

FATCO 400825

**DECLARATION OF WATER COVENANTS AND RESTRICTIONS
FOR
RESIDENTIAL LOTS WITHIN OSHARA VILLAGE - PHASE I**

SFC CLERK RECORDED 06/12/2006

This Declaration of Water Covenants and Restrictions for Residential Lots Within Oshara Village – Phase I (the “Declaration”) is made in Santa Fe, New Mexico, this 12th day of June, 2006, by Oshara Village, LLC, a New Mexico limited liability company (the “Declarant”).

RECITALS

A. Declarant is the Owner of real property in Santa Fe County, New Mexico described in Section 2.1 below.

B. Oshara Village - Phase I includes 175 residential lots, each of which has been designated on the Plat for construction of certain types of residential structures. A portion of said lots are designated on the Plat as lots for live work units. The number and types of such residential structures, as shown on the Plat, is follows:

<u>Designation on Plat</u>	<u>Type of Phase I Residential Lot</u>	<u>Number</u>
T	Townhome	19
L/W	Live Work Unit	42
P	Patio Home	55
H	Single Family Home	41
E	Estate Home	18
		175

C. Declarant desires and intends that Declarant, any other Owners, tenants, mortgagees, occupants and all other persons hereinafter acquiring any interest in any Phase I Residential Lot, shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights and restrictions set forth in this Declaration, all of which are declared to be in furtherance of a plan for the proper and beneficial use of the Phase I Residential Lots.

NOW THEREFORE, Declarant declares, covenants, and agrees as follows:

**ARTICLE 1.
DEFINITIONS**

1.1. Definitions. When used in this Declaration, the following terms shall have the meanings set forth below:

(A) “County Land Use Administrator” means the Santa Fe County Land Use Administrator.

(B) “Irrigation” means all outside watering of landscaping and other exterior vegetation, including, without limitation, lawns, shrubs and trees.

(C) “Occupancy Date” means the date on which a certificate of occupancy is issued for a residential structure constructed on a Phase I Residential Lot; provided, however, that the

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Occupancy Date shall be no later than the date the residential structure constructed on a Phase I Residential Lot is first occupied.

(D) "Owner" means the person(s) or entity(ies) who, individually or collectively as joint tenants, tenants in common or any other co-ownership relationship recognized under the laws of the State of New Mexico, as the last transferee of parcel of real property, as evidenced by the recording of a transfer with the County Clerk of Santa Fe County, New Mexico.

(E) "Phase I Residential Lots," solely for the purpose of this Declaration, means Lots 1 through 175 in Oshara Village – Phase I, as shown on the Plat and includes lots designated for Live Work Units, or "L/W" on the Plat.

(F) "Plat" means Plat of Survey entitled "Subdivision Plat for Phase I of Oshara Village," recorded June 12, 2006 as Document No. 1437406, Plat Book 626, Page 4-17, in the records of Santa Fe County, New Mexico.

(G) "Reclaimed Water" means water used in Oshara Village – Phase I and then treated at the Water Reclamation Facilities.

(H) "Water Reclamation Facilities" means the water treatment facilities located within Oshara Village - Phase I, or any other water treatment facility providing Reclaimed Water to the Oshara Village – Phase I, for nonpotable use, including Irrigation.

ARTICLE 2.
PROPERTY SUBJECT TO THIS DECLARATION

2.1. The Property. The real property that is and shall be held, transferred, sold, conveyed, used and occupied subject to this Declaration is the Phase I Residential Lots shown on the Plat.

ARTICLE 3.
WATER RESTRICTIVE COVENANTS

3.1. Covenants. The following water restrictive covenants shall apply to all Phase I Residential Lots.

(A) Annual potable metered water consumption per Phase I Residential Lot shall not exceed the following limits for each type of Phase I Residential Lot shown on the Plat:

<u>Designation on Plat</u>	<u>Type of Phase I Residential Lot</u>	<u>Acre Feet Per Year</u>
T	Townhome	0.115 acre feet
L/W	Live Work Unit	0.120 acre feet
P	Patio Home	0.125 acre feet
H	Single Family Home	0.131 acre feet
E	Estate Home	0.131 acre feet

(B) Water use shall be conserved through voluntary and obligatory practices such as, respectively, appropriate gray water reuse in certain indoor plumbing functions and water harvesting to collect roof drainage in cisterns for landscape irrigation.

SEE OTHER RECORDED 00/12/2006

(C) Waste water from all toilets, sinks, showers and bathtubs on Phase I Residential Lots shall be treated at the Water Reclamation Facilities, where it shall be converted to Reclaimed Water. Each structure on a Phase I Residential Lot shall be constructed in such a way, and shall include the proper connecting mechanisms, to allow delivery of waste water from the structure to the Water Reclamation Facilities.

(D) Toilets shall be either "dual-flush" models (i.e., have different water-use settings for liquid and solid waste) or be designed pursuant to manufacturer's specifications for use of no more than 1.6 gallons per flush.

(E) Bathtub faucets, lavatory faucets and showerheads shall have a maximum capacity of 2.5 gallons per minute.

(F) No more than one (1) automatic clothes washing machine per Residential Lot may be installed. Washing machines shall be models designed pursuant to manufacturer's specifications to use no more than fourteen (14) gallons per load and shall have cycle or water level adjustments that permit reduced amounts of water to be used for reduced loads.

(G) No more than one (1) automatic dishwasher per Residential Lot may be installed. Dishwashers shall be models designed pursuant to manufacturer's specifications to use no more than five (5) gallons per load and have cycle or water level adjustments that allow reduced amounts of water to be used for reduced loads.

(H) Water conserving appliances (i.e., appliance designated by the manufacturer as "water conserving" or requiring low or reduced water flow) shall be installed and used at the time of construction or replacement of appliances. All appliances shall meet the standards of "Energy Star" or its equivalent.

(I) All water heaters in residential structures on Phase I Residential Units shall have devices that recirculate water through the water heater in order to reduce the amount of time for water to be heated. All such devices shall have timers that can be set by users.

(J) Hot water pipes shall be insulated.

(K) Evaporative coolers are prohibited; however, compressor air conditioners are allowed.

(L) Low water use landscaping techniques applying the principles of xeriscaping shall be utilized.

(M) Non-native grasses are prohibited.

(N) Irrigation.

1. Irrigation on Phase I Residential Lots shall be performed only by drip irrigation systems, as set forth in this Section 3.1(N). The water used for Irrigation shall be only Reclaimed Water or rainwater, including rainwater collected on Phase I Residential Lots.

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2. All Phase I Residential Lots shall be subject to rainwater harvesting.

3. All Phase I Residential Lots shall have installed, before the Occupancy Date, a drip irrigation system, the design and manufacturer for which shall be approved by the operator, or persons designated by the operator, of the Water Reclamation Facilities.

4. The continuous operation of the drip irrigation systems required on Phase I Residential Lots pursuant to this Section 3.1(N) is important to the proper functioning of the Water Reclamation Facilities. Such drip irrigation systems shall be operational and maintained regardless of the use or status of any structure on the Phase I Residential Lot or the existence of any landscaping or other vegetation on the Phase I Residential Lot.

5. Owners of Phase I Residential Lots are prohibited from removing or obstructing such drip irrigation systems, or any part thereof, and shall be responsible for the costs required to repair and maintain the continuous operation of the Owner's Phase I Residential Lot.

(O) There shall be not potable water connections of any kind installed on a Phase I Residential Lot except in the interior of the residence or live work unit for inside use.

(P) Use of Reclaimed Water shall meet the requirements of the New Mexico Environment Department and the Uniform Plumbing Code.

(Q) Individual swimming pools and spas, either of a permanent or removable nature, are prohibited. Removable wading pools of a diameter not to exceed eight (8) feet are acceptable at each Phase I Residential Lot.

(R) Water wells are prohibited.

(S) Reverse osmosis systems, and other water filter/backwashing technology, are prohibited.

(T) Prior to the Occupancy Date, each residential structure on a Phase I Residential Lot shall have installed a totalizing meter approved by Santa Fe County Utilities Department that shall measure the potable water consumed by the Phase I Residential Lot on which the residential structure has been constructed.

(U) Photovoltaic solar hot water conduits may be used.

ARTICLE 4.
GENERAL PROVISIONS

4.1. Duration; Covenants Running with the Land. The covenants of this Declaration shall run with and bind the Phase I Residential Lots, and shall inure to the benefit of the Owners of Phase I Residential Lots, their respective legal representatives, heirs, successors and assigns.

4.2. Amendment. This Declaration may be amended by the recording of a written

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instrument or instruments specifying the amendment, executed by a majority vote of the Owners of all Phase I Residential Lots, with Owner(s) of each Phase I Residential Lot being entitled to no more than one (1) vote per lot; provided, however, that for any such amendment to become effective, such amendment shall include the written approval by the County Land Use Administrator, which approval shall not be unreasonably withheld

4.3. Enforcement. Enforcement of these covenants and restrictions shall be by any Owner or the Oshara Village Homeowners' Association (the "Associaton"), in any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction or in any proceeding to restrain any such violation. Any failure by the Association or any Owner of a Phase I Residential Lot to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. If the Association or an Owner of a Phase I Residential Lot prevails in any action against any person or persons to enforce any provision of this Declaration, they shall be entitled to recover from such person or persons his costs and reasonable attorneys' fees. Notwithstanding anything herein to the contrary, any action for the enforcement of the restrictions set forth in Section 3.1(A) shall be subject to the following: The potable water consumption for all Phase I Residential Lots, calculated on an average per-lot basis for all occupied Phase I Residential Lots, shall have exceeded one-eighth (.125) of an acre foot for the calendar year immediately preceding the date on which any such enforcement action is taken.

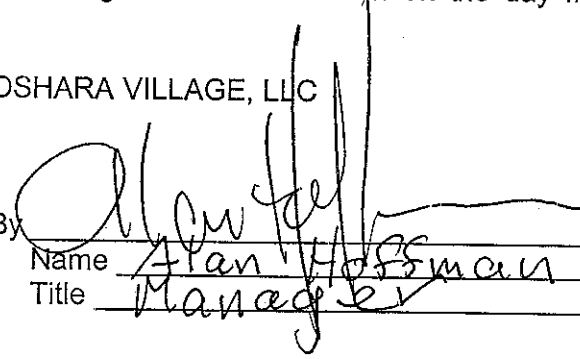
4.4. Inconsistencies with Other Oshara Village – Phase I Documents. The terms and provisions of this Declaration shall govern over any inconsistent terms set forth in the "Declaration of Covenants, Conditions and Restrictions for the Homes at Oshara Village" or the "Declaration of Covenants, Conditions and Restrictions for Commercial Lots within Oshara Village" and any other documents governing the development and use of Oshara Village - Phase I.

4.5. Severability. The invalidity or unenforceability of any covenant, restriction, term or other provision of this Declaration as determined by a court of competent jurisdiction shall not impair or adversely affect the validity or enforceability of any other covenant, restriction, term or provision of this Declaration, which shall be and remain valid and enforceable to the fullest extent permitted by law.

4.6. Miscellaneous. This Declaration shall be governed by and interpreted under the laws of the State of New Mexico. This Declaration shall be binding upon each Owner of a Phase I Residential Lot and such Owner's respective heirs, successors and assigns.

IN WITNESS WHEREOF, Declarant has signed this Declaration on the day first set forth above.

OSHARA VILLAGE, LLC

By 
Name Alan Hoffmann
Title Manager

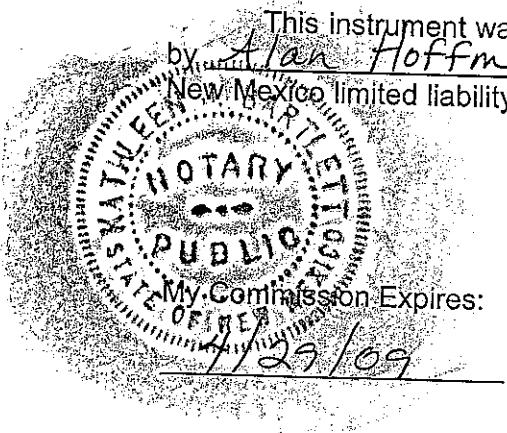
ACKNOWLEDGMENT

STATE OF NEW MEXICO)
COUNTY OF SANTA FE)

ss

This instrument was acknowledged before me this 9th day of June, 2006,
by Alan Hoffman Manager of Oshara Village, LLC, a
New Mexico limited liability company.

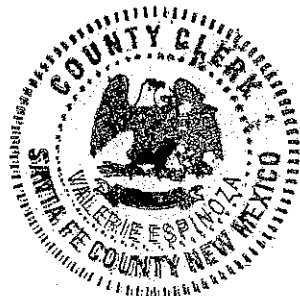
[Signature]
Notary Public



APPROVED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR:

[Signature]

Date: 6/9/06



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

DECLARATION COVENANTS
PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 12TH Day Of June, A.D., 2006 at 16:34
And Was Duly Recorded as Instrument # **1437407**
Of The Records Of Santa Fe County

[Signature]
Deputy Valerie Espinoza County Clerk, Santa Fe, NM

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