limitation, any assessment for Special Expenses and violations of this Declaration, the Bylaws or Regulations of the Association or Subdivision, chargeable to any Lot or its Owner shall constitute a lien on such Lot.

If any assessment shall remain unpaid for thirty (30) days after the due date thereof, the Board or managing agent shall assess interest thereon at a rate equal to eighteen percent (18%) per annum, commencing on the date such assessment was due, together with reasonable costs and any attorney's fees incurred in connection with the collection thereof.

In any foreclosure of such lien the Owner shall be required to pay the costs and expenses of such proceeding, all reasonable costs of collection and all reasonable attorney's fees. The Owner shall also be required to pay to the Association any assessment due for the Lot during the period of foreclosure. The managing agent or Board shall have the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

Any encumbrancer holding a lien on a Lot may pay, but shall not be required to pay, any unpaid Common and/or Special Expenses due with respect to such Lot, and upon such payment such encumbrancer shall have a lien on such Lot of the same rank as the lien of his encumbrance for the amounts paid.

The Association shall give notice to the Lot Owner and the Mortgagee(s) of a Lot of any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

14.10 Personal Debt of Owner. The amount of the Common and/or Special Expenses assessed against each Lot shall be the personal and individual debt of the Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid Common and/or Special Expenses shall be maintainable without foreclosing or waiving the lien securing same. Notwithstanding anything to the contrary contained herein, the Association shall seek any sums due for unpaid Common and/or Special Expenses from a Person imposition of a Lot pursuant to real estate installment sale contract for a period of forty-five (45) days following notice to such Person of unpaid Common and/or Special Expenses before seeking such sums from the legal Owner of such Lot.

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14.11 Disclosure of Unpaid Assessments. Upon payment of a reasonable fee established by the Board, and upon the Board's receipt of a written request from any Owner or any Mortgagee or prospective Mortgagee of a Lot, the Association, by its managing agent or Board, shall issue an acknowledged, recordable written statement in accordance with the provisions of 47-7C-16G, N.M.S.A. 1978, setting forth the amount of the unpaid Common and/or Special Expenses, of any, with respect to the subject Lot, the amount of the current quarterly assessment and the date that such assessment becomes due, and credits for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) business days of its actual receipt by the Association, all unpaid Common and/or Special Expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement. The Owner of any Lot Ownership, by acceptance of a deed thereto, waives any objection to the disclosure of the aforementioned information by the Association and releases the Association, the Board, and its agents from any liability therefor.

14.12 Joint Liability for Common and/or Special Expenses Upon Transfer of Lot. The grantee of a Lot shall be jointly and severally liable with the prior owner for all unpaid assessments against the latter for his proportionate share of the Common and/or Special Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right recover from the Declarant the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee established by the Board, and upon written request, any such prospective grantee shall be entitled to a statement from the managing agent or Board setting forth the amount of the unpaid assessments, if any, with respect to the subject Lot, the amount of the current quarterly assessment, the date that such assessment becomes due, and credits for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association. If such statement is not tendered by the Association within ten (10) business days of its actual receipt of such written request, then such requesting grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for any unpaid assessments against the subject Lot unless such lien has been recorded with the Santa Fe County Clerk prior to the date the request is received by the Association.

14.13 No Waiver of Common and/or Special Expenses. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Easements or his Lot, by abandonment of his Lot or by any other means whatsoever.

14.14 Liability of Owners. As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessment which is not paid when due shall be deemed to be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of eighteen (18) percent per annum. The Association may bring action at law against the Owner personally obligated to pay the same and foreclose the lien against the pertinent Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or escape liability for the assessments provided for therein by non-use of the Subdivision Easements or his Lot or by abandonment of his Lot. A suit to recover a money judgment for unpaid expenses hereto shall be maintainable without foreclosing or waiving the lien securing the same. All of the above shall be done in total compliance with the requirements set forth in the Declaration.

ARTICLE XV
Corporate Seal

15.01 The Association Shall Have No Corporate Seal. The absence of a seal from any documents to be executed in behalf of said Association shall not affect the validity of such documents.

ARTICLE XVI
Character of Association

16.01 Non-profit Association. This Association is not organized for profit. No member, member of the Board of Director, officer or person from whom the Association may receive pecuniary gain from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any member, member of the Board of Directors or officer; provided, however, always (1) that reasonable compensation may be paid to any member, manager, director, or officer while acting as an agent or employee of the Association for service rendered in effecting one or more of the purposes of the Association, and (2) that any member, manager, director or officer may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XVII
Amendments to Bylaws

17.01 Bylaws. These Bylaws may be amended by the members of the Association at a duly constituted meeting for such purpose, but no amendment shall take effect unless approved by members having at least seventy percent (70%) of the voting power of the Association.

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