

Covenants



JOURNAL CENTER CORPORATION

**DECLARATION OF PROTECTIVE COVENANTS
FOR
JOURNAL CENTER INDUSTRIAL PARK**

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**DECLARATION OF PROTECTIVE COVENANTS
FOR
JOURNAL CENTER INDUSTRIAL PARK**

THIS DECLARATION is made this 17th day of July, 1984, by JOURNAL PUBLISHING COMPANY, a New Mexico corporation, NEW MEXICO STATE TRIBUNE COMPANY, a New Mexico corporation, and THE ALBUQUERQUE ACADEMY, INC., a New Mexico corporation, hereinafter referred to as Declarants.

WHEREAS, Declarants are the owners of the fee simple of the real estate located in the City of Albuquerque, Bernalillo County, New Mexico, described in Exhibits "A", "B" and "C" to this Declaration (collectively referred to herein as the "Property") exclusive of those portions dedicated and deeded to the City of Albuquerque.

WHEREAS, Declarants desire to subject the Property to the protective covenants hereinafter set forth for the benefit of the Property and the Declarants and for each and every subsequent Owner (as hereinafter defined) of the Property.

WHEREAS, Declarants desire to provide for the orderly development of the Property as an industrial park to be known as the Journal Center Industrial Park (the "Park") and to provide that the Property be held and conveyed subject to the terms hereof. JOURNAL CENTER CORPORATION, a Delaware corporation, as an independent contractor and agent on behalf of the Declarants, (hereinafter referred to as "Developer") shall manage the development and operation of the Park on behalf of Declarants, as provided herein.

WHEREAS, Declarants intend that some open spaces, median strips located in streets, islands in cul-de-sacs, drainage areas, walkways, trails, and other areas and facilities are to be owned and/or maintained for the benefit of all Owners, and such areas and facilities are hereinafter designated "General Common Properties". Declarants further intend that some areas and facilities may be owned and maintained for the benefit of certain portions and areas of the Property, or exclusively for the benefit of certain Owners and Users entitling them to use the same, and such areas and facilities are hereinafter designated "Special Common Properties".

WHEREAS, Declarants intend that individual Building Sites (as hereinafter defined) may be subject to specific rights, privileges, and easements for the benefit of either Declarants, Developer and/or other Owners and Users. Such rights, privileges, and easements being signage, landscaping, drainage, pedestrian or access easements over and across the Building Sites for purposes of permitting the installation and maintenance of signs, the installation of landscaping and drainage facilities, parking, or permitting passage and accommodation of pedestrians and automobiles, respectively. Such rights, privileges and easements are hereinafter designated as "Signage Easements", "Landscape Easements", "Storm Drainage Easements", "Pedestrian Easements" and "Parking and Roadway Easements", respectively, as further described herein below.

NOW THEREFORE, Declarants hereby declare that the Property shall be held, transferred, sold, conveyed, leased, subleased, and occupied subject to the conditions, covenants, restrictions, easements and reservations hereinafter set forth.

ARTICLE I

Purpose

The Property is hereby made subject to the following conditions, covenants, restrictions and reservations, all of which shall be deemed to run with the Property and each and every portion thereof, to insure proper use and appropriate development and improvement of said Property so as to (a) protect the Owners (as hereinafter defined) against such improper development and use of surrounding Building Sites (as hereinafter defined) as will depreciate the value and use of their Building Sites; (b) prevent the erection on the Property of structures constructed of improper or unsuitable materials or with improper quality and methods of construction; (c) insure adequate and reasonably consistent development of the Property; (d) encourage and insure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function; (e) provide adequate off street parking and loading facilities; and (f) generally promote the welfare and safety of the Owners, Users and their Permittees of the Building Sites.

ARTICLE II

Definitions

2.1 DEFINITION OF TERMS

- A. **Architectural Review Committee** - the body established in accordance with Article VI herein;
- B. **Building** - shall mean any structure intended for use and occupancy by Owners and Permittees which shall be constructed, erected or placed upon any Building Site, including, but not limited to, garages, outside platforms and docks, storage tanks, carports, canopies, enclosed malls and porches;
- C. **Building Site** - shall mean any contiguous plot of land the size and dimensions of which shall be established by the legal description in the original conveyance or lease from any Declarants, to the first User or fee Owner of said plot of land, other than Declarants. A Building Site may also be established by Developer by an instrument in writing, executed, acknowledged and recorded by the Developer, which designates a plot of land as a Building Site for purposes of these covenants. After establishment of a Building Site the boundaries shall remain unchanged, unless revised pursuant to a recorded document executed by Developer and the Owners thereof; provided, however, that if fee simple title to two (2) or more adjacent Building Sites, as defined hereinabove, is acquired by the same Owner, such commonly-owned Building Site may, at the option of said Owner, be combined and treated as a single Building Site for the purpose of this Declaration;
- D. **Declarant** - shall mean Journal Publishing Company, New Mexico State Tribune Company, and the Albuquerque Academy, Inc., individually, and their successors in interest and assigns to the extent of any assignment in accordance with Section 12.10 hereinbelow; "Declarants" shall refer to all of the aforementioned entities, which entities presently hold the entire fee simple estates on the Property. Unless specified to the contrary hereunder, any action of the Declarants as Declarants under this Declaration, as defined below, shall be by majority vote and the Albuquerque Academy, Inc. shall have a fifty percent (50%) vote and each of the other Declarants shall have a twenty-five percent (25%) vote in such matters;
- E. **Declaration** - shall mean this Declaration of Protective Covenants, together with all of the provisions contained herein, and shall include any Amended Declaration (as herein defined) and Supplementary Declaration (as herein defined), to the extent applicable. "Amended Declaration" shall mean any Amended Declaration of Protective Covenants which may be recorded pursuant to Section 11.2 hereof, which contains amendments or modifications of this Declaration. "Supplementary Declaration" shall mean any Supplementary Declaration of Protective Covenants which may be executed by the Developer, the Albuquerque Academy, Inc., as Declarant and at least one other Declarant and thereupon recorded, such right being herein retained by Declarants and Developer, which subjects additional real property to this Declaration in accordance with Article III hereof;

- F. **Developer** - shall mean Journal Center Corporation under its contract to manage and operate the Park or any other person succeeding to its position under such contract, as referred to above;
- G. **Development Plan** - shall mean the "Journal Center Development Plan and Standards" submitted to the City of Albuquerque and made applicable to the Property under the zoning code of the City of Albuquerque, as it may be amended from time to time with the consent of Declarants and/or Developer in accordance with the provisions of the zoning code;
- H. **General Common Properties** - shall mean and refer to all land, improvements, and other properties owned or in the possession of Declarant(s), Developer, or an Owner dedicated to the City of Albuquerque or Bernalillo County, New Mexico, or a public or quasi-public authority, and which are designated by Developer as General Common Properties, including, but not limited to, Landscape Easements, Signage Easements, Storm Drainage Easements, Pedestrian Easements, Parking and Roadway Easements in the Project (as hereinafter defined). Developer and Declarants shall have the right to designate which lands, improvements and other properties are General Common Properties in a document duly recorded in the office of the County Clerk of Bernalillo County, New Mexico;
- I. **Improvements** - shall mean and include, but not be limited to, buildings, driveways, exterior lighting, fences, landscaping, lawns, loading areas, parking areas, parking structures, railroad trackage, retaining walls, poles, roads, screening walls, signs, utilities, walkways, bikeways, lake and water facilities, perimeter berms, structures of any type or kind, or any other change in the Property from its natural state;
- J. **Landscape Easement** - shall mean and refer to the specific rights, privileges, and easements which are established on individual Building Sites by the Owners thereof subsequent to approval pursuant to Article VI hereof by the recording of a Declaration of Easement in the records of the Clerk and Recorder of Bernalillo County, New Mexico. If required by the Architectural Review Committee, with respect to an individual Building Site, the submittal of the Declaration of Easement to the Architectural Review Committee by the Owner shall be mandatory prior to the time of Site Plan approval by the Architectural Review Committee in accordance with the provisions of Article VI hereof. All such rights, privileges, and easements shall be for the benefit of Developer and Declarants. Such rights, privileges and easements shall be a non-exclusive easement over, across and under a portion of the Building Site for the purpose of permitting the installation and maintenance of initial landscaping and replacements thereof, including, but not limited to, the sprinkler system serving the landscaping;
- K. **Mortgage** - shall mean and refer to mortgages, deeds of trust, or trust deeds;

- L. **Owner** - shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Building Site which is subject to this Declaration; notwithstanding any applicable theory relating to mortgages, deeds of trust, or other liens or encumbrances upon any such Building Site, "Owner" shall not include or refer to a mortgagee, beneficiary of a deed of trust, or lienholder unless and until such party has acquired title pursuant to foreclosure or any applicable procedure in lieu of foreclosure, nor shall "Owner" include or refer to a lessee or tenant under a lease;
- M. **Parking and Roadway Easements** - shall mean and refer to the specific rights, privileges, and easements which are established on individual Building Sites by the Owners thereof subsequent to approval pursuant to Article VI hereof by the recording of a Declaration of Easement in the records of the Clerk and Recorder of Bernalillo County, New Mexico. If required by the Architectural Review Committee, with respect to an individual Building Site, submittal of the Declaration of Easement to the Architectural Review Committee by the Owner shall be mandatory prior to the time of Site Plan approval by the Architectural Review Committee in accordance with the provisions of Section 6.3 hereof. All such rights, privileges, and easements shall be for the benefit of the Developer, the Declarants, and other Owners. Such rights, privileges, and easements shall be non-exclusive easements over and across the Building Site for the purpose of permitting the passage and parking of motor vehicles and the passage and accommodation of pedestrians;
- N. **Pedestrian Easement** - shall mean and refer to the specific rights, privileges, and easements which are established on individual Building Sites by the Owners thereof subsequent to approval pursuant to Article VI hereof by the recording of a Declaration of Easement in the records of the Clerk and Recorder of Bernalillo County, New Mexico. If required by the Architectural Review Committee, with respect to an individual Building Site, a submittal of the Declaration of Easement to the Architectural Review Committee by the Owner shall be mandatory prior to the time of Site Plan approval by the Architectural Review Committee in accordance with the provisions of Article VI hereof. All such rights, privileges and easements shall be for the benefit of the Developer, the Declarants, and all other Owners. Such rights, privileges and easements shall be a non-exclusive easement over and across the designated portions of the Building Site for the purpose of permitting the passage and accommodation of pedestrians;
- O. **Permittees** - shall mean and refer to all tenants and occupants of Building Sites and employees, customers, visitors, invitees, licensees, and subtenants thereof (excluding Owners);
- P. **Plans and Specifications** - shall mean and refer to the documents required to be submitted to the Architectural Review Committee, as further described in Article VI;

- Q. Pro Rata Portion of General Common Property Expenses** - shall mean and refer to the total amount of all expenses for maintenance, repairs, replacements, and services required in connection with the General Common Properties as multiplied by a fraction, the numerator of which shall mean the total number of acres of each Building Site subject to assessment under Article VII which each Owner owns, and the denominator of which shall be the total number of acres within the Property subject to assessment under Article VII;
- R. Pro Rata Portion of Special Common Property Expenses** - shall mean and refer to an Owner's pro rata portion of the expenses for maintenance, repairs, replacements, and services required in connection with the Special Common Properties as determined by the Developer at the time of the establishment of such Special Common Properties;
- S. Property** - shall mean and include all of the real estate described more particularly in Exhibits "A", "B" and "C" which are attached hereto and made a part hereof by reference. The term "Property", however, shall include not only the real property described on Exhibits "A", "B" and "C" hereto, but any other real property hereinafter brought within or made subject to the provisions of this Declaration as provided below in Article III;
- T. Signage Easement** - shall mean and refer to the specific rights, privileges and easements which are established on individual Building Sites by the Owners thereof subsequent to approval pursuant to Article VI hereof by the recording of the Declaration of Easement in the records of the Clerk and Recorder of Bernalillo County, New Mexico. If required by the Architectural Review Committee, with respect to an individual Building Site, the submittal of the Declaration of Easement to the Architectural Review Committee by the Owner shall be mandatory prior to the time of Site Plan approval by the Architectural Review Committee in accordance with the provisions of Article VI hereof. All such rights, privileges, and easements shall be for the benefit of Developer and Declarants. Such rights, privileges, and easements shall be a non-exclusive easement over and across a portion of the Building Site for the purpose of permitting the erection and maintenance of signs which advertise or give information regarding the Park;
- U. Site Plan** - shall mean and refer to the document required to be submitted to the Architectural Review Committee as further described in Article VI;
- V. Special Common Properties** - shall mean and refer to all land, improvements, and other properties heretofore or hereafter owned or in possession of Developer, Declarants or by two (2) or more Owners but fewer than all Owners, and which are specifically designated Special Common Properties in a Supplementary Declaration, as referred to in Section 2.1.E above. Special Common Properties shall be available for the use by such Owners and their Permittees at such times and under such circumstances as are authorized by Developer and such Owners, as set forth in the documents creating the Special Common Properties. A Special Common Property shall be established by the Developer recording a document covering certain portions or areas of the Property with such areas or facilities being owned and maintained for the benefit of certain Owners and their Permittees;

- W. The Standards** - shall mean the standards and regulations of the Architectural Review Committee which shall be adopted from time to time pursuant to Article VI hereof;
- X. Storm Drainage Easement** - shall mean and refer to the specific rights, privileges and easements which are established on individual Building Sites by the Owners thereof subsequent to approval pursuant to Article VI hereof by the recording of a Declaration of Easement in the records of the Clerk and Recorder of Bernalillo County, New Mexico. If required by the Architectural Review Committee, with respect to an individual Building Site, the submittal of the Declaration of Easement to the Architectural Review Committee by the Owner shall be mandatory prior to the time of Site Plan approval by the Architectural Review Committee in accordance with the provisions of Article VI hereof. All such rights, privileges, and easements shall be for the benefit of Declarants, Developer, and the Owners of certain portions of the Property, as more particularly described therein. Such rights, privileges, and easements shall be a non-exclusive easement over and across a portion of the Building Site for the purpose of permitting the construction and maintenance of storm drainage facilities and structures and the passage and accommodation of storm water;
- Y. User** - shall mean an Owner or ground lessee (lessee of the entirety of a Building Site, whether vacant or improved) other than a Declarant unless a Declarant is itself a ground lessee or the Owner of improvements on a Building Site other than as a result of a reversion.

ARTICLE III

Additional Real Properties Which May Become Subject To This Declaration

3.1 ADDITIONS TO THE PROPERTY.

Additions may be made to the Property in any of the following ways:

- (a) Developer and Declarants together shall have the right, but shall be under no obligation except as hereinafter provided, to bring within the framework of this Declaration, and make subject to the provisions hereof, additional real properties that are contiguous to the Property. Any real property addition shall require the unanimous consent of all Declarants. A property shall be "contiguous" for the purposes of this Section if a boundary of such property adjoins a boundary of the Property; property shall be deemed contiguous notwithstanding any intervening public streets or rights-of-way or utility easements.
- (b) The real property additions authorized hereunder shall be made by recording Supplementary Declarations, executed by Developer and all Declarants, with respect to the additional real properties, or with respect to the Property, as the case may be, which shall extend the coverage of this Declaration to such real properties, and thereby subject such additions to assessment for their just share of expenses, in addition to the other rights and burdens under this Declaration.
- (c) All additional real properties added to and brought within the framework of this Declaration may include General Common Properties, Special Common Properties, Signage Easements, Pedestrian Easements, Landscaping Easements, Parking and Roadway Easements, and Storm Drainage Easements. All Owners, Users and Declarants shall have the rights to use and enjoy the General Common Properties and easements to the extent the Declaration grants such rights as to the Property.
- (d) Although the right to include additional real properties within the scope of this Declaration is reserved to Developer and Declarants, no covenant is herein made by Declarants or Developer that any additional real properties will be so included.

3.2 PURSUANT TO MERGER.

Any successor to Developer, as referred to in Section 2.1.F, and subject to the limitation of Section 12.10, may administer the covenants and restrictions of this Declaration, together with the covenants and restrictions established with respect to any other real property additions, as one scheme. No merger or consolidation, however, shall effect any modification, change, or addition to this Declaration except as hereinafter provided.

ARTICLE IV

Permitted Uses and Performance Standards

- 4.1 No noxious or offensive trades, services or activities shall be conducted on any Building Site nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owner, User, tenant or occupant of other Building Sites within the Property by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise.
- 4.2 Building Sites shall be utilized only for engineering, research facilities, laboratories, light to medium industrial uses, offices, warehousing and such other uses as Developer shall permit in its sole discretion, consistent with applicable zoning codes and regulations applicable to the Property (including the Development Plan and this Declaration) from time to time.

ARTICLE V

Regulations of Improvements

- 5.1 IMPROVEMENTS GENERALLY.** No Buildings or Improvements shall be constructed, erected, placed, altered, contained, or permitted on any Building Site until the Site Plans, architectural renderings, sample materials, and all other Plans and Specifications, as described hereinafter, therefore have been approved by the Architectural Review Committee as more fully set forth in Article VI of this Declaration.
- 5.2 MINIMUM SETBACK LINES.** The standards for building setbacks shall be as provided in the Development Plan and The Standards. No Improvement of any kind, and no part thereof, shall be placed on any Building Site closer to a property line than therein provided. All setbacks shall be measured from the face of the street curb line.
- 5.3 BUILDING SITE COVERAGE.** Maximum Building coverage allowed for each land use shall be in accordance with the Development Plan and The Standards. Parking structures shall not be calculated as Building area; however, said structures shall be used only for the parking of vehicles of Owners, Users or Permittees.
- 5.4 ROOFS.**
- A. Roofs, or portions thereof, will not be permitted so as to be visible from the street(s) or from buildings on other sites unless approved by the Architectural Review Committee.
 - B. All electrical, mechanical and solar apparatus, equipment, fixtures (other than lighting fixtures), satellite or communications antennae, conduit, ducts, vents, flues and pipes mounted or placed on the roof surface, or extending above the roof line of any Building or structure, or located on the exterior of any Building or structure, or outside a Building or structure, shall be concealed from view from the street(s) and from Buildings on other Building Sites in an architecturally treated manner approved by the Architectural Review Committee, unless the Architectural Review Committee has granted specific written approval of other measures which would minimize the visual effects as viewed from the street(s) and Buildings on other Building Sites.
- 5.5 EXTERIOR WALLS.**
- A. There shall be no exterior walls of sheet or corrugated iron, steel, aluminum, asbestos or similar materials, unless specific written approval of the Architectural Review Committee is given. In general, exterior walls are to be masonry, concrete or equal material approved by the Architectural Review Committee.
 - B. Exterior walls shall be painted or suitably treated and maintained in a manner acceptable to the Architectural Review Committee. Exterior walls shall not be repainted or refinished unless and until the Architectural Review Committee has approved in writing the repainting or refinishing.

- 5.6 BUILDING HEIGHTS.** The heights of all Buildings and Improvements shall be in accordance with the Development Plan and The Standards.
- 5.7 OFF STREET PARKING.** No parking shall be permitted on any street or at any place other than on the paved parking spaces provided for and described hereinbelow. Each Owner shall be responsible for compliance with the foregoing by its Permittees. Adequate off street parking shall be provided by each Owner for Owner and all of such Owner's Permittees. The location, number and size of parking spaces shall be subject to approval by the Architectural Review Committee pursuant to Article VI hereof. The minimum standards shall be determined in accordance with the Development Plan and The Standards. All off street parking and access drives and loading areas shall be paved and properly graded to assure proper drainage. The Architectural Review Committee shall have the right to require visual screening between any parking area and any other Building Site or General Common Property. Every Owner shall be responsible for all costs and expenses incurred in the installation and maintenance of all parking spaces upon such Owner's Building Site.
- 5.8 LOADING AREAS.** All loading areas shall be screened, as may be required by the Architectural Review Committee under The Standards. Other than entry drives, streetside loading will be allowed only if the loading dock is at least seventy (70) feet from the street right-of-way or one hundred (100) feet from the street center line, whichever is greater, and screened as required in accordance with the Development Plan and The Standards.
- 5.9 EXCAVATIONS.** No excavations shall be made except in connection with construction of Improvements; and upon completion thereof exposed openings shall be backfilled and compacted, and disturbed ground shall be graded and leveled, in accordance with the approved Plans and Specifications.
- 5.10 STORAGE AREAS.** No exterior storage shall be allowed in a Support Commercial Area or in Office/Commercial/Research and Development Areas, as those terms are used in the Development Plan. In Industrial Areas, all exterior storage, including passenger vehicles owned and operated by the Owner or Owner's Permittees shall be visually screened from all streets, freeways and adjacent property by an opaque barrier adequate to screen stored materials, in accordance with the Development Plan and The Standards. No storage shall be located between frontage street and any Building and there shall be no junk, scrap, rubbish, trash, litter or other accumulate stored which will detract from the appearance of the Building Site.
- 5.11 SIGNS.** No signs shall be permitted anywhere within the Property without prior written approval of the Architectural Review Committee. All signs shall conform with written sign standards for the Property as adopted by the Architectural Review Committee and all applicable laws and governmental regulations.

5.12 REFUSE COLLECTION AREAS. All exterior refuse collection areas shall be totally enclosed and visually screened, in accordance with the Development Plan and The Standards, by an opaque screen at least eight (8) feet in height, from all streets, freeways, and adjacent property. No refuse collection areas shall be located between a frontage street and any Building.

5.13 LANDSCAPING.

- A. All Building Sites shall be landscaped only in accordance with a plan submitted to and approved in writing as part of the Plans and Specifications by the Architectural Review Committee prior to any development of the Building Site. Such landscaping plan shall include and provide:
- (1) Drawings and specifications with respect to lawns, shrubs, decorative plantings, trees and plants in the size, type and location thereof;
 - (2) An underground lawn sprinkling system;
 - (3) Screening of all storage, loading and unloading areas, and additional screening as may be required under this Declaration, the Development Plan, or The Standards;
 - (4) The lighting of Buildings, parking areas and other areas where lighting is to be used;
 - (5) All other matters reasonably requested for inclusion in such landscaping plan by the Architectural Review Committee.

Further, it shall be the responsibility of the Owner of a Building Site to landscape and maintain the area between the lot lines of said Owner's Building Site and the curbs of any roadways adjacent to such Building Site, except as provided in Section 5.14 below. All landscaping shall be undertaken and completed in accordance with such approved plan and said plan may not be altered, amended or revised without submitting the revised landscaping plan for prior approval by the Architectural Review Committee.

- B. All landscaping required hereunder or otherwise to be provided on any Building Site shall be completed prior to occupancy of any Building to be constructed on the Building Site; provided, however, if weather conditions do not permit completion of the landscaping by such date, then such Building Site Owner shall notify the Architectural Review Committee as soon as the Building Site Owner knows of such delay and the Architectural Review Committee may issue an extension upon good cause shown and such landscaping shall be completed as soon thereafter as weather conditions permit. The Building Site Owner shall notify the Architectural Review Committee of the completion of landscaping required by the plan. If any Owner fails to undertake and complete his landscaping within the time limit previously set forth herein, Developer may, at its option, after giving the Owner ten (10) days' written notice forwarded to Owner (unless within said ten (10) day period the Owner of the Building Site shall proceed and thereafter pursue with diligence the completion of such landscaping), undertake and complete the landscaping of the Building Site in accordance with the landscaping plan. If Developer undertakes and completes such landscaping because of the failure of Owner to complete the same, the costs of such landscaping shall be assessed against the Owner, and if said assessment is not paid within thirty (30) days after written notice of such assessment from Developer, said assessment will constitute a lien on the Building Site and the Improvements and may be enforced as set forth in Article VII hereof. In addition to the foregoing, each Owner shall deliver to Developer no later than ten (10) days subsequent to approval of the landscaping plans by the Architectural Review Committee, an irrevocable letter of credit in form satisfactory to Developer, issued by a commercial bank or savings and loan association approved by Developer, in the amount of the estimated cost of the landscaping. Said letter may be drawn upon by Developer to pay the costs of completion of the landscaping, in the event that the landscaping is not completed within the time schedule previously described herein and Developer elects to undertake and complete the same. Upon completion of the landscaping in accordance with the approved plans, the letter of credit shall be promptly returned by Developer to Owner. Notwithstanding the above, an Owner may, with prior written approval of Developer, furnish other security satisfactory to Developer to insure completion of the landscaping plans as approved.
- C. It is the intent of Declarants that all Building Sites, including the Improvements and landscaping thereon, be maintained in a uniform, high quality, first-class manner. The Owner of a Building Site shall be responsible for the landscaping maintenance of its Building Site, and may contract to have such work performed by an independent landscape contractor. If maintenance performed by such Owner or its contractor is not in compliance with the landscape maintenance standards established by the Architectural Review Committee and such landscape maintenance is not brought into compliance with such standards within thirty (30) days (or such longer period of time as designated by Developer or the Architectural Review Committee, in its sole discretion) of the delivery pursuant to Section 12.5 herein of written notice from Developer or said Committee setting forth the particulars of such non-compliance, Developer or its designee may, in its sole discretion, enter upon the Building Site and undertake such landscape maintenance. All costs of such maintenance undertaken by Developer or its designee under such circumstances shall be assessed against the Building Site upon which said landscaping maintenance is performed and the Improvements located thereon and failure to pay such assessment shall constitute a lien against the property enforceable pursuant to Article VII.

5.14 MAINTENANCE

- A. Each Owner of any Building Site shall keep his buildings, improvements and appurtenances thereon in a safe, clean, maintained, neat, wholesome condition and shall comply in all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements. Each such Owner shall remove at his own expense any rubbish or trash of any character which may accumulate on its Building Site. Rubbish, trash, garbage or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the Property by burning in open fires.
- B. Each Owner shall pay his Pro Rata Portion of General Common Property Expenses, which shall include the expenses for the maintenance (including landscaping maintenance), repairs, replacements and services required in connection with the General Common Properties (including General Common Properties on additional properties hereinafter made subject to this Declaration pursuant to Article III hereof). Such expenses shall include, but not be limited to, lighting, landscaping, cleaning, liability insurance premiums attributable to such areas, expenses of attendants and security, if any, and all real and personal property taxes. Failure of an Owner to pay its Pro Rata Portion of General Common Property Expenses shall constitute a lien against the building site and the improvements enforceable as set forth in Article VII hereof. Each Owner shall have the sole responsibility for the expenses of maintenance (including landscape maintenance), repairs, replacements and services required in connection with the Pedestrian Easements, Parking and Roadway Easements, and Landscape Easements, if any, located upon his Building Site, which expenses shall include, but not be limited to, lighting, landscaping (except initial landscaping required for the Landscape Easement areas, which shall be installed by Developer), cleaning, liability insurance premiums attributable to such areas, costs of attendants, if any, and all real and personal property taxes.

- 5.15 UTILITY CONNECTIONS.** All utility connections, including all electrical and telephone connections and installations of wires to Buildings shall be made underground from the nearest available power source. No transformer, electric, gas or other meter of any type or other apparatus shall be located on any power pole nor hung on the outside of any Building, but the same shall be placed on or below the surface of the Property and where placed on the surface shall be adequately screened and fenced and all such installations shall be subject to prior written approval of the Architectural Review Committee. The Architectural Review Committee shall have the right to require any Owner to grant on any Building Site easements for utilities within the setback of any building site to other Owners of Building Sites or to such utility companies or public agencies or authorities as it shall deem necessary for the proper service to and maintenance of the Property.

5.16 SITE DRAINAGE

- A.** Each Owner shall be required to provide adequate drainage facilities, including on-site ponding areas (if needed) and metering of storm water runoff resulting from precipitation or storm sewers, or both, in accordance with the requirements of the City of Albuquerque and Bernalillo County and any other applicable governmental agency or authority and with The Standards, the Development Plan and the master drainage plan for the Property as prepared by Developer.

- B.** The change in storm water runoff between the historical (undeveloped) condition and the developed condition shall be measured as the increased flow resulting from changes in co-efficient of storm water runoff and the time of concentration. An engineer's report comparing the historical and developed conditions and recommending adequate methods of developed conditions and recommending adequate methods of detention and drainage shall be submitted by each Owner to the Architectural Review Committee for approval as part of the Plans and Specifications for any Building as provided herein. If required, detention shall be accomplished by providing ponding areas for storage of storm water on rooftops, in parking areas, in landscaped areas, in graded drainage swales, and by such other methods, including Storm Drainage Easements, as may be approved by the Architectural Review Committee.

ARTICLE VI

Approval of Plans

- 6.1 ARCHITECTURAL REVIEW COMMITTEE.** There is hereby established an Architectural Review Committee whose members shall be appointed by the Developer. This Committee shall consist of not less than three (3) nor more than five (5) members including a Member on the Board of Trustees of the Albuquerque Academy, Inc., (so long as the Albuquerque Academy, Inc., is an Owner) (the "Academy member"). The Academy member shall be nominated by the Albuquerque Academy, Inc., and shall be subject to Developer's approval, which approval shall not be unreasonably withheld. If Developer disapproves such nomination, the Albuquerque Academy, Inc., shall make such further nomination, or nominations, until the Academy member has been approved; provided, however, that Developer cannot withhold approval of the entire Board of Trustees. Members of the Architectural Review Committee shall serve at the pleasure of Developer, except that the Academy member shall serve until: (i) removed by the Albuquerque Academy, Inc., or (ii) death or disability preventing service; or (iii) the individual is no longer on the Board of Trustees of the Albuquerque Academy, Inc. The vote of a majority of members shall constitute the action of the Architectural Review Committee. The Architectural Review Committee shall adopt standards and regulations ("The Standards") in accordance with the purposes and intent of this Declaration governing the design and construction of all Improvements on the Property. The Architectural Review Committee shall have the authority to amend The Standards from time to time, as it deems appropriate. The Standards shall have the same force and effect and shall be enforceable as these Covenants.
- 6.2** No improvements shall be constructed, erected, placed, altered, maintained or permitted on any Building Site nor shall any construction or excavation whatsoever be commenced or construction vehicles be placed on a Building Site until plans and specifications with respect thereto in manner and form satisfactory to the Architectural Review Committee showing:
- (i) The Site Plan showing, among other things, the location and dimension of all intended Improvements, including (a) Building(s), (b) other structures, (c) motor vehicle parking areas and facilities including the number and size of parking spaces, (d) loading and storage facilities and areas, (e) areas to be landscaped, (f) signs, (g) light fixtures, (h) means of ingress and egress, (i) curb cuts, (j) traffic patterns, (k) drives and driveways, (l) walkways and trails, and (m) screening;
 - (ii) Drawings and specifications of all exterior surfaces, showing elevations, and including the color, quality and type of exterior construction materials;
 - (iii) Grading and drainage plans, including existing and proposed grade levels, the invert elevation of all sanitary and storm sewer connections and the location of all utility connections;
 - (iv) A landscaping plan;
 - (v) The type, style, size and candle power of all outdoor lighting fixtures;

- (vi) Drawings and design specifications of all proposed signs, including the colors thereof and the quality and materials to be used in the manner of illumination;
- (vii) Proposed use of Building(s) and the Building Site; and
- (viii) All such other information as may be reasonably required which will enable the Architectural Review Committee to determine the location, scale, design, character, style and appearance of the Owner's intended improvements.

All of the foregoing (hereinafter collectively called "Plans and Specifications") shall conform to the applicable provisions of this Declaration. Such Plans and Specifications shall be submitted in writing over the signature of the Owner of the Building Site or the Owner's authorized agent. The Architectural Review Committee shall have the right to charge persons submitting such plans, other than Developer or Declarants, a reasonable fee for reviewing each application for approval of the Plans and Specifications in an amount established by Developer from time to time. Such fee shall be payable at the time of submission by an Owner or its agent of Plans and Specifications to the Architectural Review Committee.

- 6.3 The Architectural Review Committee may require that the Plans and Specifications be accompanied by a Declarations of Easement with respect to Landscape Easements, Pedestrian Easements, Signage Easements, Parking and Roadway Easements, and Storm Drainage Easements to be located upon the Building Site, in forms approved by the Architectural Review Committee, which forms shall include the approval of any Mortgagee of the Building Site, and shall be submitted with the appropriate recording fee. Upon completion of the Landscape Easement, Pedestrian Easement, Signage Easement and Storm Drainage Easement, if any, on any individual Building Site, the Owner thereof shall submit to the Architectural Review Committee a revised Declaration of Easement, certifying the exact location of such Landscape Easement, Pedestrian Easement, Signage Easement, Parking and Roadway Easement and Storm Drainage Easement, if any due to construction discrepancy, and said revised Declaration of Easement, if any shall be submitted with the appropriate recording fee. The Declarations of Easement, if any and the revised Declarations of Easement, if any, shall conform to the overall scheme and plan for the development of the Property as set forth herein.
- 6.4 Developer and the directors, officers and employees of Developer, and the Architectural Review Committee members (hereinafter called the "Committee Members") shall not be personally liable to the Owners, Declarants, Users, or Developer, for any mistake of judgment or for any other acts or omissions of any nature whatsoever as directors, officers, employees or Committee Members, except for willful misconduct. The foregoing provision shall be in addition to Section 6.8 of this Article VI and not in lieu thereof.
- 6.5 Until relinquished, Developer, in its own name and/or on behalf of the Architectural Review Committee, Declarants and all Owners shall have the right to enforce the terms and provisions of this Declaration. Developer shall have the right to transfer its duties or responsibilities pursuant to Section 12.10, below, whereupon such transferee shall have the right and the duty to enforce this Declaration and attempt to prevent any violations thereof.

- 6.6 Approval of the Plans and Specifications shall be based, among other things, on adequacy of Building Site dimensions, conformity and harmony of external design with neighboring structures, effect of locations and use of improvements on neighboring Building Sites, operations and uses; relation of topography, grade and finished ground elevation of the Building Site being improved to that of neighboring Building Sites; proper facing of main elevation with respect to nearby streets; and conformity of the Plans and Specifications to The Standards, the Development Plan and the purpose and intent of these Declarations. The Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such Plans and Specifications.
- 6.7 If the Architectural Review Committee fails either to approve or to disapprove such Plans and Specifications (including resubmissions of disapproved Plans and Specifications which have been revised) within thirty (30) days after the same have been submitted to it (provided that all required information has been submitted), it shall be conclusively presumed that said Plans and Specifications have been approved, subject, however, to the restrictions contained in Article V hereof. The Architectural Review Committee shall notify the Owner and the User if such User is not the Owner in writing upon receipt of all required Plans and Specifications and the aforesaid thirty (30) day period shall commence on the date of such notification.
- 6.8 Neither the Architectural Review Committee, Developer nor Declarants or their respective successors or assigns shall be liable in damages to anyone submitting Plans and Specifications to them for approval, or to any Owner or User of land affected by this Declaration, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such Plans and Specifications. Every person who submits Plans and Specifications to the Architectural Review Committee for approval agrees, by submission of such Plans and Specifications, and every Owner, User or tenant of any said Building Sites agrees, by acquiring title thereto or an interest therein, that he will not bring any action or suit against the Architectural Review Committee, Declarants or Developer to recover any such damages. Approval by the Architectural Review Committee or Developer shall not be deemed to constitute compliance with the requirements of any local Building Codes and it shall be the responsibility of the Owner or Owners agent submitting Plans and Specifications to the Architectural Review Committee to comply therewith. Approval in writing of all Plans and Specifications and amendments thereof must be obtained from the Architectural Review Committee prior to the issuance of any Building Permits.
- 6.9 Upon written request of any Owner or Owner's agent, the Architectural Review Committee may waive any of the requirements for obtaining approval of Plans and Specifications upon good cause shown. Any waiver issued by the Architectural Review Committee pursuant to this Section must be in writing and no waiver, express or implied, shall be granted unless in writing executed by a properly authorized person.

ARTICLE VII

Covenants For Maintenance and Assessment

7.1 CREATION OF LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS.

Each Owner other than Declarants, by acceptance of a deed to his Building Site, whether or not it shall be so expressed therein, or by acceptance or any other conveyance thereof (except a conveyance in connection with the establishment of a Mortgage), and every User of such Building Site shall be deemed to covenant and agree to pay to Developer (i) annual assessments or charges; (ii) special assessments for repair, replacement or maintenance of capital improvements; (iii) special assessments in connection with an Owner's failure to perform the required exterior maintenance of his Building Site and the Improvements located thereon, all as herein described with more particularity; and (iv) special assessments to provide for costs incurred by virtue of unforeseen emergencies, including, but not limited to, unusual snowfalls or heavy rains. All assessments herein provided for shall be assessed by Developer. The annual assessment shall be levied on an annual basis, and a special assessment shall be levied from time to time as and when determined by Developer. All assessments described aforesaid together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Building Site and Improvement against which each such assessment is made, subject to foreclosure in accordance with applicable law, but any such lien shall be subordinate to any valid first Mortgage affecting such Building Site. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the Owner and User of such Building Site at the time the assessment falls due, and in the event there is more than one Owner or User, such obligations shall be joint and several and shall commence on the date of delivery of a deed or ground lease from a Declarant to such Owner or User.

7.2 **PURPOSE AND USE OF ANNUAL ASSESSMENTS OR CHARGES.** The annual assessments or charges levied under this Article as provided for in Section 7.1 above shall be used exclusively for the purposes of promoting the health, safety, and welfare of all Owners, Users and their Permittees, and in particular for the repair, operation, and maintenance of the General Common Properties, including a reasonable administrative fee or charge for administering the General Common Properties, and any services or facilities devoted to such purposes. In addition, the annual assessments or charges may, at the discretion of Developer, include a reserve for replacement of and repairs to the Improvements located on the General Common Properties.

7.3 **SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS AND EMERGENCIES.** In addition to the annual assessments described aforesaid, Developer may levy in any year one or more special assessments, applicable to that year only, for the purpose of defraying in whole or in part the cost of any reconstruction, unexpected repair or replacement of a capital Improvement upon the General Common Properties and/or Special Common Properties, including the necessary fixtures and personal property related thereto, or for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement, including land rehabilitation and restoration necessitated by any emergency.

- 7.4 CAPITAL CONTRIBUTIONS FOR IMPROVEMENTS, REPAIRS, AND REPLACEMENTS.** In addition to the annual or special assessments described aforesaid, Developer may levy in any year, either as part of the annual assessment or the special assessment, an assessment to be set aside as a capital reserve for major repairs to or replacements of Improvements located on the General Common Properties. Any funds so collected shall be designated by Developer as capital contributions by the Owners or Users thereof, as applicable, and shall be segregated and utilized solely for the purposes aforesaid.
- 7.5 SPECIAL ASSESSMENTS FOR EXTERIOR MAINTENANCE.** In the event any Owner or User shall fail to maintain his Building Site and/or the Improvements situated thereon in a manner satisfactory to the Architectural Review Committee, Developer shall have the right, through its agents and employees, to enter upon said Building Site and to repair, maintain, and restore the same and the exterior of the Buildings and any other Improvements erected thereon in the manner contemplated by the above provisions. The cost of such exterior maintenance shall thereupon be deemed to be a special assessment to which such Building Site and its Owner and User shall be subject as aforesaid.
- 7.6 DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL AND SPECIAL ASSESSMENTS AND ASSESSMENT DEPOSIT.** The annual assessments provided for herein shall commence on such date as shall be specified by Developer or in any Supplementary Declaration hereto affecting a particular parcel of real property brought within the framework of this Declaration. Assessments shall be on a full calendar year basis. At least thirty (30) days in advance of the beginning of each calendar year, Developer shall fix the amount of the annual assessment against each Building Site by estimating the charges and expenses to be incurred by Developer for the purposes set forth in this Declaration. A year-end adjustment may be made by Developer as is necessary to reflect the actual cost of such expenses. The annual assessments shall be due and payable to Developer by each Owner and User in monthly installments and shall be accompanied by an itemized statement of such costs and the manner in which such share was determined. Each Owner or User shall pay the amount shown on the statement no later than the date thirty (30) days after receipt of such statement. In addition, Developer may require an amount to be deposited with Developer at the time of the first conveyance or ground lease of any Building Site from Declarants to any purchaser or lessee, as applicable, thereof, and which deposit shall not bear interest and may be retained by Developer as working capital and as security for the payment of future annual and special assessments. The annual and special assessments shall be in such amounts as are fixed by Developer and shall be without limitation unless otherwise specified in a Supplementary Declaration affecting a particular parcel of real property brought within the framework of this Declaration.

- 7.4 CAPITAL CONTRIBUTIONS FOR IMPROVEMENTS, REPAIRS, AND REPLACEMENTS.** In addition to the annual or special assessments described aforesaid, Developer may levy in any year, either as part of the annual assessment or the special assessment, an assessment to be set aside as a capital reserve for major repairs to or replacements of Improvements located on the General Common Properties. Any funds so collected shall be designated by Developer as capital contributions by the Owners or Users thereof, as applicable, and shall be segregated and utilized solely for the purposes aforesaid.
- 7.5 SPECIAL ASSESSMENTS FOR EXTERIOR MAINTENANCE.** In the event any Owner or User shall fail to maintain his Building Site and/or the Improvements situated thereon in a manner satisfactory to the Architectural Review Committee, Developer shall have the right, through its agents and employees, to enter upon said Building Site and to repair, maintain, and restore the same and the exterior of the Buildings and any other Improvements erected thereon in the manner contemplated by the above provisions. The cost of such exterior maintenance shall thereupon be deemed to be a special assessment to which such Building Site and its Owner and User shall be subject as aforesaid.
- 7.6 DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL AND SPECIAL ASSESSMENTS AND ASSESSMENT DEPOSIT.** The annual assessments provided for herein shall commence on such date as shall be specified by Developer or in any Supplementary Declaration hereto affecting a particular parcel of real property brought within the framework of this Declaration. Assessments shall be on a full calendar year basis. At least thirty (30) days in advance of the beginning of each calendar year, Developer shall fix the amount of the annual assessment against each Building Site by estimating the charges and expenses to be incurred by Developer for the purposes set forth in this Declaration. A year-end adjustment may be made by Developer as is necessary to reflect the actual cost of such expenses. The annual assessments shall be due and payable to Developer by each Owner and User in monthly installments and shall be accompanied by an itemized statement of such costs and the manner in which such share was determined. Each Owner or User shall pay the amount shown on the statement no later than the date thirty (30) days after receipt of such statement. In addition, Developer may require an amount to be deposited with Developer at the time of the first conveyance or ground lease of any Building Site from Declarants to any purchaser or lessee, as applicable, thereof, and which deposit shall not bear interest and may be retained by Developer as working capital and as security for the payment of future annual and special assessments. The annual and special assessments shall be in such amounts as are fixed by Developer and shall be without limitation unless otherwise specified in a Supplementary Declaration affecting a particular parcel of real property brought within the framework of this Declaration.

7.7 EFFECT OF NON-PAYMENT OF ASSESSMENTS AND PERSONAL LIABILITY OF OWNER.

A. If an assessment is not paid on the date when due (being the date specified in Section 7.6 hereof), then such assessment shall be deemed delinquent and shall thereupon be deemed, together with such interest thereon and costs of collection thereof as hereinafter provided, a continuing lien upon the Building Site and all Improvements thereon and such continuing lien shall bind the Building Site and all Improvements thereon in the hands of the then Owner or User, his heirs, devisees, personal representatives, successors, and assigns. In addition to the lien upon the Building Site and all Improvements thereon, it shall be the personal obligation of each Owner and User to pay the assessment affecting his Building Site assessed during its ownership period and such personal obligation shall continue even though the Owner's or User's interest in such property shall be transferred.

B. If any assessment is not paid within thirty (30) days after its due date, it shall bear interest from the due date at a rate equal to five percent (5%) above the then prime rate interest charged by the Chase Manhattan Bank, but in no event greater than the amount permitted by applicable law. Developer may bring legal action against the Building Site and the Improvements thereon and/or the Owner or User thereof to collect any unpaid assessment and there shall be added to the amount of such assessment all costs incurred by Developer in foreclosing or attempting to foreclose the lien or in collecting or attempting to collect the amount owing, including any reasonable attorneys' fees.

7.8 SUBORDINATION OF THE LIEN TO MORTGAGES. As provided aforesaid, the lien of the assessments provided for herein shall be subordinate to the lien of any bona fide security device, including the lien of any Mortgage or any sale and leaseback transaction now or hereafter placed upon the Building Site subject to assessment; provided, however, such subordination shall apply only to the assessments which have become due and payable prior to a decree of foreclosure, or other proceeding in lieu of foreclosure. Such sale or transfer shall not release such Building Site from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessments.

7.9 PROPERTY NOT SUBJECT TO ASSESSMENT. The following parts of the Property shall be exempt from assessments charges and liens created by this Declaration:

- (a) All parts of the Property dedicated to and accepted by Bernalillo County, the City of Albuquerque, and any other public or quasi-public authority; and
- (b) All General Common Property whether or not located within a Building Site.

7.10 DEVELOPER'S MAINTENANCE OBLIGATIONS. Subject to Developer receiving reimbursement pursuant to the assessment provisions, until Developer shall have assigned its rights and obligations with respect to the General Common Properties and other maintenance obligations to an association, successor or transferee, it shall maintain, repair, replace and renew or cause to be maintained, repaired, replaced or renewed the General Common Properties and other maintenance obligations in a clean, sightly, safe and first-class condition. Such maintenance to the extent not performed by a governmental or quasi-governmental authority or an Owner or User shall include: (i) the repair, replacement, renewal and cleaning of all lighting fixtures, signs, entrance monuments and markers, traffic control signals and signs; and (ii) the mowing, watering, fertilizing, replanting and replacing of landscaping. The maintenance of dedicated streets shall exclude repairs or reconstruction of such streets.

ARTICLE VIII

Enforcement

- 8.1 ABATEMENT AND SUIT.** The conditions, covenants, restrictions and reservations herein contained shall run with the land, and be binding upon and inure to the benefit of Developer, Declarants, and the Owners and Users of every Building Site on the Property. These conditions, covenants, restrictions and reservations may be enforced as provided hereafter by Developer acting for itself, any Declarant acting for itself, and the Architectural Review Committee on behalf of Developer, Declarants or all Owners. Each Owner, by acquiring an interest in the Property, irrevocably appoints Developer, Declarants, and the Architectural Review Committee as his attorney-in-fact for such purposes; provided, however, that if an Owner or User notifies Developer in writing of a claimed violation of this Declaration and Developer fails to take effective action within thirty (30) days after receipt of such notification, then, and only in that event, an Owner or User may separately, at its own cost and expense, enforce this Declaration as herein provided. Violation or breach of any restriction herein contained shall give to Developer the right to enter upon the Building Site upon or as to which said violation or breach exists and to summarily abate and remove, at the expense of the Owner or User thereof any Improvement or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute an appropriate proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provisions hereof, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

- 8.2 INSPECTION.** Developer may from time to time at any reasonable hour or hours, enter and inspect any property subject to these restrictions to ascertain compliance therewith.
- 8.3 RESPONSIBILITY FOR AND FAILURE TO ENFORCE RESTRICTIONS.** Developer shall not be liable for enforcement of or for failure to enforce any provision, restriction or condition of this Declaration and the failure of Developer or any Owner or User to enforce any of the provisions, restrictions or conditions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter or to enforce any other provision, restriction or condition.
- 8.4 DEEMED TO CONSTITUTE A NUISANCE.** Every violation of this Declaration or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed thereof by law or equity against an Owner, User or Permittee shall be applicable against every such violation and may be exercised by Developer.

- 8.5 LIQUIDATED DAMAGES.** Notwithstanding any other provision of this Declaration to the contrary, upon violation of any provision of this Declaration or The Standards, which violation is of a kind and nature that damages resulting therefrom are not easily determinable or ascertainable, the Owner who commits such violation or whose User or Permittees commits such violation and any User who commits such violation shall be liable for an amount equal to Five Hundred Dollars (\$500.00) as liquidated damages for each day during which such violation continues to incur. All damages incurred by this Association which are in the form of liquidated damages shall constitute a lien upon the Building Site and the Improvements of such Owner or User and may be enforced as set forth in Article VII hereof, subordinate to any valid first Mortgages as provided therein.
- 8.6 CERTIFICATE OF COMPLIANCE.** Upon payment of a reasonable fee as determined by Developer from time to time, and upon written request of any Owner, prospective Owner, User, Declarant, Mortgagee, lessee, or prospective lessee or any real property covered by this Declaration, Developer shall issue an acknowledge certificate in recordable form setting forth the amounts of any unpaid assessments, if any, and setting forth generally whether or not to the best of Developer's knowledge said Owner or User is in violation of any of the terms and conditions of this Declaration, and said Certificate shall be conclusive upon Developer in favor of the persons who rely thereon in good faith other than an Owner or User who is in violation of any such terms and conditions. Such certificate shall be furnished by Developer within a reasonable time, but not to exceed thirty (30) days, from the receipt of a written request for such certificate.

ARTICLE IX

Rights in Common Properties

- 9.1 MEMBERS, EASEMENTS, AND RIGHTS OF ENJOYMENT.** Subject to the provisions hereinafter set forth in this Article IX, every Owner and User shall have a right and easement of enjoyment in and to the General Common Properties and such easement shall be appurtenant to and shall pass with title to every Building Site which is subject to this Declaration.
- 9.2 LEASED PROPERTIES AS GENERAL COMMON PROPERTIES.** Declarant Journal Publishing Company entered into a Lease Agreement with the City of Albuquerque, New Mexico, dated as of December 1, 1981, (the "City Lease") by which Journal Publishing Company leased certain improvements (the "Project") as referred to in the City Lease to be located on the Property that had previously been conveyed to the City of Albuquerque. Under provisions of the City Lease, Journal Publishing Company as Lessee ("Lessee") has the right to use the Project and grant easements, licenses, rights-of-way, and other rights or privileges in the nature of easements with respect to any property included in the Project. The Project shall be considered General Common Properties under the provisions of this Declaration. All use of the Project shall be governed by the provisions herein for General Common Properties, subject to all covenants, restrictions, and provisions of the City Lease. All costs and expenses required to be paid by Lessee under the City Lease, including, but not limited to, maintenance costs, insurance, taxes and governmental charges, shall be treated as General Common Properties expenses which may be assessed pursuant to the provisions of this Declaration; provided, however, that no rent required to be paid pursuant to the provisions of the City Lease shall be assessed as General Common Properties expenses. Further, upon expiration of the City Lease, the costs and expenses of maintaining the Project shall be treated as General Common Properties expenses, if such maintenance is not provided without cost by the City of Albuquerque.
- 9.3 RESERVATION OF CERTAIN RIGHTS TO DECLARANTS AND DEVELOPER IN THE GENERAL COMMON PROPERTIES.** The rights and easements of enjoyment created hereby with respect to the General Common Properties shall be subject to the following:
- (a) The right of Developer or a Declaration to dedicate or transfer all or any part of the General Common Properties to any public agency, authority, or utility company serving the Property, for such purposes and on such conditions as may be agreed to by Developer consistent with the intent of the Declaration.
 - (b) The right of Developer or Declarants to grant easements and/or rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper service and maintenance of the Property and Owners shall be obligated to grant such easements and/or rights-of-way upon the request of the Architectural Review Committee, as provided in Article VI, from time to time.

- (c) The rights of Developer to grant temporary easements upon the General Common Properties for storage of construction materials, dirt, and similar items to Owners or Users, or to Developer during the construction of Improvements upon any areas within the Property; provided, however, that following the completion of such construction, such grantees shall forthwith proceed to remove all materials and dirt from the General Common Properties and restore the same to their condition existing immediately prior to their use therefore, or to a condition acceptable to the Architectural Review Committee, all at the sole cost and expense of said Owner or Developer, as the case may be. If the grantee(s) shall fail to undertake and complete such removal and restoration within sixty (60) days after such completion of construction, Developer may, at its option, after giving such grantee ten (10) days' prior written notice (unless within said ten (10) day period such grantee shall proceed and thereafter pursue with diligence such removal and restoration), undertake and complete the removal of all materials and dirt from the General Common Properties and restore the same to their condition existing immediately prior to their use therefore or to a condition acceptable to the Architectural Review Committee. If Developer undertakes and completes such removal and restoration because of the failure of the grantee to complete the same, the cost of such removal and restoration shall be assessed against the grantee; and if such assessment is not paid within thirty (30) days after written notice of such assessment from Developer to said grantee, it shall constitute a lien on the Building Site for whose benefit the easement was granted and may be enforced as set forth in Article VII hereof.
- (d) The right of Declarants or Developer to impose reasonable covenants and restrictions regarding the General Common Properties in addition to those set forth herein at the time of conveyance of such real properties to an association, and such covenants and restrictions, when recorded, will be incorporated by reference and made a part of this Declaration.
- (e) The right of Declarants and Developer to adjust or grant private access easements over the General Common Properties in addition to or in substitution for platted easement rights if, in the opinion of the Architectural Review Committee, such adjustments or grants would be desirable.
- (f) The right of Developer or Declarants to (1) enter into lease agreements, either as lessee or lessor, with third parties or with each other, for purposes and subject to such conditions as either or both of them may deem appropriate; (2) enter into contractual or reciprocal agreements, with other organizations to provide, receive, or exchange services; provided, however, that Developer shall be fully reimbursed for its costs and expenses incurred in providing such services; (3) contract with governmental entities for the rental and use of equipment and/or exchange of services on a fee basis or otherwise; (4) construct emergency facilities; and (5) erect informational signs as either deems appropriate.

- 9.4 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE PARKING AND ROADWAY EASEMENTS.** Subject to the provisions hereinafter set forth in this Article IX, Developer, Declarants and Owners, to the extent specified therein, shall have a right and easement of enjoyment in and to the Parking and Roadway Easements located on individual Building Sites as established from time to time by the Architectural Review Committee by the recording of a Declaration of Easement in the office of the Clerk and Recorder of Bernalillo County, New Mexico, in accordance with the provisions of Article VI hereof.
- 9.5 TITLE TO PARKING AND ROADWAY EASEMENTS.** Declarants, Developer and the Owners and Users specified or designated by the Developer, shall be designated as grantees in the Declaration of Easement to be granted by an Owner with respect to the Parking and Roadway Easement to be located on his Building Site. Such easement shall be for the benefit and enjoyment of Declarant, Developer and such Owners and Users, as specified or designated by Developer. Notwithstanding anything contained herein to the contrary, the Owner of any Building Site shall always retain legal title to the real property encumbered by the Parking and Roadway Easement.
- 9.6 EXTENT OF RIGHTS AND PRIVILEGES IN THE PARKING AND ROADWAY EASEMENTS.** The rights and privileges of enjoyment in the Parking and Roadway Easements created hereby shall be subject to the following:
- (a) The right of any Owner to grant easements and rights-of-way over, across, and under the Parking and Roadway Easement located upon such Owner's Building Site to such utility companies, public agencies or authorities as he shall deem necessary for the proper service and maintenance of its Building Site, and said Owner shall be obligated to make such grant upon the request of Developer from time to time.
 - (b) The right of any Owner to grant temporary easements for storage of construction materials, dirt, and similar items upon the Parking and Roadway Easement located upon its Building Site to any other Owner or User, or to Developer during the construction of Improvements upon any areas within the Property; provided, however, that following completion of such construction, such grantee(s) shall forthwith proceed to remove all materials and dirt from the Parking and Roadway Easement and restore the same to its condition existing immediately prior to its use therefor, or to a condition acceptable to the Architectural Review Committee, all at the sole cost and expense of said grantee.

- 9.7 PROPERTY RIGHTS AND RESTRICTIONS ON SPECIAL COMMON PROPERTIES.** As provided above, Declarant and Developer reserve the right to set aside from time to time certain portions of the Property as Special Common Properties for the benefit of more than one (1) but less than all Building Sites. In addition, the Owners or Users of any combination of Building Sites shall have the right with respect to their Building Sites to set aside from time to time certain portions thereof as Special Common Properties after first having the written approval of Developer. In connection with the creation of any such Special Common Properties, Developer, Users or Owner(s), as the case may be, shall have the right to designate and determine (i) the nature, type, and kind thereof; (ii) the entity which shall hold title thereto; (iii) the time when title will be conveyed to the prospective owner; (iv) the parties who shall have a right and easement of enjoyment in and to the same; and (v) the basis for allocation of expenses by assessment for the installation, repair, maintenance, and servicing of Improvements to be located on the Special Common Properties. The person or entity holding title to any Special Common Property shall have the right of assessment against the Building Site of any Owner or User permitted to use such Special Common Properties in the same manner as Developer is herein granted such rights with respect to the General Common Properties. Such assessments shall likewise constitute a lien against the Building Site of said Owner or User permitted to use such Special Common Properties and shall become due and payable in all respects as provided in Article VII hereinafter.
- 9.8 USE OF GENERAL AND SPECIAL COMMON PROPERTIES BY DEVELOPER.** Developer shall each have the right to use all General and Special Common Properties, including streets, private roads, walkways, trails, and other areas within the Property for purposes of providing the services which it is obligated to perform hereunder.
- 9.9 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE LANDSCAPE EASEMENTS.** Subject to the provisions hereinafter set forth in this Article IX, Developer shall have a right and easement to landscape certain portions of individual Building Sites as established by the Architectural Review Committee in accordance with the Standards by the recording of a Declaration of Easement in the office of the Clerk and Recorder of Bernalillo County, New Mexico, in accordance with the provisions of Article VI hereof.
- 9.10 TITLE TO LANDSCAPE EASEMENTS.** Developer shall be designated as grantee in the Declaration of Easement to be granted by an Owner with respect to the Landscape Easements to be located on its Building Site. Such easements shall be for the benefit of Developer for the purpose of installing and maintaining (including repair and replacement) certain initial landscape improvements thereon. Notwithstanding anything contained herein to the contrary, the Owner of any Building Site retains legal title to the real property encumbered by the Landscape Easement.

- 9.11 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE PEDESTRIAN EASEMENTS.** Subject to the provisions hereinafter set forth in this Article IX, Developer and all Owners and Users shall have a right and easement of enjoyment to the Pedestrian Easements located on individual Building Sites as established from time to time by the Architectural Review Committee by the recording of a Declaration of Easement in the office of the Clerk and Recorder of Bernalillo County, New Mexico, in accordance with the provisions of Article VI hereof. The Pedestrian Easements shall be appurtenant to and shall pass with title to all Building Sites which are subject to this Declaration.
- 9.12 TITLE TO PEDESTRIAN EASEMENTS.** The Developer and all Owners and Users shall be designated as grantees in the Declaration of Easement to be granted by an Owner with respect to the Pedestrian Easements to be located upon its Building Site. Such Pedestrian Easements shall be for the benefit and enjoyment of the Developer and all Owners and Users. Notwithstanding anything contained herein to the contrary, the Owner of any Building Site retains legal title to the real property encumbered by the Pedestrian Easements and shall maintain the same.
- 9.13 EASEMENTS AND RIGHTS OF ENJOYMENT IN THE SIGNAGE EASEMENTS.** Subject to the provisions hereinafter set forth in this Article, the Developer shall have a right and easement of enjoyment in and to the Signage Easements located on individual Building Sites as established from time to time by the Architectural Review Committee by the recording of a Declaration of Easement in the office of the Clerk and Recorder of Bernalillo County, New Mexico, in accordance with the provisions of Article VI hereof.
- 9.14 TITLE TO SIGNAGE EASEMENTS.** Developer shall be designated as grantee in the Declaration of Easement to be granted by an Owner with respect to the Signage Easements to be located on his Building Site. Such Signage Easements shall be for the benefit and enjoyment of Developer. Notwithstanding anything contained herein to the contrary, the Owner of any Building Site retains legal title to the real property encumbered by the Signage Easements.

ARTICLE X

Right of Repurchase

- 10.1 If any Owner fails to commence construction of a Building upon a Building Site purchased by such Owner within a two-year period commencing with the date of a conveyance from a Declarant to an Owner, other than a Declarant, the conveying Declarant shall have the right to repurchase the Building Site at any time within one hundred eighty (180) days after the expiration of said two-year period upon giving fifteen (15) days prior written notice of its intention to repurchase to said Owner. The repurchase price shall be the price paid by Owner for the Building Site when purchased from Declarant plus reimbursement for any real property taxes paid by Owner relating to the Building Site, less the unpaid balance of any mortgage or deed of trust or other amounts, nonpayment of which may be assessed as liens against the Building Site. The provisions of this Article shall be specifically enforceable. If Declarant fails to give written notice exercising its right of repurchase within the one hundred eighty (180) day period aforesaid, said right of repurchase shall be deemed waived.
- “Commencement of construction of a Building” as defined herein means that the Owner of the Building Site has (1) obtained approval of Plans and Specifications by the Architectural Review Committee as set forth in Article VI hereof; (2) obtained building permits from the appropriate governmental authorities authorizing construction of a Building and Improvements as approved by the Architectural Review Committee; (3) entered into a construction contract with a contractor licensed to do business in New Mexico for construction of a Building; and (4) expended at least the sum of Ten Thousand Dollars (\$10,000.00), or ten percent (10%) of the total costs to be paid under the construction contract, whichever is greater, pursuant to such construction contract for on-site construction work.

ARTICLE XI

Duration, Modification, and Termination

- 11.1 DURATION AND TERMINATION.** This Declaration and the provisions, restrictions, and conditions combined herein shall run with and bind the Property and shall remain in effect, and shall inure to the benefit of, and be enforceable by Developer, Declarants, and any Owner of a portion of the Property subject to this Declaration, their heirs, personal representatives, successors in interest and assigns for any initial term of fifty (50) years from the date of recording of this Declaration. This Declaration shall continue in effect for additional terms of ten (10) years each, which additional terms shall continue automatically and indefinitely unless the Owners of fifty percent (50%) of the square footage of the Property (exclusive of those portions dedicated or deeded to the City of Albuquerque) by written amendment filed for record in the Bernalillo County, New Mexico Clerk's office at least sixty (60) days prior to the effective date for any additional term, declare their intention to terminate this Declaration. Any modification or amendment of the Declaration during an additional term may be accomplished in the same manner as termination except such modification or amendment may be effected at any time during additional term.
- 11.2 MODIFICATION AND TERMINATION DURING THE INITIAL TERM.** During the initial fifty (50) year term, this Declaration, or any provision hereof, may be altered, removed, modified or terminated, as to the Property, or any portion thereof by the written approval of Owners of sixty-five percent (65%) of the square footage of the Property (exclusive of those portions dedicated or deeded to the City of Albuquerque), including Declarants, if they then own any of the Property; provided, however, that Developer must also give its written approval to such alteration, removal, modification or termination, which approval must be filed for record in the Bernalillo County, New Mexico Clerk's office with the Owners' written approval. No amendment to this Declaration shall be effective unless and until the instrument evidencing such amendment, properly executed by the requisite Owners and Developer (if Developer's approval is then required), has been duly recorded as set forth below, and unless and until a written notice stating the proposed amendment shall have been sent to every Owner at least sixty (60) days in advance of any action taken. Any such termination, extension, modification, or amendment shall be immediately effective upon recording the proper instrument in writing, executed and acknowledged by Developer in the office of the Clerk and Recorder of Bernalillo County.

ARTICLE XII

Miscellaneous

- 12.1 MORTGAGES - DEEDS OF TRUST.** Breach of any of the foregoing covenants shall not defeat or render void the lien of any mortgage or deed of trust made in good faith and for value within the Property; but said covenants shall be binding upon and effective against any Owner whose title thereto is acquired by foreclosure, trustee's sale or otherwise.
- 12.2 CONFLICTS.** Zoning ordinances, building codes and regulations, and any other governmental restrictions and requirements shall be observed. In the event of any conflict between this Declaration and any such governmental codes, regulations, restrictions and requirements, the more restrictive standards shall apply. Any approval of Developer or Declarants required in this Declaration, does not in any way relieve Owners, Users and Occupants from obtaining approvals required by any governmental body having jurisdiction.
- 12.3 EFFECT OF DEVELOPMENT PLAN AND OTHER DOCUMENTS FILED WITH GOVERNMENT AGENCIES.** The Development Plan and other related documents which have been filed with the City of Albuquerque or Bernalillo County, or any other applicable governmental agency, shall have the effect, and only the effect, described in the Statutes for the State of New Mexico, and zoning codes, ordinances and the rules and regulations of said county and City of Albuquerque. The Development Plan and related documents constitute part of the public control imposed by the County and the City of Albuquerque upon Developer, Declarants, Owners, residents and Users of the Property and shall not create, nor shall be intended to create, any private property or contract rights in the Owners', Users', and Permittees' property, except as such rights may be created expressly by separate contracts, deeds, and other documents, including this Declaration. The Development Plan shall confer maximum benefits upon all Owners, Users and Permittees when all of its elements are planned and developed in appropriate relationship with each other. The Development Plan describes a plan of development which Developer and Declarants believe will provide maximum benefit to the Owners, Users, Permittees, and the public. During an extended development program, however, various factors may intervene which might hinder the effectiveness of the Development Plan and which might threaten the benefits to be derived by the Owners, Users, their Permittees, and the public, unless the Development Plan can be modified as prescribed the applicable law. Accordingly, this Declaration is not intended to, nor does it grant nor create any private property or contract rights in the Development Plan and the Development Plan shall continue to remain subject to modifications by the proper governmental authorities in accordance with the procedures set forth in the statutes, rules, and regulations of the City of Albuquerque and the County of Bernalillo, State of New Mexico. Moreover, there is no assurance that Developer or Declarants will develop any other real properties other than as set forth on Exhibits "A", "B", and "C" to this Declaration, even though a plan therefor has or may be set forth in the Development Plan.
- 12.4 BENEFITS AND BURDENS.** The terms and provisions contained in this Declaration shall be binding upon and inure to the benefit of Developer, Declarants, all Owners, Users, their respective heirs, successors, personal representatives, and assigns.

- 12.5 NOTICES.** Any notice required to be sent to any Owner or User under the provisions of this Declaration shall be deemed to have been properly delivered when delivered in person or when mailed by certified mail, return receipt requested, with proper postage prepaid, to the last known address of said Owner or User in the records of Developer at the time of such mailing or as reflected in the records of the Clerk and Recorder of Bernalillo County, if there is no such Developer records.
- 12.6 NO WAIVER.** Failure of any person or entity designated herein to enforce any provision of this Declaration shall in no event be deemed to be a waiver of the right to do so or any subsequent violations. Moreover, the right to enforce and any other provisions of this Declaration shall not be waived by such failure, nor shall there be any liability therefor.
- 12.7 SINGULAR AND PLURAL.** Words used herein, regardless of the number and gender specifically used, shall be deemed and construed any other number (singular or plural) or gender (masculine, feminine, or neuter) as the context requires.
- 12.8 OWNER'S LIABILITY SUBSEQUENT TO SALE.** Upon sale of a Building Site, the Owner so selling shall not have any further liability for the obligations thereon which accrue against the Building Site sold after the date of the conveyance; provided however, that nothing herein shall be construed so as to relieve an Owner of any Building Site from any liabilities or obligations incurred prior to such sale pursuant to this Declaration. Furthermore, any such sale shall not modify or alter the terms of any Plans and Specifications previously submitted and approved by the Architectural Review Committee and any subsequent Owner shall be required to comply with any such plan.
- 12.9 SEVERABILITY.** Invalidation of any one or more of the provisions of this Declaration by judgment or court shall in no way affect any of the other provisions which shall remain in full force and effect.

12.10 ASSIGNABILITY OF DECLARANT'S AND DEVELOPER'S RIGHTS AND DUTIES.

- A. Any and all of the rights, powers and reservations of Declarants and Developer herein contained may be assigned to any person, corporation or association (including the Association as provided in Section 12.11) which will assume the duties of a Declarant and/or Developer, respectively, pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment and assume such duties. Such person, corporation or association shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarants or Developer herein. Notwithstanding anything to the contrary herein, or in Section 12.11, below, Developer shall not assign its rights, powers and obligations as Developer hereunder until: (i) at least seventy-five percent (75%) of the portions of the Property owned by the Albuquerque Academy, Inc. (as described on Exhibit "C"), excluding portions now or hereafter designated General Common Property or Special Common Property, is under leases (having terms of no less than twenty (20) years) or sold to third parties; or (ii) such assignment is agreed to by the unanimous consent of the Declarants.
- B. If Developer's contract with Declarants is terminated, so that Developer has no further rights to act as Developer pursuant to this Declaration, or if Developer for any reasons, whether by operation of law or otherwise, is deemed to no longer have any right to enforce the provisions of this Declaration, all of the rights, powers, reservations and obligations of Developer herein contained shall be automatically deemed assigned to the Association, as described in Section 12.11.

12.11 ASSOCIATION. Subject to provisions of Section 12.10 above, Developer shall have the right to assign its right, title, interest and obligations to an Association of Owners pursuant to the provisions of this Section (the "Association"). In the event of an automatic assignment of Developer's rights, titles, interest and obligations, pursuant to Section 12.10(B), such rights, title, interest and obligations shall be deemed to be transferred to the Association, as hereinafter described. The Association shall be subject to the following provisions:

- A. Every owner shall automatically be a member of the Association. No person or entity who holds any interest merely as a security for performance of an obligation or who is merely a lessee or tenant under a lease for the property or who is merely a Permittee shall be a Member.

- B. Each owner shall be entitled to a pro rata vote in the Association based upon the percentage of the total property (excluding the portions of the property deeded or dedicated to the City of Albuquerque) owned by such Owner. When more than one person shall hold an ownership interest or interest in any Building Site, all such persons shall be Members, and the vote(s) provided for herein as a result of such joint ownership shall be exercised among themselves as they determine, but in no event aggregating more than the total percentage ownership attributable to such Building Site. Upon condominiumizing of any Building Site, such Condominium Declaration shall prescribe the division of votes among the individual condominium Owners.
- C. Any action by the Association shall be on the basis of no less than a majority vote of the votes of Members voting upon such action.

12.12 CONDOMINIUMS AND SUBDIVIDING OF BUILDING SITES.

- A. The subdivision of any Building Site into two (2) or more parcels or the creation of a system of condominium ownership of a Building Site or Building thereon shall be subject to the prior approval of Developer and the Owner thereof. Developer shall have the right but not the obligation to approve such proposals and no covenant is herein made by Declarants or Developer that any resubdividing or condominiumizing will be so approved. Any such subdivision or creation of a condominium may be made subject to such conditions as may be imposed by Developer and the Owner thereof, including, but not limited to, provisions for the creation of Special Common Properties and the addition of General Common Properties in accordance with the provisions of this Declaration.
- B. All subdivisions, or resubdivisions, of a Building Site shall be accomplished in accordance with applicable governmental laws, rules and regulations and any documents to be submitted to government agencies or recorded to accomplish such subdividing, or resubdividing, shall be subject to the Developer's prior written approval.
- C. Documents creating a system of condominium ownership on any Building Site shall be subject to the prior approval of Developer. The documents shall provide that the condominium association shall be liable for the collection and payment to Developer of all assessments due to be paid under the Declaration by Owners of the Building Site and that Developer shall have a lien against the entire condominium project for any unpaid assessments, in accordance with the provisions of this Declaration. Such condominium declaration also shall prescribe the voting method among the individual condominium owners that will constitute the procedure for establishing the vote of the "Owner" where called for in this Declaration.

- 12.13 CONSTRUCTIVE NOTICE AND ACCEPTANCE.** Every person who now or hereafter owns or acquires any right, title, estate or interest in or to any portion of said property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property.
- 12.14 PARAGRAPH HEADINGS.** Paragraph headings are inserted for convenience only and are not intended to be part of this Declaration or in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.

JOURNAL PUBLISHING COMPANY,
a New Mexico corporation

By /S/ T.H. Lang
Its President

NEW MEXICO STATE TRIBUNE COMPANY,
a New Mexico corporation

By /S/ William Tanner
Its Vice President

ALBUQUERQUE ACADEMY, INC.,
a New Mexico corporation

By /S/ Stanley N. Stark
Its Vice President

ACKNOWLEDGE AND AGREED:

JOURNAL CENTER CORPORATION,
a Delaware corporation

By ISI T.H. Lang
Its President

STATE OF NEW MEXICO
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 17th day of July, 1984, by T.H. Lang, President on behalf of Journal Publishing Company, a New Mexico corporation.

GIVEN under my hand and seal of office this 17th day of July, 1984.

SEAL

J. Victor Pongetti
Notary Public
Address: 200-W 6400 Uptown Blvd., N.E.
Albuquerque, N.

My commission expires:
October 23, 1986

STATE OF NEW MEXICO
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 26th day of July, 1984, by William Tanner, Vice President, on behalf of New Mexico State Tribune Company, a New Mexico corporation.

GIVEN under my hand a seal of this office this 26th day of July, 1984.

Martha Hill
Notary Public
Address: 4805 Summer
Albuquerque, N.M. 87110

My commission expires:
March 16, 1988

STATE OF NEW MEXICO
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 17th day of July, 1984, by Stanley N. Stark, Vice President, on behalf of Albuquerque Academy, Inc., a New Mexico corporation.

GIVEN under my hand and seal of office this 17th day of July, 1984.

Gloria M. Valencia

Notary Public

Address: 1000 Sunwest Bldg.

Albuquerque, NM 87110

My commission expires:

May 4, 1987

STATE OF NEW MEXICO
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 17th day of July, 1984, by T.H. Lang, President, on behalf of Journal Center Corporation, a Delaware corporation.

GIVEN under my hand and seal of office this 17th day of July, 1984.

J. Victor Pongetti

Notary Public

Address: 200-W 6400 Uptown Blvd., N.E.

Albuquerque, N.M. 87110

My commission expires:

October 23, 1986

EXHIBIT "A"

Tract 5B-1 and Tract 5D-1 of the Replat of Journal Center, a Subdivision to the City of Albuquerque, as recorded in the Records of the Country Clerk of Bernalillo County on June 30, 1983, in Volume C21, Folio 126.

EXHIBIT "B"

Tract 5C-1A and 5C-1B of the Replat of Journal Center, a Subdivision to the City of Albuquerque, as recorded in the Records of the County Clerk of Bernalillo County on July 5, 1984, in Volume C24, Folio 100.

EXHIBIT "C"

Tract 1A, Tract 1A-1, Tract 2A, Tract 3A, Tract 4A, Tract 5A-1, Tract 6A, Tract 7A and 9A, Tract 8A, Tract 8B-1, Tract 8C-1, Tract 8D-1, Tract 8E-1, Tract 8F-1, Tract 8G-1 and Tract 10A of the Replat of Journal Center, a Subdivision to the City of Albuquerque, as recorded in the records of the County Clerk of Bernalillo County on June 30, 1983, in Volume C21, Folio 126.

I HEREBY CERTIFY THAT THIS IS A CONFORMED
COPY OF THE DOCUMENT RECORDED IN
THE STATE OF NEW MEXICO,
BERNALILLO COUNTY COURTHOUSE ON
JULY 26, 1984 AS DOCUMENT NO. 84 56323



JOURNAL CENTER CORPORATION
MICHAEL N. CALLAHAN
VICE PRESIDENT