Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico

DECLARATION

THIS DECLARATION is made on this 1st day of May, 1998 by Rocket Entertainment, Inc., a New Mexico Corporation, and the following undersigned owners who are [illegible] the owners of real property located in the Desert Willows Subdivision, an addition to the City of Alamogordo, Otero County, New Mexico, as shown on the official plat thereof filed in the office of the County Clerk of Otero County on February 21, 1995, at Plat Book 47, Pages 14 , and other lands all of which are more particularly described as follows:

> A tract of land in the NW 1/4 of Section 11, T17, [illegible] N.M.P.M., Otero County, New Mexico, more particularly described by metes and bounds as follows: Starting at the West 1/4 corner of said Section 11, a brass cap found in place, thence N. 00° 03' 57" E., 1470.2 feet, coincident with the West Right-of-way Line of Airport Road, thence S. 89° 43' 38" E., [illegible] feet, to the Southwest corner of Desert Villa Estates Phase 1, Alamogordo, Otero County, New Mexico and a place of beginning of the tract of land herein described, thence continuing S. 89° 43' 38" E., 2302.52 feet, coincident with the South boundary lines of Desert Villa Phases 1, 2, and 3, thence [illegible] 106.04 feet, thence S. 89° 47' 54" E., 250.3 feet to a point on the West Right-of-way line of Collins Avenue, thence S. [illegible] 154.68 feet, coincident with the West Right-of-way line of Collins Avenue, thence N. 89° 59' 04" W., 340.14 feet, coincident with the North Right-of-way line of Wright Avenue, thence S. 00° 09' 09" E., 327.97 feet, thence [illegible] 37' 00" W. 1586.13 feet, thence N. 00° 03' 00" E., 770.94 feet, thence [illegible] 47' 54" W., 629.67 feet, to a point on the East Right-of-way line of Airport Road, thence N. 00° 03' 57" E., 325.9 feet, coincident with the East Right-of-way line of Airport Road, to the place of beginning and containing 49.791 acres.

WHEREAS, Rocket Entertainment, Inc., A New Mexico Corporation imposed certain restrictive covenants and mutual and reciprocal easements upon the tract of land, relating to an orderly and uniform development of the said real estate and the improvements to be placed thereon, under restrictive covenants recorded in Book 797, Page 764, et seq, on February 24, 1995, in the Office of the County Clerk, Otero County, New Mexico, and thereafter amended the same under Additional Restrictive Covenants and Protective Easements, Desert Willows Subdivision, An Addition To The City of Alamogordo, New Mexico, filed for record January 31, 1997, in Book 550, Pages 976-984, [illegible] in that office; and

BE IT THEREFORE DECLARED that the following covenants, restrictions and easements as amended herein are declared and imposed upon the lands and the same shall run with the land and be binding upon all parties, purchasers and owners and upon their successors, assigns and [illegible] and all persons claiming under or by or through them for the term of years or terms of years as herein provided.

PART I. FULLY RESTRICTED RESIDENTIAL AREA

The residential area covenants in Part II in their entirety shall apply to the residential lots in Desert Willows Subdivision, an addition to the City of Alamogordo, Otero County, New Mexico.

Part II. Residential Area Covenants

A. LAND USE AND BUILDING TYPE

1. No lots shall be used except for residential purposes.
2. No residence shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling.

B. MINIMUM HOME BUILDING REQUIREMENTS

Each dwelling shall contain and conform to the following minimum home building requirements:

1. Dwelling may be site built or manufactured or modular housing. They shall conform otherwise to all requirements relating to such single family residential construction in new subdivisions as may be required by acts, statute, rule, regulation or ordinance of Federal, State and Local authorities and agencies and shall, as constructed, conform generally to the requirements of conventional, or Federal, State or Local mortgage financing programs.

C. UNLESS THE FOREGOING GENERAL STANDARD IS HIGHER THE HOMES GENERALLY SHALL INCLUDE THE FOLLOWING:

1. A manufactured home shall not be relocated upon a lot in the subdivision if it is of a model one year older than the then current year of manufacture unless it is sold by a licensed manufactured housing dealer within the previous 30 days as a new home, having never been titled in any state.
2. Be of a multi-section construction, with a minimum width of 23 feet.
3. Contain a minimum of 1000 square feet.
4. Contain a minimum of two bedrooms.
5. Sidewall minimum ceiling height of 7 feet with center height of living room no less that 7 feet 6 inches.
6. Residential lap siding, fiber board, treated wood, brick siding, masonite, [illegible] or stucco
7. Removed wheels, axles, hitch, and any running gear.
8. Composition roof shingle, or an acceptable equivalent.
9. Attachment to a permanent foundation (i.e. steel reinforced concrete runners or slab foundation as specified by the Otero County Assessor; proper blocking and tie downs as required by the State of New Mexico Manufactured Housing Division, and perimeter skirting to be completed within thirty days).
10. Concrete driveway.
11. All patios, carports, and garages shall be poured concrete slab floors.
12. All site improvements and amenities in place and complete.
13. All utilities connected and attached in a manner acceptable to the utility company or in a manner comparable to site built housing applications.
14. The finish floor elevation shall not be greater than forty-four (44") inches above the finish ground elevation from the front (street side) elevation.
15. Manufactured or Modular homes shall meet the standards and requirements of the Architectural Control Committee.
16. Front yard (street side) landscaping shall be started within 30 days of the beginning of the growing season and completed with due diligence.

D. ARCHITECTURAL CONTROL

No building or improvement shall be erected, placed, altered or replaced on any lot until the construction plans and specifications and a site plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing and/or planned structures, and as to location with respect to topography and finish grade elevation. All buildings or improvements, once started, shall be completed in a timely manner. No fence or wall, except necessary retaining walls of minimum height, shall be erected or allowed to remain nearer the front street than the front building setback line.

On corner lots, no side fence or walls, except necessary retaining walls of minimum height shall be erected or allowed to remain nearer to the front street than the front of the dwelling, nor nearer the side street than the property line. There is no restriction as to height of fences which are erected behind the minimum setback line of the front street; except as stated or implied herein. Approval shall be as provided in Part III.

E. BUILDING LOCATION

No building shall be located on a lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than fifteen (15) feet to any side street line, except that as to streets toward which houses face, no building shall be located nearer

than twenty-five (25) feet to the street property lines of the said streets. No building shall be located nearer than five (5) feet to any exterior lot line except as may be permitted by City Ordinance. No dwelling shall be located on any interior lot nearer than twenty (20) feet to the rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

F. LOT AREA AND WIDTH

No dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum building setback line. Each lot shall have an area of not less than 6000 square feet.

G. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

H. NUISANCES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

I. TEMPORARY STRUCTURES AND INITIAL OCCUPANCY OF PERMANENT RESIDENCE

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out-building, shall be used on any lot at any time as a residence either temporarily or permanently. Nor shall any residence be occupied initially until its completion has been approved by the Architectural Committee. Landscaping shall be completed within the time limits after occupancy and after in that manner agreed to between owner and the Committee as time of completion.

J. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

K. OIL AND MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

L. LIVESTOCK AND POULTRY

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

M. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

N. WATER SUPPLY

No individual water supply system shall be permitted on any lot. Water supply for every lot shall be obtained from the public water system, maintained by the City of Alamogordo, New Mexico.

O. SEWAGE DISPOSAL

No individual sewage-disposal system shall be permitted on any lot. Sewage disposal for every lot shall be by means of the public sewage disposal system, maintained by the City of Alamogordo, New Mexico.

P. SIGHT DISTANCE AT INTERSECTIONS

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

PART III. ARCHITECTURAL CONTROL COMMITTEE

1. MEMBERSHIP - The Architectural Control Committee is composed of:

(a) Denny F. O'Hara
6 Camino Ranchitos
Alamogordo,N.M. 88310
(b) Michael M. O'Hara
1498 Challenger
Alamogordo, N.M. 88310
(c) Patricia J. O'Hara
1492 Challenger
Alamogordo, N.M. 88310

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or to restore to it any of its powers and duties.

2. PROCEDURE The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

PART IV. GENERAL PROVISIONS

1. TOLERANCE A six (6") inch tolerance by reason of mechanical variance of construction is allowed for minimum distance requirements from lot line.

2. TERM these covenants are to run with the land and shall be binding on all parties, their successors, assigns and privies and all persons claiming by, through or under them for a period of thirty (30) years from the date these covenants are recorded. After this period the covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been placed of record in the County Clerk's Office, requesting amending agreeing to change the covenants in whole or in part. Votes shall be counted on the basis of one (1) vote for each lot owned.

3. ENFORCEMENT Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

4. SEVERABILITY Invalidation of any one of these covenants by judgment or court order or by ordinance of the City of Alamogordo, New Mexico shall in nowise affect any of the other provisions which shall be and remain in full force and effect.

5. AMENDMENT . These covenants may be amended [in whole or in part] at any time by an instrument signed by a majority of the owners of the lots has been recorded agreeing to [amend said covenants in whole or in part to] include additional property under the terms hereof or to exclude specifically described property from the provisions hereof. Votes shall be counted on the basis of one (1) vote for each lot owned with the subject area.

IN WITNESS WHEREOF, the said officers have caused this instrument to be executed this 1st. day of May, 1998.

ROCKET ENTERTAINMENT, INC., A NEW MEXICO CORPORATION

BY PRESIDENT

MICHAEL M. O'HARA

State of New Mexico, County of Otero

This instrument was acknowledged before me on on

May 1st, 1998 by Michael M. O'Hara

Notary Public My commission expires 3-26-2000

SECRETARY

PATRICIA O'HARA

State of New Mexico, County of Otero

This instrument was acknowledged before me on on

May 1st, 1998 by Patricia O'Hara

Notary Public My commission expires 3-26-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Roxanne Medley

Roxanne Medley

STATE OF NEW MEXICO }
} SS:
COUNTY OF OTERO }

The foregoing instrument was acknowledged before me this 15th day of May, 1998, by Roxanne Medley, a single woman.

Notary Public

My Commission Expires:
3-26-2000

NOTARY PUBLIC

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

James A. Olson

Barbara J. Olson

STATE OF NEW MEXICO)
) SS:
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 5th day of May, 1998, by James A. Olson and Barbara J. Olson, his wife.

Notary Public

My Commission Expires:
3-26-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Paul A. LaPierre

Paul A. LaPierre

Beatrice S. LaPierre

Beatrice S. LaPierre

STATE OF NEW MEXICO)
) SS.
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 15th day of May, 1998, by Paul A. LaPierre and Beatrice S. LaPierre, his wife.

Notary Public

My Commission Expires:
3-26-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico,

OWNERS:

Anthony Tamosaitis

Anthony Tamosaitis

Jean Tamosaitis

Jean Tamosaitis

STATE OF NEW MEXICO)
) SS.
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 1st day of May, 1998, by Anthony Tamosaitis and Jean Tamosaitis, his wife.

Notary Public

My Commission Expires:
3-15-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements,
Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Ernest E. Cruce

Ernest E. Cruce

Ruth J. Cruce

Ruth J. Cruce

STATE OF NEW MEXICO)
) SS:
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 1st day of May, 19[illegible], by Ernest E. Cruce and Ruth J. Cruce, his wife.

Notary Public

My Commission Expires:
3-28-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Thomas F. Sitzer

Stephanieanna Sitzer AKA Stephanieanna Sitzer

STATE OF NEW MEXICO)
) SS:
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 15th day of May, 1998, by Thomas F. Sitzer and Stephanieanna Sitzer, his wife.

Notary Public

My Commission Expires:
3-26-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Gregory A. Kraykovich

Elizabeth A. Kraykovich

Elizabeth A. Kraykovich

STATE OF NEW MEXICO)
) ss
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 15th day of May, 1998, by Gregory A. Kraykovich and Elizabeth A. Kraykovich, his wife.

Notary Public

My Commission Expires:
3-28-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Martha Sitzer

Thomas F. Sitzer

STATE OF NEW MEXICO }
} SS:
COUNTY OF OTERO }

The for-going instrument was acknowledged before me this 15th day of May, 1998, by Martha Sitzer and Thomas F. Sitzer.

Notary Public

My Commission Expires:
3-26-2000

DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements,
Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Eugene R. Carroll

Eugene R. Carroll

Deborah L. Carroll

Deborah L. Carroll

STATE OF NEW MEXICO }
} SS:
COUNTY OF OTERO }

The foregoing instrument was acknowledged before me this 15th day of May 95, 1998, by Eugene R. Carroll and Deborah L. Carroll, his wife.

Notary Public

My Commission Expires:
Jan 26, 2000

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DESERT WILLOWS SUBDIVISION SIGNATURE PAGE

Third Additional Declarations of Restrictive Covenants and Protective Easements, Desert Willows Subdivision, an addition to the City of Alamogordo, New Mexico.

OWNERS:

Lawrence T. Rinker

Lawrence T. Rinker

Anna E. Rinker

Anna E. Rinker

STATE OF NEW MEXICO)
) SS:
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 1st day of May, 1998, by Lawrence T. Rinker and Anna E. Rinker, his wife.

Notary Public

My Commission Expires: 03-26-2000

STATE OF NEW MEXICO
OTERO COUNTY
FILED FOR RECORD
This 4th day of May, 1998
At 11:45 o'clock A M and duly recorded
in Book No. 887 Page 990-994
The records of Otero County, New Mexico
County Clerk, Otero County, New Mexico
By Deputy

4659