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Doc# 2004000351

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, RESTRICTIONS AND CONDITIONS
OF PINNACLE ESTATES**

This FIRST AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS (the *First Amendment*), is executed to be effective for all purposes as of the 17th day of December, 2003.

RECITALS:

WHEREAS, PINNACLE PARTNERS, L.P., a Texas limited partnership (the *Declarant*), executed and delivered that certain Declaration of Covenants, Conditions and Restrictions of Pinnacle Estates, dated as of July 12, 2002 (the *Declaration*), recorded in Volume 4899, Page 921 of the Deed Records of El Paso County, Texas, against the following described property (the *Real Property*):

Parcel One: Lots 17 through 26, inclusive, of Block 1, and Lot 2, Block 2, PINNACLE SUBDIVISION, a subdivision in the City of El Paso, El Paso County, Texas, according to the subdivision map recorded in Volume 77, Pages 11, 11A and 11B, Real Property Records, El Paso County, Texas, with the associated common areas.

Parcel Two: Lot 8, Block 1, Stanton Park Addition, an addition to the City of EL Paso, Texas, according to the plat thereof recorded in Volume 77, Page 4 of the Real Property Records, El Paso County, Texas (the *Subdivision*);

WHEREAS, Declarant previously filed a plat of subdivision of the Real Property recorded in the Volume 77, Pages 11, 11A and 11B of the Official Public Records of Real Property of El Paso County, Texas, as thereafter from time to time amended or supplemented (the *Plat*);

WHEREAS, *Agave Canyon Court* is designated on the Plat as a "Private" roadway (the *Private Roadway*), which is owned by the Pinnacle Estates Homeowners Association, a Texas nonprofit corporation (the *Association*), and is maintained by the Association under the terms of the Declaration;

WHEREAS, it has been determined that there is an error in the legal description of the Private Roadway set forth on the Plat, and that the correct legal description of the Private Roadway should have included a portion of Lot 26, Block 1, Pinnacle Subdivision (the portion of the Private Roadway situated a portion of Lot 26 is described more fully on Exhibit "A" annexed hereto and made a part hereof for all purposes and is herein called the *Additional Roadway Area*);

WHEREAS, the Declarant has conveyed to the Association by special warranty deed title to the Additional Roadway Area, so that Private Roadway now includes the Additional Roadway Area;

WHEREAS, the Declarant and all of the Members of the Association now desire to amend the Declaration (i) to revise Section 14.15 (b)(1) of the Declaration to correct the incorrect cross reference made in said section of the Declaration; and (ii) to consent to the Declarant's conveyance to the Association of the Additional Roadway Area, as prescribed in Section 14.15(b) of the Declaration.

WHEREAS, Declarant and the other Members who hold 100% of the voting power of the Association are authorized and empowered to amend the Declaration under the provisions of Section 14.15 of the Declaration.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, Declarant and the Association hereby amend the Declaration as follows, to-wit:

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1 Capitalized Terms. The capitalized terms as used herein have the same meaning assigned to such terms in the Declaration, unless the text of this First Amendment states otherwise.

2 Correction. Section 14.15(b)(1) of the Declaration is hereby amended by deleting 7.35, which is the incorrect cross-reference, and substituting 7.35, the correct cross-reference. As a result, Section 14.15(b)(1) is hereby amended to read as follows:

(1) **Subdivide any Lots, as provided in Sections 1.27 and 7.33.**

3 Consent. The Members holding 100% of the voting power of the Association hereby consent to the conveyance by the Declarant to the Association of fee title to the Additional Roadway Area, which consent is hereby granted in accordance with the provisions of Section 14.15(b) of the Declaration.

4 Execution by Association. The President and Secretary of the Association hereby certify that the Members holding 100% of the voting power of the Association have voted in favor of the adoption of this First Amendment by written consent executed by each of the Members, as provided in Section 14.15(e) of the Declaration.

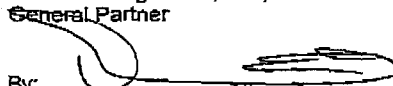
5 Ratification. Except as modified hereby, the terms and conditions of the Declaration are hereby ratified and confirmed by the Declarant.

EXECUTED to be effective as of the day, month and year first written above.

DECLARANT:

PINNACLE PARTNERS, L.P., a Texas limited partnership

By: Bissell Management, Inc., a Texas corporation
Its: General Partner

By: 
Ronald L. Bissell, President

ASSOCIATION:

PINNACLE ESTATES HOMEOWNERS ASSOCIATION

By: 
Ronald L. Bissell, President

ATTEST

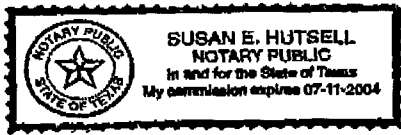
By: 
Christy M. Henderson, Secretary

STATE OF TEXAS

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COUNTY OF EL PASO

This instrument was acknowledged before me on December 22, 2003, by Ronald L. Bissell, President of Bissell Management, Inc., a Texas corporation, General Partner of Pinnacle Partners, L.P., a Texas limited partnership, on behalf of said partnership.



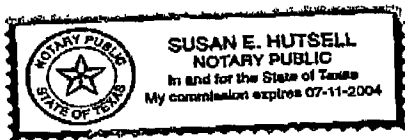
Susan E. Hutsell
Notary Public in and for the
State of Texas
My commission expires: 7-11-2004

STATE OF TEXAS

§
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§

COUNTY OF EL PASO

This instrument was acknowledged before me on December 22, 2003, by Ronald L. Bissell, President of Pinnacle Estates Homeowners Association, on behalf of said association.



Susan E. Hutsell
Notary Public in and for the
State of Texas
My commission expires: 7-11-2004

After recording, return to:
Merton B. Goldman, Esq.
James, Goldman & Haugland, P.C.
P O. Box 1770
E Paso, Texas 79949-1770

RECORDED FOR THE PUBLIC

Exhibit "A"
to First Amendment to Declaration

Being a portion of Lot 26, Block 1,
Pinnacle Subdivision,
El Paso County, Texas
Prepared for: Pinnacle Partners, L.P.
December 3, 2003
(Proposed Additional R.O.W.)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Lot 26, Block 1, Pinnacle Subdivision, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

Commencing for reference at an existing City Monument at the centerline intersection of Stanton Street and Mesa Hills Drive. Thence from said monument North $66^{\circ}29'31''$ East a distance of 239.64 feet to a point on the southerly right of way line of Mesa Hills Drive (Private Street) said point also lying on the westerly boundary line of Lot 26, Block 1, Pinnacle Subdivision recorded in volume 77, page 11, 11A, and 11B, Plat records of El Paso County, Texas, for the "TRUE POINT OF BEGINNING".

Thence along the southerly right-of-way line of Mesa Hills Drive (Private Street) the following six courses

10.22 feet along the arc of a curve to the right whose radius is 190.00 feet whose interior angle is $03^{\circ}04'57''$ whose chord bears South $89^{\circ}16'36''$ East a distance of 10.22 feet to a point;

7.08 feet along the arc of a curve to the right whose radius is 10.00 feet whose interior angle is $40^{\circ}34'09''$ whose chord bears South $67^{\circ}27'03''$ East a distance of 6.93 feet to a point;

South $47^{\circ}09'58''$ East a distance of 10.55 feet to a point;

5.97 feet along the arc of a curve to the left whose radius is 10.00 feet whose interior angle is $34^{\circ}11'59''$ whose chord bears South $64^{\circ}15'58''$ East a distance of 5.88 feet to a point;

10.00 feet along the arc of a curve to the right whose radius is 179.50 feet whose interior angle is $03^{\circ}11'28''$ whose chord bears South $79^{\circ}46'14''$ East a distance of 10.00 feet to a point;

South $78^{\circ}10'30''$ East a distance of 36.51 feet to a point;

Thence leaving said right-of-way line 20.01 feet along the arc of a curve to the right whose radius is 10.00 feet whose interior angle is $114^{\circ}37'40''$ whose chord bears South $20^{\circ}51'39''$ East a distance of 16.83 feet to a point on the westerly right-of-way of Agave Canyon Court (Private Street);

Thence along said right-of-way line 3.63 feet along the arc of a curve to the right whose radius is 120.00 feet whose interior angle is $01^{\circ}43'52''$ whose chord bears South $37^{\circ}19'07''$ West a distance of 3.63 feet to a point;

Thence leaving said right-of-way line 20.31 feet along the arc of a curve to the left whose radius is 10.00 feet whose interior angle is $116^{\circ}21'33''$ whose chord bears North $19^{\circ}59'43''$ West a distance of 16.99 feet to a point;

Thence North $78^{\circ}10'30''$ West a distance of 35.08 feet to a point;

Thence 9.83 feet along the arc of a curve to the left whose radius is 176.50 feet whose interior angle is $03^{\circ}11'28''$ whose chord bears North $79^{\circ}46'14''$ West a distance of 9.83 feet to a point;

Thence 7.76 feet along the arc of a curve to the right whose radius is 13.00 feet whose interior angle is $34^{\circ}11'59''$ whose chord bears North $64^{\circ}15'58''$ West a distance of 7.65 feet to a point;

Thence North $47^{\circ}09'58''$ West a distance of 9.44 feet to a point;

Thence 7.14 feet along the arc of a curve to the left whose radius is 10.00 feet whose interior angle is $40^{\circ}55'36''$ whose chord bears North $67^{\circ}37'46''$ West a distance of 6.99 feet to a point;

Thence 8.92 feet along the arc of a curve to the left whose radius is 187.00 feet whose interior angle is $02^{\circ}44'04''$ whose chord bears North $89^{\circ}27'37''$ West a distance of 8.92 feet to a point on the westerly boundary line of Lot 26, Block 1, Pinnacle Subdivision;

Thence along said boundary line North $00^{\circ}13'14''$ West a distance of 3.00 feet to the "TRUE POINT OF BEGINNING" and containing in all 0.0066 acres of land more or less.

Note Bearings based on plat of Pinnacle Subdivision recorded in volume 77, pages 11, 11A and 11B Plat records of El Paso County, Texas

RR
Ron R. Conde
R.P.L.S. No 5152



job #1003-48 R.C.
LGL-031100348.LGL

CONDE, INC
ENGINEERING / LAND SURVEYING / PLANNING
1790 LEE TREVINO SUITE 400 / EL PASO, TEXAS 79936 / (915) 592 0783

Doc# 2004-0000351

Pages 5

01/05/2004 11:50 AM

Filed & Recorded in

Official Records of

EL PASO COUNTY

VALDO ALARCON

COUNTY CLERK

Fees \$22.89

ANY PROVISIONS HEREIN WHICH RESTRICT THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
STATE OF TEXAS COUNTY OF EL PASO

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public Record of Real Property El Paso County.



Valdo Alarcon

EL PASO COUNTY, TEXAS

JAN 05 2004

**END OF
INSTRUMENT**

Return to:
Morton Feldman
201 E. Main St. #1
El Paso, TX 79901

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