

**FIRST AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
DIAMOND TAIL HOMEOWNERS' ASSOCIATION**

AUG 10 1999
CORPORATION DEPARTMENT

THE UNDERSIGNED, being desirous of forming a non-profit corporation under the laws of the State of New Mexico, has prepared and hereby adopts the following First Amended and Restated Articles of Incorporation (sometimes referred to as, the "**Articles**"):

**ARTICLE 1
NAME**

The name of the Association shall be the Diamond Tail Homeowners' Association ("**Association**").

**ARTICLE 2
PURPOSES; DEFINITIONS**

The Association shall not afford, directly or indirectly, pecuniary gain or profit to its members. The purposes of the Association are:

2.1 To operate the Diamond Tail Subdivision (Phase I), sometimes also referred to as Diamond Tail (Phase I), and/or Diamond Tail Estates I, as depicted on that certain Second Amended Final Plat of the Diamond Tail Subdivision, Phase I, recorded July 29, 1999, at 9:50 a.m. in Volume 3, Folio 1887-A, Document No. 19061, in the real property records of Sandoval County, New Mexico ("**Subdivision**"), consisting of 59 lots (the "**Lots**") and a separate Fire Station Site ("**Fire Station Site**"), for the benefit of the owners of the Lots (the "**Owners**") and, possibly, to operate subsequent phases of the development of adjoining lands in Sandoval County, New Mexico.

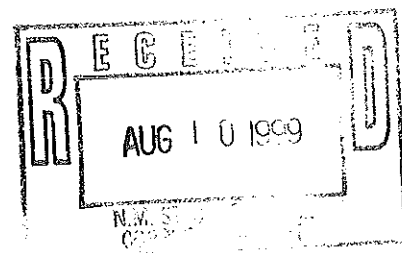
2.2 To manage certain portions of the Subdivision for the use and benefit of all Owners ("the **Common Easements**"); and

2.3 To enforce the provisions of, and perform the duties set forth in, the First Amended and Restated Declaration of Restrictive Covenants for the Subdivision (the "**Declaration**"), as well as the Bylaws, the Subdivision Rules, the Shared Well Agreements, and any shared driveway or other Subdivision-related agreements.

2.4 Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Declaration.

**ARTICLE 3
POWERS**

The Association shall have the following powers:



3.1 To perform any and all acts necessary and proper to promote the health, safety and welfare of the Owners and residents of the Subdivision, including, without limitation, any of the following acts:

3.1.1 To establish and collect annual and special assessments or charges to be levied against the members of the Association, as provided for in the Bylaws and the Declaration;

3.1.2 To enforce any and all covenants, conditions and restrictions set forth in the Declaration, the Bylaws, the Subdivision Rules, the Shared Well Agreements and any other Subdivision-related agreements, including as any of the foregoing may be amended from time to time;

3.1.3 To maintain streets, detention ponds, fire protection resources and facilities, helipads, landscaping, drainage structures, utilities, signage, common lighting, trails and other Structures and facilities located within the Common Easements;

3.1.4 To receive, administer and apply funds generated by annual and special assessments for the common benefit of the Owners.

3.2 To perform all acts and exercise all powers authorized by the Nonprofit Corporation Act, NMSA 1978, §§ 53-8-1 through 53-8-99 (1975), as now or hereafter amended, and to perform all acts and exercise all powers authorized for a nonprofit corporation, under all applicable statutes of New Mexico, as now or hereafter amended, including, without limitation, the following:

3.2.1 To receive and administer funds and contributions donated or transferred by gift, deed, bequest or devise, and to hold, invest, expend, contribute or otherwise dispose of such funds and contributions for the purposes for which this Association is organized;

3.2.2 To borrow money and make, execute or issue bonds, debentures, promissory notes or other corporate obligations for money borrowed, or in payment for property acquired, and to secure the payment of any such corporate obligations by pledge, mortgage, indenture, agreement or otherwise;

3.2.3 To acquire by purchase or otherwise personal property of every kind whatsoever and to hold, invest and reinvest the same for the purposes for which the Association is organized;

3.2.4 To acquire real property by purchase or otherwise and to hold, use, improve, lease, rent, sell, convey or encumber the same for the purposes for which this Association is organized;

3.2.5 To enter into, make, perform and carry out contracts, agreements, commitments and assurances of every kind for the purposes for which this Association is organized;

3.2.6 To participate in mergers and consolidations, or form a master association with other nonprofit corporations organized for the same purposes, or annex additional property;

3.2.7 To exercise or perform any of the foregoing as a contractor, subcontractor, principal, agent, employee or on its own behalf, or in an association, partnership, corporation, joint venture and/or company with any person, partnership, corporation, joint venture, company, or other business entity.

3.3 To exercise all powers which the Association is granted pursuant to these Articles, primarily for purposes consistent with the provisions of Section 528 of the Internal Revenue Code of 1954, as now or hereafter amended.

ARTICLE 4 DURATION

The period of duration of the Association shall be perpetual.

ARTICLE 5 REGISTERED AGENT AND OFFICE

The registered agent of the Association is CT Corporation System and the address of the registered office of the Association is 123 East Marcy, Santa Fe, New Mexico, 87501.

ARTICLE 6 BOARD OF DIRECTORS

The management of the affairs of the Association shall be vested in a Board of Directors consisting of three (3) persons. The initial Board shall consist of those three (3) persons whose names and addresses appear below:

Joe B. Matthews
301 Congress Avenue, Suite 1900
Austin, Texas 78701

Skipper C. Good
P.O. Box 130
Placitas, New Mexico 87043-0130

Jack E. Owen, Jr.
301 Congress Avenue, Suite 1900
Austin, Texas 78701

At the first annual meeting of the members of the Association, two (2) members of the Board shall be elected to serve two (2)-year terms, and the remaining one (1) member of the Board shall be elected for a one (1)-year term. All subsequent elections for membership to the Board shall be for two (2)-year terms. Except for the initial Directors named above, who may be elected and reelected, directors shall be members of the Association.

ARTICLE 7

NAME AND ADDRESS OF INCORPORATOR

The name and address of the Incorporator is as follows:

Skipper C. Good
P.O. Box 130
Placitas, New Mexico 87043-0130

ARTICLE 8

MEMBERSHIP AND VOTING RIGHTS

8.1 Membership. Every person or entity who is the beneficial owner of a fee simple interest, including the purchaser under a contract of sale, in any Lot shall be a member of the Association; provided that any person or entity holding such interest as security for the payment of a debt or performance of any obligation shall not be a member; provided, further, that any person or entity who acquires such interest at a judicial sale or by conveyance in lieu of foreclosure and for foreclosure shall be a member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to the Declaration.

8.2 Voting Rights. The Association shall have two (2) classes of voting membership:

8.2.1 Class 1. Class I members shall be those members identified in Section 8.1 of this Article 8, with the exception of Declarant, subject to the provisions of Section 8.2.2 below. Class I members shall be entitled to one vote for each Lot in which they hold the interest required for membership, as provided in Section 8.1 of this Article 8. When more than one person or entity holds such interest, all such persons or entities shall be members, but only one vote shall be cast with respect to any Lot.

8.2.2 Class II. The Class II member shall be the Declarant, or its successor(s) or assign(s) for the development of the Subdivision and possible development, in subsequent phases, of adjoining lands. The Class II member shall be entitled to two hundred fifty (250) votes, provided that the Class II membership shall cease and become converted to Class I membership, upon the occurrence of the earliest of the following events:

a. the sale by Declarant of two hundred and fifty (250) lots within some or all of the anticipated five(5) phases of the Diamond Tail Master Development Plan; or

b. a decision in favor of such conversion by Declarant, in its sole discretion.

Upon the conversion of Class II membership to Class I membership, as provided above, the Class II member shall be entitled to one vote for each Lot in which it holds the interest required for membership by Section 8.1 of this Article 8.

8.3 Suspension of Membership and Voting Rights. The rights of membership, including the right to vote and the right to participate in Association affairs, are subject to suspension by the Board for (a) failure or refusal to pay any assessment or fine levied by the Association for a period of thirty (30) days after notice of unpaid assessments/fines is delivered, pursuant to the Declaration; or (b) an infraction of, default in or breach of, any provision of the Declaration, the Articles, the Bylaws, the Subdivision Rules, the Shared Well Agreements, or any other Subdivision-related agreements.

ARTICLE 9 AMENDMENT

These Articles may be amended, changed, modified or repealed in the manner now or hereafter provided by law by the members of the Association at a duly constituted meeting for such purpose, but no amendment shall take effect unless approved by members having at least eighty-six percent (86%) of the Voting Power of the Association. The "**Voting Power of the Association**" means the total number of votes of all Owners, including Declarant, at the time the pertinent vote is to be taken. Written notice of such a meeting must set forth the purpose of the meeting.

These First Amended and Restated Articles of Incorporation of Diamond Tail Homeowners' Association correctly set forth the Articles of Incorporation of Diamond Tail Homeowners' Association, as amended, have been duly approved as required by law, and supersede the Articles of Incorporation of Diamond Tail Homeowners' Association.

IN WITNESS WHEREOF, the undersigned Incorporator of this Association has made and signed these First Amended and Restated Articles of Incorporation this 9th day of August, 1999.

DIAMOND TAIL HOMEOWNERS' ASSOCIATION,
a New Mexico nonprofit corporation

By: Joe B. Matthews
Joe B. Matthews, President

By: Skipper C. Good
Skipper C. Good, Secretary

