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WHEN RECORDED RETURN TO:  
 Ann Leenhouts, Esq.  
 The Estes Company  
 5210 East Williams Circle  
 Suite 300  
 Tucson, Arizona 85711

RICHARD J. KENNEDY, COUNTY RECORDER RECORDED IN PIMA COUNTY, AZ	
NOV 25 '86-8AM	
FEE \$ 8 <sup>00</sup> - 4 <sup>00</sup> 7918	PG 238-241
REQ. Fidelity National Title Agency, Inc.	
BY <i>Jas</i>	, Deputy

FIRST AMENDMENT TO THE  
 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
 FOR  
 MACALESTER PARK

WHEREAS, FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, (the Declarant) as Trustee under Trust No. 50000 has caused to be recorded in Document #7843, Pages 988-1008, Pima County Recorder's Office, Tucson, Arizona, on August 7, 1986, the Declaration of Covenants, Conditions and Restrictions for Macalester Park, Pima County, Arizona (the Declaration); and

WHEREAS, all terms used in this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Macalester Park shall have the same meanings as defined and used in the Declaration; and

WHEREAS, Declarant is the Owner of more than ninety percent (90%) of the Lots within Macalester Park.

NOW, THEREFORE, the Declarant, as the majority Owner of property at Macalester Park hereby amends the Declaration as follows:

1. ARTICLE 1, Section 1.8 shall be amended to read "Common Area" shall mean all real property, and all Improvements located thereon, including recreational facilities if any, owned by the Association for the common use and enjoyment of the Owners.
2. ARTICLE 5, Section 5.3, under Maximum Annual Assessment, the amount shall be amended to establish the initial maximum annual assessment to be five hundred dollars (\$500.00).
3. Under ARTICLE 6, PERMITTED USES AND RESTRICTIONS, add Section 6.20. Garage Conversions. Any building constructed as a garage shall be used primarily for the parking of vehicles and in no case shall be converted to living space or used for any other purpose than storage and parking of vehicles.
3. ARTICLE 10, Section 10.1. (a) shall be amended as follows:

(a) Each wall or fence which is placed on the dividing line between separate Lots, between Lots and Common Area, or between Lots and public rights-of-way when such rights-of-way are to be maintained by the Association, shall constitute a party wall. In the case where a party wall is that wall which divides a Lot and either Common Area or a public right-of-way, the Lot

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Owner shall be considered to be one (1) party and the Association the other party; and for all provisions concerning party walls, the Association shall be considered to be the Owner of the Common Area property or any public right-of-way which the Association has agreed to maintain. With respect to any such wall, each of the adjoining parties shall assume the burden and be entitled to the benefit of the restrictive covenants contained in this Declaration, and to the extent not inconsistent with this Declaration, the general rules of law regarding party walls shall be applied;

AND, WHEREAS, Article 12, Section 5 of the Declaration states that the Declarant has the right to effect the recording of an amendment when requested by the Veterans Administration ("VA") as a condition precedent to such agency's approval of the Declaration; and

WHEREAS, the VA has requested an amendment to the Declaration be made and recorded.

NOW, THEREFORE, In accordance with VA requirements, ARTICLE 5, Section 5.9 shall be deleted in its entirety and replaced with the following:

Section 5.9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment, or any installment of an assessment, not paid within thirty (30) days after the assessment, or the installment of the assessment, first became due, shall bear interest at a rate of twelve percent (12%) per annum, in addition to a flat five dollar (\$5.00) penalty charge per late occurrence. Any assessment, or installment of an assessment which is delinquent shall become a continuing lien upon the Lot against which such assessment was made. The lien shall be perfected by the recording of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2) legal description, street address and number of the Lot against which the lien is made, (3) the amount claimed as of the date of the recording of the notice, including lien recording fees and reasonable attorneys' fees, (4) the name and address of the Association. The Association's lien shall have priority over all liens or claims created subsequent to the recording of the Notice of Claim of Lien except for tax liens for real property taxes on the Lot, assessments on any Lot in favor of any municipal or other governmental body and the liens which are specifically described in Section 5.10 of this Declaration.

Before recording a lien against any Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent assessments, together with interest and reasonable attorneys' fees, if any. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after the

delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law, including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey and all Lots purchased at such sale.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE AGENCY, INC., as Trustee, has hereunto caused its name to be signed by the signature of its duly authorized official as of this 24th day of November, 1986.

FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, as Trustee under Trust No. 50000.

By [Signature]  
Its Senior Trust Officer

 ) ss  
County of Pima )

The foregoing instrument was acknowledged before me this 24th day of November, 1986, by Kevin French as Senior Trust Officer of FIDELITY NATIONAL TITLE AGENCY, INC., an Arizona corporation, being authorized so to do on behalf of the corporation.

[Signature]  
Notary Public

My commission expires:

July 29, 1990