



ROAD MAINTENANCE AND EASEMENT COVENANTS

FOR

LOS CERRITOS ESTATES SUBDIVISION
UNITS ONE, TWO, THREE, AND FOUR
SANTA FE COUNTY, NEW MEXICO

SANTA FE
STATE OF NEW MEXICO 88867
I hereby certify that this instrument was filed
record on the 19 day of Dec
19 94 at 3:41 o'clock P.m.
was duly recorded in book 1123 of the records of Santa Fe County.
Witness my Hand and Seal of Office
709 Jona G. Armijo
County Clerk, Santa Fe County, NM

Marye L. ...
1123706
Dep

The undersigned owner of Los Cerritos Estates Subdivision, a subdivision in Santa Fe County, New Mexico, according to that certain Master Plan recorded in Book 292, Page 048, bearing the recording date of Dec. 19, 1994, in the records of the County of Santa Fe, State of New Mexico, hereby subject the owners of the parcels legally described hereinbelow to the following covenants, as of this 19 day of Dec, 1994. In accordance with paragraph 9 of Los Cerritos Estates, Declaration of Restrictive Covenants, recorded in Book 1123, Pages 797-105, in the records of the County of Santa Fe, State of New Mexico, all owners of the parcels legally described hereinbelow are required to be parties to this agreement.

RECITALS

1. All owners of all parcels within the following legally described property shall be parties to this agreement:

Units One, Two, Three, and Four of Los Cerritos Estates Master Plan, located in the E $\frac{1}{2}$ of Section 29, T.10N, R.7E., N.M.P.M., Santa Fe County, New Mexico, as the same is shown and designated on the Master Plan thereof filed in the office of the County Clerk of Santa Fe, New Mexico, on Dec 19 1994 in Book 292, Page 048. Said Master Plan includes the Southern 36 acres of Tract A-1, and all of Tract A-2, shown on the plat of lands of the Estate of Anne Pickard, recorded 10 March, 1993, in Book 248, Page 008.

2. Granted roadway easements are reserved for access to lots and utility installation and maintenance as indicated on the aforescribed Plat, and for maintenance of utilities only. Such granted roadway easements are as may be created from time to time and shown on any properly executed and recorded land division or subdivision plat.

3. The operating and maintaining of the granted roadway easements shall be done by an Owner's Association as hereinbelow detailed. All expenses shall be paid by the lot/parcel owners through the Owner's Association. The Owner's Association will provide normal road maintenance consistent with the character of a rural subdivision and to such extent as the Board of Directors of the Association in its sole discretion shall determine. All expenditures other than emergency expenditures shall be determined by the Board of Directors. Any party may make necessary emergency repairs without consulting the Board of Directors but only after reasonable attempts have been made to consult the Board of Directors. In no event shall any owner perform any routine grading or minor maintenance such as replacement of base course, culverts or large amounts of fill, without express approval of the Board of Directors. If repairs or reconstruction of the road become necessary by reason of negligence or of an intentional harm by one of the owners hereto or other invitees, then the cost of such repair or replacement shall be borne by the owner whose negligence or intentional acts or the negligence or the intentional acts of their invitees which caused the damage.

4. OWNER'S ASSOCIATION

4.1 Every Owner of a lot/parcel shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot/parcel.

4.2 The Association shall have two classes of voting memberships:

Class A. Class A members shall be all Owners with the exception of the Developer and shall be entitled to one (1) vote for each lot/parcel owned. When more than one person holds an interest in any lot/parcel, all such persons shall be members. The vote for such lot/parcel shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot/parcel.

Class B. The Class B members shall be the Developer and its successor, assigns, or designees. Class B members shall be entitled to three (3) votes for each lot/parcel owned. The Class B members shall become Class A members with a corresponding reduction in the number of votes entitled to be cast as soon as the total outstanding Class A membership votes equals the total outstanding Class B membership votes.

4.3 The affairs of the Association shall be conducted by a Board of Directors elected in accordance with its Articles of Incorporation and Bylaws.

5. COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot/parcel owned within the properties, hereby covenants, and each Owner of any lot/parcel by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments or charges; and
- (b) Special Assessments for capital improvements. Such assessments are to be established and collected as herein provided.

The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

5.2 Purpose of Assessments: The assessments levied by the Association, if any, shall be used exclusively for the improvement and maintenance of the roads until such time as dedication of the roads is accepted by the County of Santa Fe or other governmental entity; for the costs of management of the Association; and for payment of taxes on the roads, if any.

1123708

5.3 Annual Assessment: The annual assessment shall be \$100.00 annually, to be paid \$50.00 semi-annually until such time as it is changed by the Board of Directors. Each lot owned by a Class B member shall be assessed at 25% of the amount of the normal assessment. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. The maximum annual assessment may be increased not more than ten percent (10%) above the maximum assessment for the previous year unless raised by the affirmative vote of two-thirds (2/3) of each class of members, who are voting in person or by proxy, at a meeting of the Owner's Association. The Board of Directors may elect to have the annual assessment paid in annual, semi-annual, quarterly or monthly installments.

5.4 Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy a special assessment for the cost of any construction, reconstruction, repair, or replacement of the roads, including fixtures and personal property related thereto, provided that any such assessment shall have the affirmative vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting of the Owner's Association. The Board of Directors may elect to have the special assessment paid in annual, semi-annual, quarterly, or monthly installments.

5.5 Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all lots/parcels with the exception that lots/parcels which are held by Declarant which have not yet been sold, leased, or developed shall be assessed as provided in Paragraph 5.3 above.

5.6 Date of Commencement of Annual Assessments: The annual assessments provided for herein shall commence as to all lots/parcels on the first day of the month following the filing of the Articles of Incorporation of the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. In the absence of fraud, such certificate shall be conclusive evidence of the facts stated therein.

5.7 Effect on Nonpayment of Assessments - Remedies of the Association: If the assessments are not paid within sixty (60) days of the date due, then the entire annual assessment or special assessment shall become delinquent together with interest thereon and cost of collection thereof, including reasonable attorneys' fees, thereupon become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors, and assigns. The personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquent date, the Association shall be entitled to recover its collection costs including reasonable attorneys' fees. The assessment shall bear interest from the date of delinquency at the rate of one and one half percent (1½%)

per month and the Association may, at its option, bring an action of law against the Owner personally obligated to pay the same or may foreclose the lien against the property, or both.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot/parcel.

5.8 Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages which were placed upon the property subject to assessment prior to any assessment becoming delinquent. Mortgages placed upon the property when any assessment was delinquent shall be subordinate to such assessment so long as it remains unpaid.

6. Entire Covenant: This Agreement may be amended only by a writing duly executed by the Owners or their successors.

7. Recordation, Agreement to Run with the Land: This Agreement shall be recorded in the Records of Santa Fe County, New Mexico and shall run with the land and be binding upon and inure to the benefit of all subsequent Owners of the properties legally described hereinabove and shall be appurtenant thereto. A purchaser under a Real Estate Contract shall be considered an Owner for purposes of this Agreement.

IN WITNESS WHEREOF, THE OWNERS OF LOS CERRITOS ESTATES SUBDIVISION UNITS ONE, TWO, AND THREE HAS SET ITS HANDS THIS 19th DAY OF December, 1994.

Myra S. Oden
Myra S. Oden

Timothy R. Oden
Timothy R. Oden

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) S.S.
COUNTY OF)

The foregoing instrument was acknowledged before me this 19 day of December, 1994, by Myra S. Oden and Timothy R. Oden.



OFFICIAL SEAL
ROMAN ABEYTA
NOTARY PUBLIC - STATE OF NEW MEXICO
Notary Public Filed with Secretary of State
My Commission Expires _____

My Commission Expires: 8-31-96

Roman Abeyta
Notary Public

OFFICIAL SEAL
ROMAN ABEYTA
NOTARY PUBLIC - STATE OF NEW MEXICO
Notary Public Filed with Secretary of State
My Commission Expires 8-31-96

