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ANCHORAGE RECORDING DISTRICT

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**DECLARATION  
FOR  
MOUNTAIN VISTA**

After Recording Return To:

John H. Tindall, Esq.  
Tindall Bennett & Shoup, P.C.  
508 W. Second Avenue, Third Floor  
Anchorage, Alaska 99501

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**EXHIBITS:**

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REAL PROPERTY SUBJECT TO DEVELOPMENT RIGHTS  
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EXHIBIT B - TABLE OF ALLOCATED INTERESTS

EXHIBIT C - PLATS/PLANS

EXHIBIT D - EASEMENTS AND LICENSES

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EXHIBIT G - DESIGN GUIDELINES

EXHIBIT H - PARTY WALL AGREEMENT





**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
PURSUANT TO THE  
UNIFORM COMMON INTEREST OWNERSHIP ACT  
(AS 34.08, et seq.)**

**FOR**

**MOUNTAIN VISTA**

THIS DECLARATION is made on the 27<sup>th</sup> day of April, 2007, by Driftwood Bay, LLC, hereinafter referred to as "Declarant."

Declarant is the owner of the real property described in Exhibit A and submits said real property to the provisions of the Common Interest Ownership Act (the "Act"), AS 34.08 of the Alaska Statutes, for the purpose of creating Mountain Vista.

**ARTICLE 1.  
DEFINITIONS**

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1 ACT.

"Act" means the Uniform Common Interest Ownership Act, Title 34 Chapter 8, of the Alaska Statutes, and any amendments thereto.

Section 1.2 AFFILIATE OF DECLARANT.

"Affiliate of Declarant" means any person or entity which controls, is controlled by, or is under common control with, a Declarant. A person or an entity shall be deemed to control a Declarant if that person or entity (i) is a general partner, officer, director, or employee of Declarant; (ii) directly or indirectly are acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting shares of Declarant; (iii) controls in any manner the election of a majority of the directors of Declarant; or (iv) has contributed more than twenty percent (20%) of the capital of Declarant. A person or entity shall be deemed to be controlled by Declarant if Declarant (i) is a general partner, officer, director, or employee of that person or entity; (ii) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing more than



twenty percent (20%) of the voting share of that person or entity; (iii) controls in any manner the election of a majority of the directors of that person or entity; or (iv) has contributed more than twenty percent (20%) of the capital of that person or entity.

Section 1.3. AHFC.

"AHFC" means Alaska Housing Finance Corporation.

Section 1.4. ALLOCATED INTERESTS.

"Allocated Interests" means the following interests allocated to each unit: the undivided interest in the Common Elements, the Common Expense Liability, and votes in the Master Association. The Allocated Interests are described in Article 8, infra, and are shown in Exhibit B.

Section 1.5. ASSOCIATION.

"Association" means the Unit Owners' Association, under AS 34.09.990(3) and the Declaration for Eagle Crossing East Master Community (A Planned Master Community). Mountain Vista Homeowners Association, a corporation under Alaska law, is the Unit Owners' Association for the Common Interest Community of Mountain Vista.

Section 1.6. BYLAWS.

"Bylaws" means the bylaws of the Association, as they may be amended from time to time.

Section 1.7. COMMON ELEMENTS.

"Common Elements" means each portion of the Common Interest Community and Unit Owners' Community other than a Unit and other than real estate in which Declarant has reserved Development Rights. Tracts F1p1, F1p2 and F1f1a1 according to the official plat thereof, filed under Plat No. 2006-154, records of the Anchorage Recording District, Third Judicial District, State of Alaska, are open space tracts and will be conveyed to Mountain Vista Homeowners Association as Common Elements.

Section 1.8. COMMON EXPENSES.

"Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.



Section 1.9 COMMON EXPENSE LIABILITY.

"Common Expense Liability" means the liability for Common Expenses allocated to each Unit under AS 34.08.150.

Section 1.10 COMMON INTEREST COMMUNITY.

"Common Interest Community" means real estate with respect to which a Person, by virtue of ownership of a Unit, is obligated to pay real estate taxes, insurance premiums, maintenance, or Improvement of other real estate described in the Declaration. The Common Interest Community described herein is a planned community.

Section 1.11 DEALER.

"Dealer" means a Person who owns either six (6) or more Units in the Common Interest Community or fifty percent (50%) or more of the Units in the Common Interest Community.

Section 1.12 DECLARANT.

"Declarant" means Driftwood Bay, LLC, or its successor, as described in AS 34.08.990(12).

Section 1.13 DECLARATION.

"Declaration" means this Declaration, including its attachments, exhibits, and amendments, which creates the Common Interest Community, or the document creating a Unit Owners' Community, as determined by the context.

Section 1.14 DEVELOPMENT RIGHT.

"Development Right" means a right or a combination of rights reserved by Declarant in the Declaration to: (a) add real estate to the Common Interest Community; (b) create Units, Common Elements, or Limited Common Elements within the Common Interest Community; (c) subdivide Units or convert Units into Common Elements; (d) add additional real estate to the Common Interest Community; or (e) withdraw real estate from the Common Interest Community.

Section 1.15 DIRECTOR.

"Director" means a member of the Master Board or Executive Board, depending on the context in which the word is used.



Section 1.16 DISPOSE.

"Dispose" means a voluntary transfer to a purchaser of any legal or equitable interest in a Unit, but does not include any transfer or release of a Security Interest.

Section 1.17 ELIGIBLE INSURER.

"Eligible Insurer" means an insurer or guarantor of a first Security Interest in a Unit which has notified the Association in writing of its name and address and that it has insured or guaranteed a first Security Interest in a Unit.

Section 1.18 ELIGIBLE MORTGAGEE.

"Eligible Mortgagee" means the holder of a first Security Interest in a Unit which has notified the Association, in writing, of its name and address, and that it holds a first Security Interest in a Unit.

Section 1.19 EXECUTIVE BOARD.

"Executive Board" means the board of directors for Mountain Vista Homeowners Association (otherwise referred to in the Master Documents as a "Unit Owners' Community Executive Board").

Section 1.20 FHLMC.

"FHLMC" means the Federal Home Loan Mortgage Corporation.

Section 1.21 FNMA.

"FNMA" means the Federal National Mortgage Association.

Section 1.22 IMPROVEMENTS.

"Improvements" means any existing construction or facilities, or any facilities that are to be constructed, on the land which is described in Article 12, including but not limited to buildings, trees and shrubbery planted by the Declarant or the Association, landscaping, paving, sidewalks, additions, utility wires, pipes, and light poles.



Section 1.23 IDENTIFYING NUMBER.

"Identifying Number" means the lot and block number of each Unit in the Common Interest Community.

Section 1.24 LIMITED COMMON ELEMENTS.

"Limited Common Elements" means the portion of the Common Elements or Unit Owners' Community Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Units. Limited Common Elements are maintained by Unit Owners having the exclusive use. The road access easements reflected on Plat Nos. 2006-154 and 2006-156 are the Limited Common Elements of Unit Owners accessing the road easements to their Units.

Section 1.25 MAJORITY OF UNIT OWNERS.

"Majority of Unit Owners" means the owners of more than fifty percent (50%) of the votes in the Association.

Section 1.26 MANAGER.

"Manager" means a person, business, firm, or corporation employed, contracted, or otherwise engaged to perform management services for the Association.

Section 1.27 MASTER ASSOCIATION.

"Master Association" means the Eagle Crossing East Master Association, a corporation under Alaska law. The Master Association is organized under AS 34.08.280 to exercise the powers granted to it by this Declaration and on behalf of the Unit Owners' of those Unit Owners' Associations created from Property of the Eagle Crossing East Master Community.

Section 1.28 MASTER BOARD.

"Master Board" or "Board" means the board of directors of the Master Association.

Section 1.29 MASTER BYLAWS.

"Master Bylaws" means the bylaws of the Master Association, as they may be amended from time to time. Neither such Master Bylaws nor any amendments to such Master Bylaws need be recorded in the property records.



Section 1.30 MASTER COMMON ELEMENTS.

"Master Common Elements" means all portions of the Master Community other than the Units and the Unit Owners' Community Common Elements. Title to all Master Common Elements in Eagle Crossing East Master Community, including the Common Elements, except the Common Elements of the Common Interest Community, is vested in the Master Association. Maintenance responsibility of the Master Common Elements is governed by the Declaration for the Eagle Crossing East Master Community and this Declaration.

Section 1.31 MASTER COMMON EXPENSES.

"Master Common Expenses" means the expenses for the operation of the Master Community as set forth in Sections 8.4 and 18.13 of this Declaration.

Section 1.32 MASTER COMMUNITY.

"Master Community" means Eagle Crossing East Master Community, including all of its Units and all Master Common Elements. All of the Master Community and all portions of the Property are subject to this Declaration. The Master Community is a common interest community under the Act.

Section 1.33 MASTER DOCUMENTS.

"Master Documents" means the Declaration, the Plans recorded and filed pursuant to the provisions of the Act, the Master Bylaws, and the Master Rules as they may be amended from time to time. Any exhibit or certification accompanying the Declaration, Plans, Master Bylaws and/or Master Rules is part of the Master Documents.

Section 1.34 MASTER RULES.

"Master Rules" means rules for the use of Units and Common Elements and for the conduct of Persons within the Common Interest Community, adopted by the Master Board pursuant to this Declaration.

Section 1.35 NOTICE AND COMMENT.

"Notice and Comment" means the right of a Unit Owner to receive notice of an action proposed to be taken by or on behalf of the Master Association, and the right to comment on such action. The procedures for Notice and Comment are set forth in Section 23.1 of this Declaration.



Section 1.36 NOTICE AND HEARING.

"Notice and Hearing" means the right of a Unit Owner to receive notice of an action proposed to be taken by the Association, and the right to be heard on such action. The procedures for Notice and Hearing are set forth in Section 23.2 of this Declaration.

Section 1.37 PERSON.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity. In the case of a land trust, "Person" means the beneficiary of the land trust and not the land trust or its trustee.

Section 1.38 PLANS.

"Plans" means the plans and/or plats recorded and attached to this Declaration as Exhibit C, as it may be amended from time to time, and as required by AS 34.08.170.

Section 1.39 PROPERTY.

"Property" means the Common Interest Community, the real property described in Exhibit A, and any real property added to the Common Interest Community by amendment, Improvements, easements, Units, rights, and appurtenances, which have been submitted to the provisions of the Act by this Declaration.

Section 1.40 PURCHASER.

"Purchaser" means a Person, other than the Declarant or Dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a Unit other than a leasehold interest, including renewal options, of less than forty (40) years, or a security for an obligation.

Section 1.41 RULES.

"Rules" means rules for the use of Units and Common Elements and for the conduct of Persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.



Section 1.42 SECURITY INTEREST.

"Security Interest" means an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.43 SPECIAL DECLARANT RIGHTS.

"Special Declarant Rights" means the rights reserved for the benefit of a Declarant to:

- (a) complete Improvements indicated on the Plans filed with the Declaration;
- (b) exercise any Development Right;
- (c) convey utility and drainage easements to utility companies and the Municipality of Anchorage, respectively, in Declarant's own name and on behalf of the Association; and convey public use easements in any common elements. As a condition of their purchase, all Purchasers are deemed to have consented to any such conveyances;
- (d) maintain sales offices, management offices, models, and signs advertising the Common Interest Community;
- (e) use and maintain easements through the Common Elements for the purpose of making Improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community;
- (f) make the Common Interest Community subject to a master association;
- (g) merge or consolidate the Common Interest Community with another Common Interest Community of the same form of ownership; or
- (h) appoint or remove an officer of the Association or Master Association or any Executive Board member during any period of Declarant control.

Special Declarant Rights are more fully described in Article 7 of this Declaration.





Section 1.44 TRUSTEE.

"Trustee" means the entity which may be designated by the Executive Board as the trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnations awards, special assessments for uninsured losses, and other like sources. If no Trustee has been designated, the Trustee will be the Executive Board, acting by majority vote, as executed by the president and attested by the secretary.

Section 1.45 UNIT.

"Unit" means a physical portion of the Common Interest Community, or of a Unit Owners' Community, designated for separate ownership or occupancy, the boundaries of which are described in Section 4.3 of this Declaration.

Section 1.46 UNIT OWNER.

"Unit Owner" means the Declarant or other Person who owns a Unit or holds the possessory interest under a real estate purchase contract. "Unit Owner" does not include a Person having an interest in a Unit solely as security for an obligation. Nor does "Unit Owner" include a Person having a leasehold interest, including renewal options, of less than forty (40) years in a unit. The Declarant is the initial owner of the Units created by this Declaration.

**ARTICLE 2.**  
**NAME AND TYPE OF COMMON INTEREST COMMUNITY**  
**AND ASSOCIATION**

Section 2.1 COMMON INTEREST COMMUNITY.

The name of the Common Interest Community is Mountain Vista. Mountain Vista is a planned community, and conforms with provisions in the Master Documents that each common interest community formed out of the real property of Eagle Crossing East Master Community is or will be organized either as a condominium or as a planned community, in order to provide for a separate limited governance for the Common Interest Community.

Section 2.2 ASSOCIATION.

The name of the Association is Mountain Vista Homeowners Association. The Association is an automatic member of the Eagle Crossing East Master Association.



**ARTICLE 3.**  
**DESCRIPTION OF THE LAND**

Mountain Vista is situated in the Municipality of Anchorage, State of Alaska, and is located on the land described in Exhibit A.

**ARTICLE 4.**  
**NUMBER OF UNITS, UNIT IDENTIFICATION,**  
**AND UNIT BOUNDARIES**

Section 4.1 NUMBER OF UNITS.

The Common Interest Community contains fifty-three (53) Units as shown on Exhibit B. No additional Units are anticipated.

Section 4.2 IDENTIFICATION OF UNITS.

The Units are identified by lot and block number and are shown on the Plans for the Common Interest Community.

Section 4.3 BOUNDARIES.

The boundaries of each Unit in the Common Interest Community are the boundaries of the numbered lots created by Plat No. 2006-154 and Plat No. 2006-156, filed in the records of the Anchorage Recording District, Third Judicial District, State of Alaska, and as shown on the Plans attached to this Declaration as Exhibit C.

Section 4.4 PARTY WALLS.

Declarant anticipates that Units 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A and 8B, Block 25, of Mountain Vista will contain dwellings separated by party walls. The vertical boundaries that define planes within such party walls run through the center of the party wall, equidistant from the plane joining and along the outermost surfaces of the studs and structural beams making up the party wall between the attached units in the building. Unit Owners of Units containing dwellings separated by party walls will be subject to the Party Wall Agreement attached as Exhibit H.



**ARTICLE 5.**  
**MAINTENANCE, REPAIR AND REPLACEMENT**

Section 5.1 UNITS.

Each Unit Owner shall maintain, repair, and replace, at his or her own expense, all portions of his or her Unit, including all landscaping and fencing in any easements within the Unit Boundaries, except the portions thereof which may otherwise be required by this Declaration or by the Association to be maintained, repaired or replaced by other Persons.

Section 5.2 COMMON ELEMENTS.

The Association shall maintain, repair, and replace all such Common Elements except any Limited Common Elements or other Common Elements which are required by this Declaration to be maintained, repaired or replaced by less than all Unit Owners. The Association may transfer responsibility for maintenance of any Common Elements to the Master Association.

Section 5.3 LIMITED COMMON ELEMENTS.

At the time this Declaration is recorded, any road access easements reflected on Plat Nos. 2006-154 and 2006-156 are designated as Limited Common Elements and are assigned to those Units to which they serve. Common Expenses associated with the maintenance, cleaning, repair, or replacement of the Limited Common Element road access easements will be assessed against the Unit or Units to which they are assigned.

Section 5.4 RIGHT OF ACCESS.

Any Person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing any installations, alterations, repairs, and/or utility work to include meter reading, equipment, upgrades, and/or repairs, provided that requests in advance for entry are made and that any such entry is at a reasonably convenient time for the affected Unit Owner except in cases of emergencies, where no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

Section 5.5 NEGLIGENCE.

Each Unit Owner will reimburse the Association for any damages to any other Unit or to the Common Elements caused by that Unit Owner's: intent or



negligence; failure to properly maintain, repair, or make replacements to his or her Unit or to the Limited Common Elements assigned to his or her Unit; or failure to permit timely access to his or her Unit by any Person authorized such access by Section 5.4. The Association shall assess expenses to the responsible Unit Owners only after Notice and Hearing.

The Association will be responsible for damage to Units caused by its intent, negligence, or by its failure to maintain, repair, or make replacements to the Common Elements.

Section 5.6 MASTER BOARD MAINTENANCE RESPONSIBILITY.

The powers and responsibilities of the Master Board with respect to maintenance, repair and replacement of Common Elements and Master Common Elements, including any Limited Common Elements, are set forth in the Master Documents, and as they may be amended from time to time.

**ARTICLE 6.**  
**LIMITED COMMON ELEMENTS**

Road access easements reflected on Plat Nos. 2006-154 and 2006-156 are designated as Limited Common Elements. Additional Limited Common Elements may be delineated upon amendment to this Declaration or by exercise of Declarant Development Rights.

**ARTICLE 7.**  
**DEVELOPMENT RIGHTS AND**  
**OTHER SPECIAL DECLARANT RIGHTS**

Section 7.1 RESERVATION OF DEVELOPMENT RIGHTS.

The Declarant reserves the following Development Rights:

(a) The rights, by amendment, to create Units, Common Elements, and Limited Common Elements within Mountain Vista, and the right to add additional real estate to the Common Interest Community. Declarant may, at the time it adds additional Units and/or Common Elements to the Common Interest Community, specify restrictions on use, occupancy, and alienation, as well as standards for architectural control for the additional Units and/or Common Elements, should Declarant determine that, in its sole discretion, that restrictions and standards different from those contained in this Declaration are appropriate.

(b) The right, by amendment, to subdivide Units, the right to convert Common Elements into Units and Common Elements.



(c) The right, by amendment, to withdraw any real property from Mountain Vista, whether land or air rights or a combination of both.

(d) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land in Mountain Vista for the purpose of furnishing utility and other services to buildings and improvements to be constructed on the land. The Declarant also reserves the right to grant easements to the Municipality of Anchorage or to public utility companies and to convey improvements within those easements anywhere in the Common Interest Community for the above-mentioned purposes. This includes, without limitation, the right to build and/or convey any and all improvements related to water towers, pumping stations and water lines. If the Declarant grants any such easements, Exhibit D shall be amended to include reference to the recorded easement.

(e) The right, by amendment, to add land now located outside the Common Interest Community to the Common Interest Community.

#### Section 7.2 LIMITATIONS ON DEVELOPMENT RIGHTS.

The Development Rights reserved in Section 7.1 are limited as follows:

(a) The Development Rights may be exercised at any time, but not more than twenty-five (25) years after the recording of this Declaration.

(b) Not more than a total of fifty-three (53) Units may be created at Mountain Vista. No additional Units may be built on that land unless the Plans are amended or unless additional adjacent property is added as discussed in Section 7.1(e).

(c) All Units and Common Elements created pursuant to the Development Rights at Mountain Vista will be restricted to residential use in the same manner and to the same extent as the Units created under this Declaration as initially recorded, as shown on the existing approved Site Plan. However, the Declarant reserves the right to seek amendments to its approved Development Plan, and to build whatever other types or sizes of Units may be permitted by future zoning and site plan amendments in the Municipality of Anchorage, including, without limitation, Units with multiple residential dwellings in that Unit, within Mountain Vista.

(d) Any Units built on the land either added to or withdrawn from Mountain Vista may be used for any residential purpose authorized by the Municipality of Anchorage. The Declarant reserves the right to seek amendments



to currently approved zoning regulations of the Municipality of Anchorage and to build whatever types or sizes of Units which may be permitted by future zoning and site plan amendments in the Municipality of Anchorage. No representations or assurances are made that these uses will not change, if the Municipality were to authorize any such use.

Section 7.3 SPECIAL DECLARANT RIGHTS.

The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

(a) To complete improvements indicated on the Plans filed with this Declaration;

(b) To exercise any Development Right reserved in this Declaration;

(c) To maintain sales offices, management offices, construction offices, models and signs advertising the Common Interest Community;

(d) To use easements through the Common Elements for the purpose of making improvements within the Common Interest Community and for granting access to adjoining properties; and

(e) To appoint or remove any officer of the Association or any Board member during any period of Declarant control.

Section 7.4 MODELS, SALES OFFICES, CONSTRUCTION OFFICES AND MANAGEMENT OFFICES.

As long as the Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit, or all Units, owned by the Declarant or any portion of the Common Elements anywhere within the Common Interest Community as model Units, or sales offices or management offices or construction offices.

Section 7.5 CONSTRUCTION, DECLARANT'S EASEMENT.

The Declarant reserves the right to perform warranty work, and repairs and construction work, and to store materials in secure areas in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until completion of Mountain Vista and any development on the additional real estate that may be added to the Common Interest Community. All



work may be performed by the Declarant without the consent or approval of Mountain Vista Homeowners Association or the Master Board. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act, or reserved in this Declaration, and whether or not that Common Element is also located within a Unit Owners' Community.

Section 7.6 SIGNS AND MARKETING.

The Declarant reserves the right to post signs and displays in any Units or the Common Elements anywhere within the Common Interest Community to promote sales of Units, and to conduct any general sales activities, in a manner consistent with the law. Except for signs maintained by the Declarant pursuant to this Section, so long as the Declarant owns any Units at Mountain Vista or on any additional real estate added to the Common Interest Community, no other Unit Owner may maintain or display any "for sale" or other signs or advertising visible from the exterior of a Unit.

Section 7.7 DECLARANT'S PERSONAL PROPERTY.

The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the premises of the Common Interest Community that has not been represented as property of the Association. The Declarant reserves the right to remove from the property, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

Section 7.8 DECLARANT CONTROL OF THE ASSOCIATION.

(a) Subject to this subsection 7.9(a) and subsection 7.9(e), there shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board. With respect to the Executive Board, the period of Declarant control shall terminate no later than the earlier of:

(i) sixty (60) days after conveyance of seventy-five (75) percent of the Units that may be created to Unit Owners other than a Declarant;

(ii) two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of business; or

(iii) three (3) years after any right to add new Units was last exercised.



Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the applicable period, but in that event the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant be approved by the Declarant, before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than a Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant pursuant to Section 7.10. The Executive Board shall elect the officers of the Association; the Board members and officers shall take office upon election.

(c) Not later than sixty (60) days after conveyance of thirty-three and one-third percent (33 1/3%) of the Units that may be created to Unit Owners other than a Declarant, at least one (1) member and not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant pursuant to Section 7.10. The Executive Board shall elect the officers of the Association. The Executive Board members and officers shall take office upon election.

(d) Not later than the termination of the period of Declarant Control of the Executive Board, the Unit Owners shall elect the Executive Board in the manner described in Section 7.10 below. At least a majority of the Directors of the resulting Executive Board after the period of Declarant Control shall be Unit Owners. The Executive Board shall elect the officers of the Association. The Board members and officers shall take office upon election.

(e) Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under AS 34.08.390, the Unit Owners, by a two-thirds' (2/3) vote of all Persons present and entitled to vote at any meeting, may remove any member of the Executive Board with or without cause, other than a member appointed by the Declarant.

#### Section 7.9 SPECIAL FHA/DVA PROVISION.

For the period of Declarant control of the Association, Declarant shall be considered to have the equivalent of a Class B membership, as defined in the regulations of the U.S. Department of Housing and Urban Development on planned unit developments (PUDs). So long as the Federal Housing Administration (FHA) or the Department of Veterans Affairs (DVA) has jurisdiction over any loan secured by a deed of trust on any Unit in the Common Interest Community, and so long as Declarant is in control of the Association, annexation of additional properties,





dedication of the Common Elements, and any amendments to this Declaration shall require prior approval of the FHA or DVA.

Section 7.10 ELECTION OF BOARD DIRECTORS.

The Executive Board of the Association shall be elected after the period of Declarant control in accordance with AS 34.08.280(e)(3) and the Declaration for the Eagle Crossing East Master Community (A Planned Master Community), and as it may be amended from time to time.

Section 7.11 LIMITATIONS ON SPECIAL DECLARANT RIGHTS.

Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right may be exercised by the Declarant until the earliest of the following events occur:

- (a) So long as the Declarant is obligated under any warranty or other obligation;
- (b) So long as the Declarant holds a Development Right to create additional Units or Common Elements;
- (c) So long as the Declarant owns any Unit;
- (d) So long as the Declarant holds any mortgage on any Unit; or
- (e) For twenty-five (25) years after the recording of this Declaration.

Earlier termination of certain rights may occur by statute.

Section 7.12 INTERFERENCE WITH SPECIAL DECLARANT RIGHTS.

Neither the Master Association nor any Unit Owners' Community Association, or individual Unit Owner, may take any action or adopt any Rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.



**ARTICLE 8.**  
**ALLOCATED INTERESTS**

Section 8.1 TABLE OF ALLOCATED INTERESTS.

The Table of Allocated Interests, attached as Exhibit B, reflects Units and their Allocated Interests. These interests have been allocated in accordance with the formulas set out in this Article.

Section 8.2 ALLOCATION FORMULAS.

(a) Votes. Each Unit in the Common Interest Community shall have one equal vote.

(b) Undivided Interests. The percentage of liability for any Common Expenses and for the undivided interest in the Common Elements allocated to each Unit is an equal percentage interest derived by dividing the total number of Units in the Common Interest Community into one hundred percent (100%). The specified percentage is set forth in Exhibit B. When Units are added to or removed from the Common Interest Community, the above formula shall be used in reallocating interest and liabilities of Units and a revised Exhibit B shall be recorded in an amendment to the Declaration. Nothing in this subsection shall preclude apportionment of Common Expenses pursuant to Article 18.

Section 8.3 ALLOCATION OF INTERESTS.

The table showing Unit numbers and their allocated interests is attached as Exhibit B. These interests have been allocated in accordance with the formulas set out in this Article 8. These formulas are to be used in reallocating interests if Units are added to the Master Community.

Section 8.4 FORMULAS FOR ALLOCATION OF INTERESTS IN MASTER COMMON ELEMENTS AND THE MASTER ASSOCIATION.

The formulas for allocation of interests in the Master Association, and reallocating of interests if Units or Common Elements are added to the Master Community, are set forth in the Master Documents, and as they may be amended from time to time.



**ARTICLE 9.**  
**RESTRICTIONS ON USE AND OCCUPANCY**

Section 9.1 USE AND OCCUPANCY RESTRICTIONS.

Subject to the Special Declarant Rights reserved under Article 7, the following use restrictions apply to all Units and to the Common Elements. In addition, the Executive Board may adopt rules regulating the use of Units, and restricting the leasing of Units, to the extent permitted by the Act and as described in Section 24.1.

(a) Each Residential Unit is restricted to residential use and shall contain no more than one (1) residential dwelling unless the Plans recorded by the Declarant show that the particular Residential Unit is intended to contain multiple residential dwellings. Each residential dwelling may be used only as a single-family residence including home professional pursuits not requiring regular visits from the public or unreasonable levels of mail, shipping, trash or storage. No sign indicating commercial or professional uses may be displayed outside a Residential Unit. A single-family residence is defined as a single housekeeping Unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area.

(b) For any period during which any Common Expense assessment remains unpaid or, after Notice and Hearing and for a period not to exceed thirty (30) days, for any infraction of its published rules, the Executive Board may suspend the right to use Common Elements not necessary to give access to a public street.

(c) Except for those activities conducted in Commercial Units, or as part of the marketing and development program of the Declarant, and except for those activities described in subsection 9.1(a) above, no industry, business, trade, commercial activity or other nonresidential use of a Unit is permitted within the Master Community. No Unit may be used or rented for transient, hotel or motel purposes.

(d) Because of the potential impact of such activities on the marketing of Units, so long as the Declarant owns a Unit or holds any Development Right, the Declarant alone has the right to approve or disapprove the activities described in this Section or in the Master Rules which require Master Association or Unit Owners' Community Association approval.



Section 9.2 RESTRICTIONS ON TIME-SHARING.

A Unit may not be conveyed pursuant to a time-sharing plan as defined under the Act.

**ARTICLE 10.**  
**EASEMENTS AND LICENSES**

Section 10.1 EXISTING EASEMENTS AND LICENSES.

All easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit D to this Declaration.

Section 10.2 DECLARANT'S RESERVED RIGHT TO GRANT.

The Declarant reserves the right, so long as it owns any Unit within the Common Interest Community, to grant an easement across any of the roads within Mountain Vista for purposes of vehicular and other access to any parcel or parcels of real estate abutting the Property, and whether or not that real estate is additional real estate added to the Common Interest Community. Such easements shall be appurtenant to, and shall pass and run with, the title to every Unit conveyed.

The beneficiaries of any such easement shall be required to pay their pro rata share of maintaining, repairing and replacing the roads which they use, on the same basis as the Unit Owners in the Common Interest Community, from the date each beneficiary commences use of the road. If Declarant also assigns any Limited Common Element is assigned to more than one (1) Unit, but less than all Units, the exclusive easement to such Limited Common Element shall be held jointly by the Units to which it is assigned.

In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article 7 of this Declaration.

Section 10.3 LIMITATIONS ON UNIT OWNERS' EASEMENTS.

In the event any Common Element encroaches upon any Unit, or any Unit or Improvement, at no fault of the Unit Owner, encroaches upon any Common Element, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Common Interest Community, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.



The Association may, subject to other provisions of this Declaration and the Act, pledge, mortgage, assign, grant, or hypothecate a Security Interest in the Common Elements. The Unit Owners' easements are further limited by the right of the Association to charge fees for a Unit Owner's use of the Common Elements if such use is substantially different from the use offered to other Unit Owners and involves additional expense to the Association. The Unit Owners' easements are also limited by the Association's right to administer the Common Elements for the safety, health, and mutual benefit of the Unit Owners. Finally, the Unit Owners' easements are limited by the right of the Association to grant licenses to Persons for the use of Common Elements.

The Unit Owners' easements are limited by and subject to all other provisions of this Declaration and the Act.

**ARTICLE 11.**  
**ALLOCATION AND REALLOCATION OF LIMITED COMMON ELEMENTS**

All amendments to any Declaration allocating Limited Common Elements shall specify to which Unit or Units the Limited Common Element is allocated. The Declarant for the Master Community has reserved the right to allocate parking spaces or yard areas within any Common Elements or Master Common Elements, and the right to allocate any parking spaces or yard areas within Master Common Elements as Limited Common Elements.

**ARTICLE 12.**  
**ADDITIONS, ALTERATIONS AND IMPROVEMENTS**

Section 12.1 **ADDITIONS, ALTERATIONS AND IMPROVEMENTS BY UNIT OWNERS.**

A Unit Owner:

(a) May not make any additions, alterations or improvements which are not in conformity with the Standards for Architectural Controls attached hereto as Exhibit E.

(b) May make any improvements or alterations to the interior of a Unit that do not impair the structural integrity or mechanical systems or lessen the support of any other Unit.

(c) May not change the appearance of the Common Elements, or construct any structure on a Unit or any part of the Master Community, without written permission of the Master Board.



(d) May submit a written request to the Master Board for approval to do anything that he or she is forbidden to do under subsection 12.1(a). The Master Board shall answer any written request for such approval, after Notice and Hearing, within ninety (90) days after the request thereof. Failure to do so within such time shall constitute a consent by the Master Board to the proposed action. The Master Board shall review requests in accordance with the provisions of the Master Rules.

(e) Must give the Master Association at least thirty (30) days notice in writing by certified mail before that owner files any applications with any governmental authority for a permit to make any addition, alteration or improvement in or to any Unit. That notice will not create any liability on the part of the Master Association or any of its members to any contractor, subcontractor or materialman on account of such addition, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

(f) May not make any additions, alterations and improvements to the Units and Common Elements, except pursuant to prior approval by the Master Board, which cause any increase in the premiums of any insurance policies carried by the Master Association or by the owner of any Units other than those affected by such change.

(g) May not cut any trees of any size located on the Property, whether on Common Elements or Master Common Elements, or within the boundaries of a Unit, without the Master Board's prior written approval.

Section 12.2 ADDITIONS, ALTERATIONS AND IMPROVEMENTS BY MASTER BOARD.

Subject to the limitations of Sections 18.4 and 18.5 of this Declaration, the Master Board may make any additions, alterations or improvements to the Master or Unit Owners' Community Common Elements which, in its judgment, it deems necessary.

Section 12.3 EXTERIOR IMPROVEMENTS AND LANDSCAPING WITHIN COMMON ELEMENTS.

Unit Owners may make exterior improvements within or as a part of Common Elements, including Limited Common Elements, consisting of planting of gardens, hedges, shrubs, construction of fences, walks, benches, and architectural concepts, provided they are undertaken with the permission of the Master Board or a covenants control committee established for such purpose, following submission of a complete plan prepared by an architect or landscape architect and a review thereof by such Board or committee as to consistency with improvements originally



constructed by the Declarant and consistency with the style and character of the Master Community. The applicant will pay for the cost of preparation of the application, the cost of professional review, if deemed required by the reviewing group, and all costs of permits and fees. The Master Rules may vary or waive the provisions of this subsection.

Section 12.4 NON-APPLICABILITY TO DECLARANT.

The provisions of this Article shall not apply to the Declarant in the exercise of any Special Declarant Right or other right reserved under this Declaration. Further, because of the potential impact of such activities on the marketing of Units, so long as the Declarant owns any Unit or holds any Development Right, the Declarant alone has the right, in lieu of the Master Board, to exercise the regulatory powers described in this Article.

Section 12.5 PENALTY.

Any construction commenced without consent of the Master Board which is not in compliance with the Standards for Architectural Controls contained in Exhibit E attached hereto, or in the Occupancy Restrictions attached hereto as Exhibit F, will result in a penalty not to exceed One Hundred Dollars (\$100.00) per day against the Unit Owner violating the provision of this Article, as issued by resolution of the Master Board.

**ARTICLE 13.**  
**RELOCATION OF BOUNDARIES BETWEEN UNITS**

Section 13.1 APPLICATION AND AMENDMENT.

If applicable, subject to approval of any structural changes and required permits pursuant to Article 12, the boundaries between adjoining Units may be relocated by an amendment to this Declaration after application to the Association by the owners of the Units affected by the relocation. The amendment shall not affect the Allocated Interests of the Units, unless the Unit Owners propose to reallocate them. Unless the Executive Board determines, within ninety (90) days after receipt of the application, that the reallocations are unreasonable, the Association shall consent to any reallocation and prepare an amendment that identifies the Units involved, states the reallocations and indicates the Association's consent. The amendment shall be executed by those Unit Owners and contain words of conveyance between them, and the approval of all holders of security interests in the affected Units shall be endorsed thereon. On recordation, the amendment shall be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.



Section 13.2 RECORDING AMENDMENTS.

The Association shall prepare and record the Documents or Plans of the Common Interest Community necessary to show the altered boundaries between adjoining Units, and their dimensions and identifying numbers. The applicants shall pay for the cost of preparation of the amendment and its recording.

**ARTICLE 14.**  
**AMENDMENTS TO DECLARATION**

Section 14.1 GENERAL.

All amendments shall be made in accordance with the Act.

Section 14.2 SPECIAL DECLARANT RIGHTS.

Provisions in the Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

Section 14.3 CONSENT OF MORTGAGE HOLDERS.

Amendments are subject to the consent requirements of Section 17.2.

**ARTICLE 15.**  
**AMENDMENT TO BYLAWS**

The Bylaws may be amended only by vote of two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

**ARTICLE 16.**  
**TERMINATION**

The Common Interest Community may not be terminated without the consent of the Master Board, as well as by eighty percent (80%) of the votes allocated to Units in the Common Interest Community, and the other requirements of AS 34.08.260.





**ARTICLE 17.**  
**MORTGAGEE PROTECTION**

Section 17.1 INTRODUCTION.

This Article establishes standards and covenants on behalf of the holders, insurers, and guarantors of certain Security Interests in the Common Interest Community. In the case of conflict with other provisions of the Declaration, this Article shall control.

Section 17.2 PERCENTAGE OF ELIGIBLE MORTGAGEES.

Where this Declaration requires that certain actions have the approval or consent of a specified percentage of Eligible Mortgagees, "percent of Eligible Mortgagees" is calculated by dividing the total number of votes allocated to Units subject to Security Interests held by Eligible Mortgagees that approve or consent to the proposed action, by the total number of votes allocated to all Units subject to Security Interests held by Eligible Mortgagees.

Section 17.3 INSPECTION OF BOOKS.

The Association shall permit any Eligible Mortgagee, Eligible Insurer, or Unit Owner to inspect the books and records of the Association, including the Declaration, Rules, financial statements, and Bylaws, during normal business hours or under other reasonable circumstances.

Section 17.4 FINANCIAL STATEMENTS.

Upon any Eligible Mortgagee's or Eligible Insurer's written request, the Association shall provide a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if the Common Interest Community contains fifty (50) or more Units or if any Eligible Mortgagee or Eligible Insurer specifically requests an audited financial statement. If the Common Interest Community contains fifty (50) or more Units, the cost of the audit shall be a Common Expense. If the Common Interest Community contains less than fifty (50) Units, the Eligible Mortgagee or Eligible Insurer shall bear the cost of the audit.

Section 17.5 RIGHT OF ATTENDANCE.

Any representative of an Eligible Mortgagee or Eligible Insurer may attend any meeting at which Unit Owners have the right of attendance.



Section 17.6 NOTICE OF ACTIONS.

(a) The Association shall give prompt notice to each Eligible Mortgagee and Eligible Insurer of:

(i) Any casualty or condemnation loss exceeding \$10,000 in damages which affects: (1) a material portion of the Common Interest Community; or (2) any Unit in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee and/or Eligible Insurer.

(ii) Any delinquency in the payment of any Common Expense assessments or any other default under the Documents by a Unit Owner whose Unit is subject to a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer, if such delinquency or default remains uncured for a period of sixty (60) days;

(iii) Any cancellation, lapse, or material modification of any insurance policy or fidelity bond required under this Declaration to be maintained by the Association;

(iv) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as provided in Section 17.2;

(v) Any state or federal court judgment rendered against the Association.

(b) If the FNMA holds any mortgage in the existing Common Interest Community at the time additional property is to be added, the Association must furnish the FNMA with title evidence, in a form satisfactory to the FNMA, which discloses any lien, easement, or other encumbrance affecting the Property to be added or which will effect the existing Common Interest Community Property after such addition.

(c) The Association shall promptly deliver, by U.S. Postal Service or hand-delivery, all notices required under this section without awaiting any request from Eligible Mortgagees and/or Eligible Insurers.

(d) The failure of an Eligible Mortgagee to respond within thirty (30) days to any written request of the Association for approval of a non-material addition or amendment to the Documents shall constitute that Eligible Mortgagee's implied approval of the addition or amendment.

(e) Notwithstanding any lesser requirement permitted by this Declaration or the Act and not excepting any greater requirements mandated by this



Declaration or the Act, no amendment by the Association or Unit Owners of any material provision of the Documents described in this subsection may be effective without the vote of at least seventy-five percent (75%) of the Unit Owners and until approved in writing by at least seventy-five percent (75%) of the Eligible Mortgagees. The foregoing approval requirements do not apply to amendments effected by the exercise of any Special Declarant Rights. For purposes of this section, "material" includes, but is not limited to, any provision affecting:

- (i) allocation or reallocation of interests in the Common Elements or any Limited Common Elements, except that when any Limited Common Elements are allocated or reallocated by agreement between Unit Owners, then, in addition to other requirements which may be mandated by other Articles of this Declaration or the Act, only those Unit Owners and only the Eligible Mortgagees holding Security Interests in such Units must approve such action;
- (ii) convertibility of Common Elements into Units or Units into Common Elements;
- (iii) rights to use Common Elements;
- (iv) assessment, assessment liens, or subordination of assessments;
- (v) responsibility for maintenance and repairs in the Common Interest Community;
- (vi) voting rights;
- (vii) insurance or fidelity bonds;
- (viii) the addition or withdrawal of Property to or from the Common Interest Community;
- (ix) reserves for maintenance, repair, and replacement of Common Elements;
- (x) partition or subdivision of Units or Unit boundaries except that when boundaries of only adjoining Units are involved, or when only a single Unit is being subdivided, then, in addition to other requirements which may be mandated by other Articles of this Declaration or the Act, only those Unit Owner(s) and the Eligible Mortgagee(s) holding Security Interests in such Unit or Units must approve such action;



(xi) imposition of restrictions on a Unit Owner's right to sell, transfer, or otherwise convey his or her Unit;

(xii) restoration or repair of the Common Interest Community after a hazard damage or partial condemnation in a manner other than specified in the Documents;

(xiii) the benefits of mortgage holders, insurers, or guarantors of first mortgages on Units on the Common Interest Community;

(xiv) establishment of self-management by the Association when professional management had been required previously by any Eligible Mortgagee;

(xv) termination of the Common Interest Community after substantial destruction or condemnation to the Common Interest Community; and

(xvi) leasing of units.

(f) Notwithstanding any lesser requirement permitted by this Declaration or the Act and not excepting any greater requirements mandated by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant Rights, without the approval of at least fifty-one percent (51%) of the Eligible Mortgagees:

(i) use of hazard insurance proceeds for losses to any Property, whether to a Unit or to the Common Elements, for other than the repair, replacement, or reconstruction of such Improvements;

(ii) the granting of any easements, leases, licenses, and concessions through or over the Common Elements except leases, licenses, or concessions for a term of no more than one (1) year, and except for any utility easements intended to serve the Common Interest Community;

(iii) the restoration or repair of the Property after a hazard damage or partial condemnation in a manner other than that specified in the Declaration;

(iv) the merger of this Common Interest Community with any other Common Interest Community;

(v) any action taken not to repair or replace the Property;

and



(vi) the assignment of the Association's future income and its right to receive Common Expense assessments.

(g) Notwithstanding any lesser requirement permitted by this Declaration or the Act and not excepting any greater requirements mandated by other Articles of this Declaration or the Act, the following actions, other than rights reserved to the Declarant as Special Declarant Rights, require the consent of Eligible Mortgagees as indicated below:

(i) conveyance or encumbrance of the Common Elements or any portion thereof requires approval of at least eighty percent (80%) of Eligible Mortgagees. A "conveyance or encumbrance" for purposes of this subsection does not include the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community;

(ii) the termination of the Common Interest Community for reasons other than a substantial destruction or condemnation requires approval of at least seventy-five percent (75%) of Eligible Mortgagees; and

(iii) the Association may not change the period for collection of regularly budgeted Common Expense assessments to any period other than a monthly period without the consent of all Eligible Mortgagees.

#### Section 17.7 TRUSTEE.

In the event of damages or destruction under Article 22 or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that any proceeds from such damages, destruction, or condemnation to be payable to a Trustee established pursuant to Section 22.5. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska and may be required to represent the Unit Owners in condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements, or any part thereof, by the condemning authority. Where required, each Unit Owner shall appoint the Trustee as attorney-in-fact for such purpose. Unless otherwise prohibited by this Declaration or by the Act, the members of the Executive Board acting by majority vote through the president may serve collectively as Trustee.

#### Section 17.8 ENFORCEMENT.

The provisions of this Article are for the benefit of Eligible Mortgagees and Eligible Insurers and their successors, and may be enforced by any of them by any available means.



Section 17.9 CONDEMNATION AND INSURANCE PROCEEDS.

Subject to the terms of an Eligible Mortgagee's Security Interest in a Unit, no provision of this Declaration shall be construed to give priority to any Unit Owner over any rights of such Eligible Mortgagee to any condemnation or insurance proceeds from the Property.

Section 17.10 REIMBURSEMENT.

If the Association is in default on any taxes on the Common Elements, or if any of the Association's insurance premiums are overdue, or if the Association has failed to renew insurance coverage required under this Declaration on the Common Elements, any Eligible Mortgagee may pay the Association's overdue taxes or overdue premiums or may pay to secure the required insurance coverage. Any Eligible Mortgagees making such payments shall be entitled to prompt reimbursement from the Association.

**ARTICLE 18.**  
**COMMON EXPENSE ASSESSMENT AND COLLECTION**

Section 18.1 APPORTIONMENT AND PURPOSE OF COMMON EXPENSES.

(a) Except as provided in this Section and in Section 18.2, any Common Expense shall be assessed against all Units in accordance with their percentage interest in the Common Expenses. See Table of Allocated Interests, attached as Exhibit B.

(b) The assessments provided herein shall be used for the general purposes of promoting the recreation, health, welfare, common benefit and enjoyment of the Unit Owners as residents in the Common Interest Community, and not for builders or Dealers. Such purposes include the maintenance of real and personal property, and all as may be more specifically authorized from time to time in the form of special assessments by the Board.

(c) A Dealer or Unit Owner who is the initial builder of the home in a Unit or lot within the Common Interest Community, is exempt from payment, in whole or in part, of the Common Expense allocated to the Unit where the home is being built. The exemption is limited to a Dealer or Unit Owner who is, in fact, the builder of the original home or residence on the Unit or lot, who is not intending to be an actual resident in the Common Interest Community. Moreover, the exemption only covers the period of time of actual construction of the physical building serving as the home or residence, and is not meant to cover any period of reconstruction or remodeling of the original home or residence.



Section 18.2 APPORTIONMENT OF COMMON EXPENSES TO LESS THAN ALL UNITS.

(a) Any Common Expenses associated with the maintenance, repair, or replacement of any Limited Common Element which serves exclusively one Unit shall be assessed against that Unit. If any Limited Common Element serves more than one Unit, but less than all Units, the Common Expenses attributable to that Limited Common Element shall be assessed equally among the Units it serves.

Any Common Expenses for services provided by the Association for the benefit of an individual Unit at the request of the individual Unit Owner shall be assessed against said Unit.

(b) If an expense to the Association is caused by the misconduct of a Unit Owner, the Unit Owner's family members, guests, or invitees, the Association may assess that expense exclusively against the Unit.

(c) Any Common Expense insurance premium increase attributable to a particular Unit by virtue of activities in the Unit or by the Unit Owner, or by a Unit Owner's loss history, shall be assessed against that Unit.

(d) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their percentage interests in the Common Expenses at the time judgment was entered.

(e) Any fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

Section 18.3 LIEN.

(a) The Association shall have a lien on a Unit for any assessment levied against the Unit and/or for any fines, fees, charges, late charges, collection costs, and/or interest imposed against its Unit Owner from the time any such assessment or fines, fees, charges, late charges, collection costs, and/or interest become due. The full amount of the assessment, fines, fees, charges, late charges, collection costs, and/or interest is a lien from the time the first installment thereof becomes due. Subject to subsection 18.3(h), liens under this section are not affected by sale or transfer of a Unit.



(b) The recordation of this Declaration constitutes record notice and perfection of the lien. This Section does not require further recording of a claim of lien for assessment.

(c) The Association's lien must be foreclosed pursuant to AS 34.35.005 as it may be amended from time to time.

(d) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a first Security Interest on a Unit recorded before the date on which the assessments sought to be enforced became delinquent, unless such assessments, based on the periodic budget adopted by the Association pursuant to Section 18.4 would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in this Section; (2) liens for real estate taxes and other governmental assessments or charges against the Unit; and (3) liens and encumbrances recorded before the recordation of the Declaration.

This subsection does not affect the priority of mechanic's or materialmen's liens, or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.010.

(e) Subject to subsection 18.3(f), a lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due.

(f) If an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(g) This section shall not be construed to prohibit an action to recover sums for which subsection 18.3(a) creates a lien or prohibit the Association from taking a deed in lieu of foreclosure.

(h) If a holder of a first or second Security Interest in a Unit forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that Security Interest under subsection 18.3(d). Any unpaid assessments not satisfied from the proceeds of the





foreclosure sale become Common Expenses collectible from all the Unit Owners, including said purchaser. "Purchaser," for purposes of this subsection, includes any Security Interest holder that obtains title through foreclosure.

(i) If the Association commences any action to foreclose a lien for unpaid assessments or to otherwise collect assessments, the court may appoint a receiver of the Unit Owner. The court may then order the receiver to: (1) collect all sums alleged to be due from the Unit Owner prior to or during the pendency of the action; (2) pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association; and (3) take any other actions consistent with this Declaration and the Act.

(j) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party and is enforceable by execution under AS 09.35.010.

(k) If the Association forecloses on a Unit pursuant to this Section for unpaid assessments, the Association may hold, mortgage, lease, and convey such Unit.

(l) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied first to interest, late charges, collection costs, fines, and fees, and then to the oldest balance due from the Unit Owner for Common Expense assessments.

#### Section 18.4 ADOPTION AND RATIFICATION OF PROPOSED BUDGET.

Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall mail or otherwise provide a summary of the proposed budget to each Unit Owner, and shall set a date for a meeting fourteen (14) to thirty (30) days from mailing or otherwise providing the summaries to the Unit Owners, for the Unit Owners to consider ratification of the budget. Unless a Majority of Unit Owners reject the proposed budget at that meeting, the budget is ratified. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.

#### Section 18.5 NONBUDGETED COMMON EXPENSES.

If the Executive Board votes to levy a Common Expense assessment not included in the current budget and not attributable to fewer than all Units as described in Section 18.2, the Common Expense assessment shall be submitted to the Unit Owners and ratified in accordance with Section 18.4.



Section 18.6 CERTIFICATION OF UNPAID ASSESSMENTS.

Upon a Unit Owner's written request, the Association shall provide a statement in recordable form setting out the amount of unpaid assessments against the Unit. The Association must provide the statement within ten (10) business days after it receives the Unit Owner's request and is binding on the Association, the Executive Board, and each Unit Owner.

Section 18.7 COMMON EXPENSES TO BE PAID MONTHLY.

All Common Expenses assessed under this Section shall be due and payable monthly.

Section 18.8 ASSESSMENT RESERVE FUND.

Upon recordation of a deed to the first Unit Owner other than the Declarant of an interest in the Common Interest Community, the Unit Owner, and each subsequent Unit Owner in the Association, shall establish an assessment reserve fund with the Association. The assessment reserve fund shall equal the projected assessments to the Unit Owner for a two-month period. In addition, the Unit Owner shall pay to the Association the regular monthly assessment as provided herein, the purpose being to have available at all times for the Association an assessment reserve fund equal to two (2) months of assessments.

The assessment reserve fund shall be maintained at all times just as a reserve for taxes and insurance is so maintained, and in the event of a subsequent transfer of the Unit Owner's interest in the Common Interest Community, the subsequent Purchaser shall be responsible for establishing and maintaining this reserve fund. The reserve fund must be segregated from the Association's operating account.

Declarant may not use the assessment reserve fund to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while it is in control of the Association.

Section 18.9 ACCELERATION.

In the event of a Unit Owner's default for a period of ten (10) days or more on the payment of any Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year for that Unit to be immediately due and payable.



Section 18.10      COMMENCEMENT OF ASSESSMENTS.

Common Expense assessments shall commence on the first day of the month in which the first Unit is conveyed to a Unit Owner other than the Declarant.

Section 18.11      NO EXEMPTION FROM COMMON EXPENSES.

Unit Owners may not exempt themselves from liability for payment of the Common Expenses by either waiver of the use or enjoyment of the Common Elements or by abandonment of their Units.

Section 18.12      PERSONAL LIABILITY FOR ASSESSMENTS.

A Unit Owner is personally liable for any Common Expense assessments which become due and payable during his or her ownership of the Unit. In absence of a successor's written agreement to assume a Unit Owner's obligation, personal liability for such assessments shall not pass to a successor in title to the Unit.

Section 18.13      ASSESSMENT AND COLLECTION OF MASTER COMMON EXPENSES.

Provisions for the assessment and collection of Master Common Expenses are set forth in the Master Documents, and as they may be amended from time to time.

**ARTICLE 19.**  
**RIGHT TO ASSIGN FUTURE INCOME**

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Unit Owners of Units to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose, in accordance with the Act.

**ARTICLE 20.**  
**PERSONS AND UNITS SUBJECT TO MASTER DOCUMENTS**

All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Master Documents. Acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Master Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, all such provisions recorded on the Records of the Municipality of Anchorage are covenants



running with the land and shall bind any Persons having at any time any interest or estate in such Unit.

**ARTICLE 21.**  
**INSURANCE**

Section 21.1 COVERAGE.

To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

Section 21.2 PROPERTY INSURANCE.

(a) Property Insurance Covering:

(i) The entire Property (but excluding land, excavations, portions of foundations below the undersurface of the lowest basement floor, underground pilings, piers, pipes, flues and drains and other items normally excluded from property policies); and

(ii) All personal property owned by the Association, to the extent it is commonly insured by the Association.

(b) Amounts:

The project facilities shall be insured for an amount equal to one hundred percent (100%) of their replacement cost at the time the insurance is purchased and at each renewal date, less reasonable deductibles.

The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisal shall be a Common Expense.

(c) Risks Insured Against:

The insurance shall afford protection against "all risks" of direct physical loss commonly insured against.



(d) Other Provisions:

Insurance policies required by this Section shall provide that:

(i) The insurer waives its right to subrogation under the policy against any Unit Owner or member of his or her household.

(ii) No act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(iii) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(iv) Any loss shall be adjusted with the Association.

(v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and, in the absence of such designation, to the Association, in either case to be held in trust for each Unit Owner and such Unit Owner's mortgagee, to the extent that any Unit is effected by the loss and providing no other insurance coverage is available for same.

(vi) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to who a certificate or memorandum of insurance has been issued, at their respective last known address.

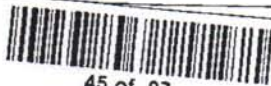
(vii) The name of the insured shall be substantially as follows: "Mountain Vista Homeowners Association."

Section 21.3 LIABILITY INSURANCE.

Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than, \$1,000,000, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

(a) Other Provisions.

Insurance policies carried pursuant to this Section shall provide that:



(i) Each Unit Owner is an insured person under the policy to the extent of liability, if any, arising out of his or her interest in the Common Elements or membership in the Association.

(ii) The insurer waives its rights to subrogation under the policy against any Unit Owner or member of his or her household;

(iii) No act or omission by any Unit Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(v) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Master Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

#### Section 21.4 FIDELITY BONDS.

A blanket fidelity bond for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services may be procured.

#### Section 21.5 COVERAGE FOR MASTER COMMON ELEMENTS.

Requirements for insurance for the Master Common Elements are set forth in the Master Documents, and as they may be amended from time to time.

### **ARTICLE 22.** **DAMAGE TO OR DESTRUCTION OF PROPERTY**

#### Section 22.1 DUTY TO RESTORE.

Any portion of the Property for which insurance is required under the Act or for which insurance carried by the Association is in effect, whichever is more extensive, shall be repaired or replaced promptly by the Association unless:

(a) The Common Interest Community is terminated;



(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

(c) Eighty percent (80%) of the Unit Owners, including every owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

#### Section 22.2 COST.

The cost of repair or replacement in excess of insurance proceeds shall be a Common Expense.

#### Section 22.3 PLANS.

The Property must be repaired and restored in accordance with either the original Plans or other plans and specifications which have been approved by the Master Board, a majority of Unit Owners and fifty-one percent (51%) of Eligible Mortgagees.

#### Section 22.4 REPLACEMENT OF LESS THAN ENTIRE PROPERTY.

The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community and the balance shall be distributed to the Association.

#### Section 22.5 INSURANCE TRUSTEE.

If an insurance Trustee is designated in any insurance policy, the Trustee may have exclusive authority to negotiate losses under such policies and to perform other functions as are necessary to accomplish this purpose. The insurance Trustee may also be designated by the owners' Association as attorney-in-fact for the purposes of purchasing and maintaining insurance, collecting and disposing of insurance proceeds, negotiating losses, executing releases of liability, executing other necessary documents, and performing all other acts necessary to accomplish these purposes.

#### Section 22.6 INSURANCE PROCEEDS.

The insurance Trustee, or if there is no insurance trustee, then the Association, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of subsections 22.1(a) through 22.1(c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners



and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 22.7 CERTIFICATION BY EXECUTIVE BOARD.

A Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(a) Whether or not damaged or destroyed Property is to be repaired or restored; and

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 22.8 CERTIFICATES BY ATTORNEYS.

If payments are to be made to Unit Owners or mortgagees, the Executive Board, and the Trustee, if any, shall obtain and may rely on an attorney's certificate of title or on a title insurance policy, based in either case on a search of the local land records, from the date of the recording of this Declaration, stating the names of the Unit Owners and their mortgagees.

**ARTICLE 23.**  
**RIGHTS TO NOTICE AND COMMENT OR HEARING**

Section 23.1 RIGHT TO NOTICE AND COMMENT.

Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after Notice and Comment, and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

Section 23.2 RIGHT TO NOTICE AND HEARING.

Whenever the Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed. The party proposing to





take the action (e.g. the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the meeting was given.

Section 23.3 APPEALS.

Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days giving the same notice and observing the same procedures as were required for the original meeting.

**ARTICLE 24.**  
**ASSOCIATION MEMBERSHIP AND EXECUTIVE BOARD**

Section 24.1 TRANSFER OF ASSOCIATION MEMBERSHIP.

Each Unit Owner shall be a member of the Mountain Vista Homeowners Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Unit in the Common Interest Community. A Unit Owner shall not transfer, pledge, or alienate its membership in the Association in any way, except upon encumbrance of its Unit and then only to the purchaser or mortgagee of the Unit.

Section 24.2 CLASSES OF MEMBERSHIP.

Except as otherwise provided in Section 7.10 above, the Association shall initially have one class of voting membership, composed of all Unit Owners, including Declarant. The Bylaws may set forth additional classifications of membership from time to time.

Section 24.3 POWERS AND DUTIES OF EXECUTIVE BOARD.

Except as otherwise limited by the Documents or the Act, the Executive Board may act in all instances on behalf of the Association. The



Executive Board shall have, subject to said limitations, the powers and duties necessary for the administration of the affairs, operations, and governance of the Association and of the Common Interest Community including, but not limited to, the power to:

- (a) adopt and amend Bylaws, Rules, regulations, budgets for revenues, expenditures, and reserves;
- (b) collect assessments for Common Expenses from Unit Owners;
- (c) hire and discharge employees, agents, managing agents, and independent contractors;
- (d) institute, defend, or intervene in litigation or administrative proceedings in the Association's name on behalf of the Association or on behalf of two or more Unit Owners on matters affecting the Common Interest Community;
- (e) make contracts and incur liabilities;
- (f) govern the use, maintenance, repair, replacement, and modification of the Common Elements;
- (g) cause any additional Improvements by the Association to be held as a part of the Common Elements;
- (h) acquire, hold, encumber, and convey in the Association's name any right, title, or interest to real property or personal property, provided that Common Elements may be conveyed or subject to a Security Interest only pursuant to AS 34.08.430 of the Act and Article 17 of this Declaration;
- (i) grant easements for public utilities or for other public purposes consistent with the intended use of the Common Elements, and grant leases, licenses, and concessions for no more than one year, through or over the Common Elements;
- (j) impose and receive payments, fees, or charges for the use, rental, or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;
- (k) impose fees, penalties, fines, late charges, interest, and collection costs, or a combination thereof for late payment of assessments and, after Notice and Hearing, levy reasonable fines, fees, and/or penalties for violations of this Declaration, the Bylaws, Rules, and/or regulations of the Association;



(l) impose reasonable charges for the preparation and recordation of amendments to this Declaration, any resale certificates that may be required by AS 34.08.590, and/or any statements of unpaid assessments;

(m) provide for the indemnification of the Association's officers and Executive Board and maintain Directors' and officers' liability insurance;

(n) assign the Association's right to future income, including the right to receive Common Expense assessments;

(o) exercise any other powers conferred by this Declaration or the Bylaws;

(p) exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

(q) establish, by resolution, committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing such committees. All committees must give written notice, by the U.S. Postal Service or personal delivery, of their actions or decisions to Unit Owners and the Executive Board within fifteen (15) days of said actions or decisions. Such committee actions or decisions must be ratified, modified, or rejected by the Executive Board at its next regular meeting.

#### Section 24.4 LIMITATIONS ON THE EXECUTIVE BOARD.

The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, to elect members of the Executive Board to full terms, or to determine the qualifications, powers, duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term. Neither the Executive Board nor its Directors shall receive compensation for services performed pursuant to this Declaration.

#### Section 24.5 MINUTES.

The Executive Board shall permit any Unit Owner to inspect the Minutes of Executive Board meetings during normal business hours. The Minutes shall be available for inspection within ten (10) days after any such meeting.



Section 24.6 MEETINGS.

(a) ASSOCIATION MEETINGS. The Executive Board shall call a meeting of the Association at least once each year. A special meeting of the Association may be called by the president of the Board, by a majority of the members of the Executive Board, or by Unit Owners comprising at least twenty percent (20%) of the votes in the Association. Not less than ten (10) nor more than sixty (60) days in advance of the meeting, an officer designated by the Executive Board shall cause notice to be hand delivered or mailed by the U.S. Postal Service to the last known address of each Unit Owner. The notice of the meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Documents, budget changes, and any proposal to remove an officer or member of the Executive Board.

(b) EXECUTIVE BOARD MEETINGS. All Association members shall have the right to attend all meetings of the Executive Board at which action is to be taken by vote of the directors. Notice of such meetings shall be given not less than twenty-four (24) hours prior to the time set for such meeting, by posting such notice in a conspicuous location in the Common Interest Community and/or by hand delivering notice to each Unit. If an emergency situation requires an immediate meeting of the Executive Board, no such notice is required.

Section 24.7 MASTER BOARD.

The powers and duties, limitations, representation minutes and meetings of the Executive Board of the Eagle Crossing East Master Community (otherwise known as the Master Board) are those set forth in the Declaration, as amended, for Eagle Crossing East Master Community.

**ARTICLE 25.  
CONDEMNATION**

If part or all of the common interest community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with the Act.

**ARTICLE 26.  
MISCELLANEOUS**

Section 26.1 SECURITY.

The Association may, but shall not be obligated to, maintain or support certain activities within the Common Interest Community designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION,



THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMON INTEREST COMMUNITY, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF ANY SECURITY MEASURE UNDERTAKEN. EACH UNIT OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS EXECUTIVE BOARD AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE COMMON INTEREST COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

Section 26.2 CHANGES IN THE ACT.

Many provisions of this Declaration and in the Bylaws repeat exactly or substantially the same rule or outcome in a particular instance as that required by the Act on the date this Declaration was recorded, or repeat the same rule which the Act would impose as a default rule if the Declaration or Bylaws were silent on that subject.

The Declarant anticipates the possibility that the Act will be amended from time to time to reflect contemporary thinking and experience regarding the structure and governance of common interest communities. The Declarant believes it is in the best interest of the Unit Owners at Mountain Vista that the Property might always be governed in accordance with the most current provisions of the Act, subject to the right in any particular case of the Unit Owners and the Executive Board to vary that outcome by adopting a rule or amendment to the Declaration in the manner provided for such amendments.

Accordingly, this Section directs that, in the future and from time to time, in all instances where this Declaration or the Bylaws contain language that precisely or substantially tracks the Act on the date that Mountain Vista is declared, this Declaration and the Bylaws shall be automatically amended in accordance with the amended cognate language of the Act which may be adopted by the State of Alaska, unless the particular language of the Declaration or Bylaws, either as initially adopted or as amended at any subsequent time by the Association, is substantially at variance with the amended text of the Act.

Section 26.3 CAPTIONS.

The captions contained in the Master Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Master Documents nor the intent of any provision thereof.



Section 26.4 GENDER.

The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Master Documents so requires.

Section 26.5 WAIVER.

No provision contained in the Master Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 26.6 INVALIDITY.

The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the Documents shall continue in full force and effect.

Section 26.7 CONFLICT.

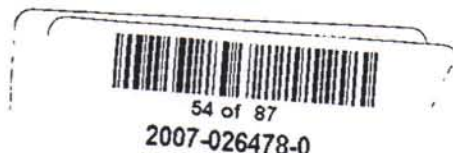
The Documents are intended to comply with the requirements of the Act. In the event of any conflict between the Master Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Documents, this Declaration shall control.

Section 26.8 COSTS AND ATTORNEYS' FEES.

In any action to enforce the provisions of this Declaration, the prevailing party shall be entitled to recover actual attorneys' fees and court costs.

Section 26.9 LIQUIDATED DAMAGES.

Except as otherwise provided in Section 12.5 above, the prevailing party in any action to enforce the provisions of this Declaration shall be entitled to recover liquidated damages in the amount of Twenty-five Dollars (\$25.00) per day for each day the condition, which is the subject matter of the action to enforce, exists, in addition to the cost of curing the breach of the covenant(s). The liquidated damages shall increase, but not decrease, by the percentage of increase in the cost of living index between the index applicable to the date of these covenants and the date the liquidated damages are imposed. The index to be used is now known as the "Consumer Price Index for all Urban Consumers," all items for Anchorage,



Alaska (1967=100), hereinafter called the "Index," published by the Bureau of Labor Statistics of the United States Department of Labor.

The liquidated damages shall run from the date of the first written notice of the violation until the violation is fully abated.

Section 26.10 ALLOCATION OF COMMON ELEMENT AND DEVELOPMENT COSTS ("CEDC").

In consideration for development of the project and conveyance of significant common elements to the Association for the benefit and enhanced value of the planned community of Mountain Vista, for a period of ninety (90) years from the date of the recording of this Declaration, the Declarant or Association shall receive pro-rated payment for the common element and development costs (the "CEDC") of the planned community from the Unit Owners. The CEDC shall be paid by the Owner of each Unit, with the exception of Declarant-owned Units. Each Unit Owner's pro-rated share of the CEDC is agreed to be One Hundred Fifty Dollars (\$150.00) per Unit for each calendar year following the recording of this Declaration.

(a) Until such time as the Master Association is activated, the CEDC shall be paid as follows: (i) Fifty Dollars (\$50.00) shall be paid to the Association and shall be devoted to landscaping and payment of related expenses for development and maintenance of the Common Elements; and (ii) One Hundred Dollars (\$100.00) shall be paid to the Declarant, its successors and assigns.

(b) Upon the activation of the Master Association, the CEDC shall be paid as follows: (i) Seventy-Five Dollars (\$75.00) shall be paid to the Association and shall be devoted to landscaping and payment of related expenses for the development and maintenance of the Common Elements; and (ii) Seventy-Five Dollars (\$75.00) shall be paid to the Declarant, its successors and assigns.

(c) So long as the Association exists, the CEDC shall be a common expense of the Association collected on behalf of the Declarant or Master Association as part of its annual assessment and budget process and paid to Declarant within forty-five (45) days of receipt by the Association. Should the Association for any reason fail to exist or fail in a good faith manner to collect and pay the CEDC, Declarant shall have and shall be assigned all lien and other collection rights of the Association under this Declaration or by operation of law. Anything herein or within Alaska Statute 34.08 et seq. to the contrary notwithstanding, this Section may not be altered, amended or repealed without the prior written consent of the Declarant. Further, as to each Unit subject to this Declaration, the annual CEDC obligation herein created shall be a lien running with the land for the entire ninety (90) year period.




IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 27<sup>th</sup> day of April, 2007.

DECLARANT:

DRIFTWOOD BAY, LLC

By:

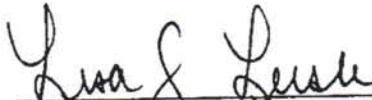
  
\_\_\_\_\_  
Connie Yoshimura  
Chief Executive Officer

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

THIS IS TO CERTIFY that on this 27<sup>th</sup> day of April, 2007, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared CONNIE YOSHIMURA, Chief Executive Officer of Driftwood Bay, LLC, known to me to be the individual named herein and who executed the foregoing instrument, and she acknowledged the execution thereof to be her free and voluntary act and deed on behalf of the limited liability company for the uses and purposes therein mentioned.

WITNESS my hand and notarial seal the day and year first hereinabove written.





\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: 8.5.2010



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2007-026478-0



**EXHIBIT A**

**REAL PROPERTY SUBMITTED TO DECLARATION**

Lots Thirty-two (32) through Forty-eight (48), Block Twenty-four (24); Lots One (1), Two-A (2A) through Eight-A (8A), Two-B (2B) through Eight-B (8B), and Nine (9) through Twenty-five (25), Block Twenty-five (25); and Tracts F1p1, F1p2 and F1f1a1, EAGLE CROSSING SUBDIVISION, according to the official plat thereof, filed under Plat No. 2006-154, records of the Anchorage Recording District, Third Judicial District, State of Alaska,

and

Lots Forty-nine (49) through Fifty-two (52), Block Twenty-four (24), EAGLE CROSSING SUBDIVISION, according to the official plat thereof, filed under Plat No. 2006-156, records of the Anchorage Recording District, Third Judicial District, State of Alaska.



**EXHIBIT B**

**TABLE OF ALLOCATED INTERESTS**

<u>Unit No.</u>	<u>Percentage Interest</u>	<u>Votes in Association</u>
Lot 32, Block 24	1.88%	1
Lot 33, Block 24	1.88%	1
Lot 34, Block 24	1.88%	1
Lot 35, Block 24	1.88%	1
Lot 36, Block 24	1.88%	1
Lot 37, Block 24	1.88%	1
Lot 38, Block 24	1.88%	1
Lot 39, Block 24	1.88%	1
Lot 40, Block 24	1.88%	1
Lot 41, Block 24	1.88%	1
Lot 42, Block 24	1.88%	1
Lot 43, Block 24	1.88%	1
Lot 44, Block 24	1.88%	1
Lot 45, Block 24	1.88%	1
Lot 46, Block 24	1.88%	1
Lot 47, Block 24	1.88%	1
Lot 48, Block 24	1.88%	1
Lot 49, Block 24	1.88%	1
Lot 50, Block 24	1.88%	1
Lot 51, Block 24	1.88%	1
Lot 52, Block 24	1.88%	1
Lot 1, Block 25	1.88%	1
Lot 2A, Block 25	1.88%	1
Lot 2B, Block 25	1.88%	1
Lot 3A, Block 25	1.88%	1
Lot 3B, Block 25	1.88%	1
Lot 4A, Block 25	1.88%	1
Lot 4B, Block 25	1.88%	1
Lot 5A, Block 25	1.88%	1
Lot 5B, Block 25	1.88%	1
Lot 6A, Block 25	1.88%	1
Lot 6B, Block 25	1.88%	1
Lot 7A, Block 25	1.88%	1

Exhibit B (Table of Allocated Interests)  
Declaration for Mountain Vista  
Page 1 of 2



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2007-026478-0

Lot 7B, Block 25	1.88%	1
Lot 8A, Block 25	1.88%	1
Lot 8B, Block 25	1.88%	1
Lot 9, Block 25	1.88%	1
Lot 10, Block 25	1.88%	1
Lot 11, Block 25	1.88%	1
Lot 12, Block 25	1.88%	1
Lot 13, Block 25	1.88%	1
Lot 14, Block 25	1.88%	1
Lot 15, Block 25	1.88%	1
Lot 16, Block 25	1.88%	1
Lot 17, Block 25	1.88%	1
Lot 18, Block 25	1.88%	1
Lot 19, Block 25	1.88%	1
Lot 20, Block 25	1.88%	1
Lot 21, Block 25	1.88%	1
Lot 22, Block 25	1.88%	1
Lot 23, Block 25	1.88%	1
Lot 24, Block 25	1.88%	1
Lot 25, Block 25	1.88%	1

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**TOTAL: 100.00% 53**



EXHIBIT C

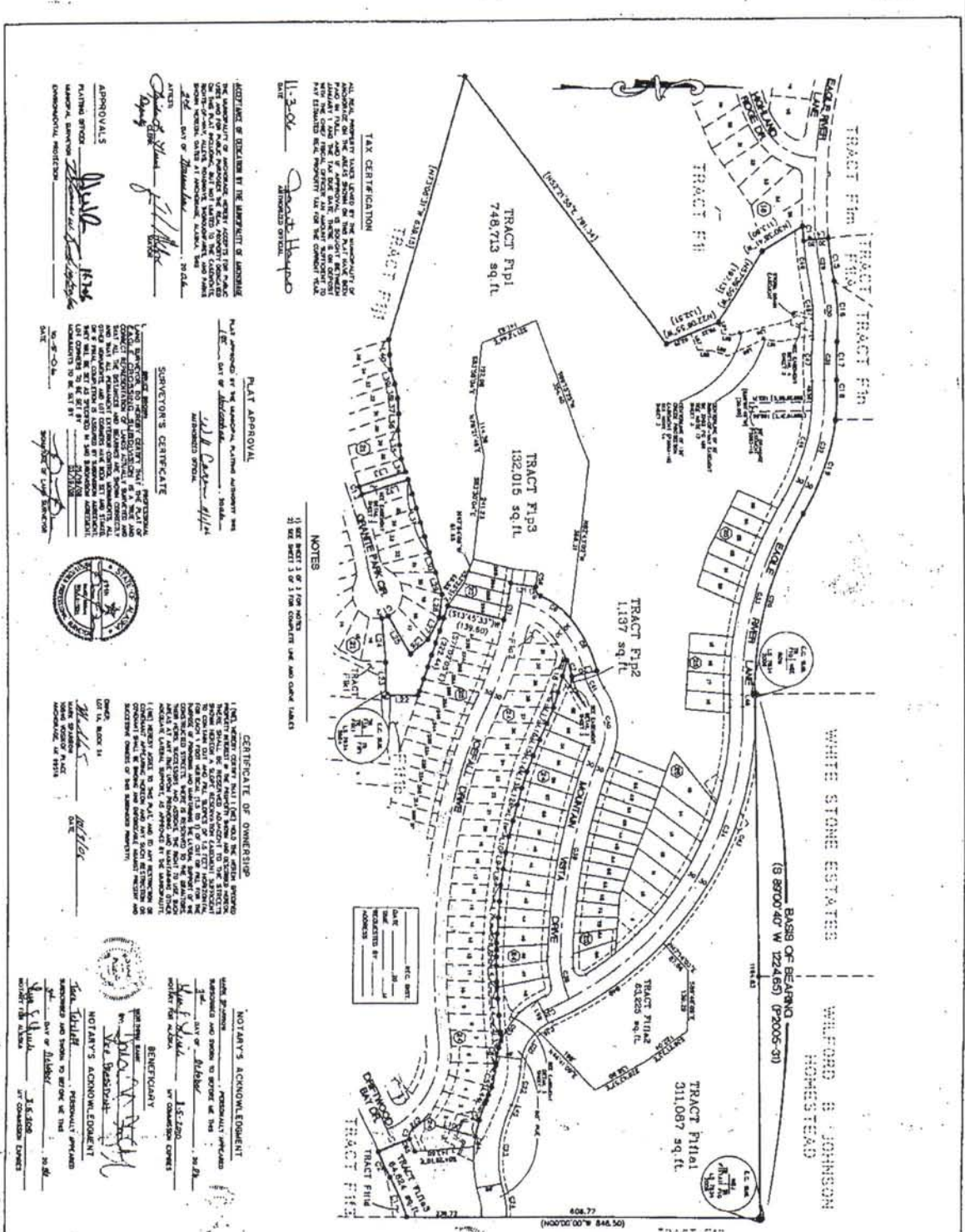
[PLATS/PLANS]

PLAT NO. 2006-154 & PLAT NO. 2006-156



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2007-026478-0



WHITE STONE ESTATES  
 BASIS OF BEYOND  
 (S 8700'40" W 122'465") (P2006-31)  
 WILFORD B. JOHNSON  
 HOMESTEAD

TAX CERTIFICATION

ALL TAXES, PROPERTY TAXES, AND OTHER TAXES DUE BY THE SUBDIVISION AT THE TIME OF THE FILING OF THIS PLAT, HAVE BEEN PAID BY THE SUBDIVISION. THE SUBDIVISION HAS OBTAINED FROM THE TAX OFFICE A CERTIFICATE OF PAYMENT OF TAXES, WHICH IS FILED WITH THIS PLAT. THE SUBDIVISION HAS ALSO OBTAINED FROM THE TAX OFFICE A CERTIFICATE OF NO TAXES DUE, WHICH IS FILED WITH THIS PLAT.

11-3-06 *Joseph H. Hagedorn*  
 APPROVED OFFICIAL

PLAT APPROVAL

PLAT APPROVED BY THE SUPERVISOR, PLANNING DEPARTMENT AND THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO, CALIFORNIA, ON THIS 11th DAY OF NOVEMBER, 2006.

*John P. Lippert*  
 SUPERVISOR

NOTES

1. SEE SHEET 1 OF 1 FOR NOTES AND LEGEND.

CERTIFICATE OF OWNERSHIP

I, THE UNDERSIGNED, HAVE BEEN ADVISED BY THE SUBDIVISION THAT THE SUBDIVISION HAS OBTAINED FROM THE TAX OFFICE A CERTIFICATE OF PAYMENT OF TAXES, WHICH IS FILED WITH THIS PLAT. THE SUBDIVISION HAS ALSO OBTAINED FROM THE TAX OFFICE A CERTIFICATE OF NO TAXES DUE, WHICH IS FILED WITH THIS PLAT.

11-3-06 *Joseph H. Hagedorn*  
 APPROVED OFFICIAL

APPROVALS

PLANNING DEPARTMENT  
*[Signature]*  
 SUPERVISOR

BOARD OF SUPERVISORS  
*[Signature]*  
 SUPERVISOR

APPROVALS

PLANNING DEPARTMENT  
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CERTIFICATE OF OWNERSHIP AND DECLARATION

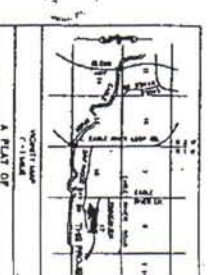
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11-3-06 *Joseph H. Hagedorn*  
 APPROVED OFFICIAL

NOTARY'S ACKNOWLEDGMENT

I, *Joseph H. Hagedorn*, Notary Public, State of California, do hereby certify that *Wilford B. Johnson* is the owner of the above described property.

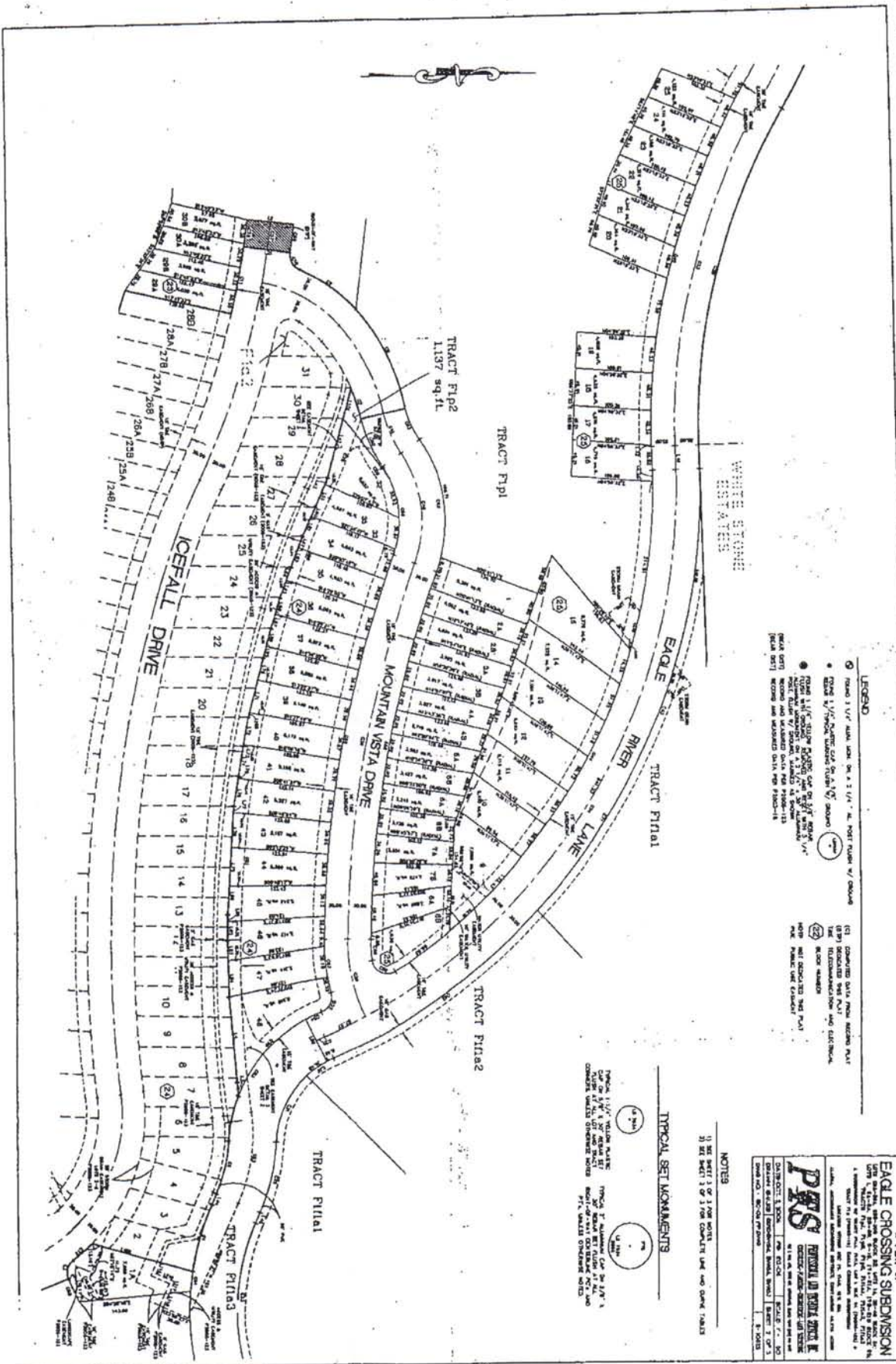
11-3-06 *Joseph H. Hagedorn*  
 NOTARY PUBLIC



PLANNING DEPARTMENT

BOARD OF SUPERVISORS

11-3-06



- LEGEND**
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**NOTES**

- 1) SEE SHEET 1 OF 2 FOR MONUMENTS
- 2) SEE SHEET 1 OF 2 FOR COMPLETE LOTS AND DRIVE LAYOUTS

**TYPICAL SET MONUMENTS**

① 1/4" = 1' SCALE DATA FROM THE 1/4" = 1' PLAT FURNISHED BY CHANDLER

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**4 FEET OF EAGLE CROSSING SUBDIVISION**

THIS PLAN IS A PART OF THE EAGLE CROSSING SUBDIVISION, BEING THE 1/4" = 1' PLAT FURNISHED BY CHANDLER, AND IS SUBJECT TO THE TERMS AND CONDITIONS OF SAID PLAT.

**P&S** PROFESSIONAL SURVEYING & ENGINEERING, INC.

1000 WEST 10TH AVENUE, SUITE 100, DENVER, CO 80202

PHONE: (303) 733-1111 FAX: (303) 733-1112

DATE: 10/1/01

SCALE: 1" = 40'

PROJECT: EAGLE CROSSING SUBDIVISION

PROJECT NO.: 01-001

DATE: 10/1/01



## NOTES (Plat # 2006-154)

- 1) THIS PLAT IS DEVELOPED AS A CLUSTER PLAT AND IS GOVERNED BY AMC 21.50.210.
- 2) SEE SHEET 2 FOR TYPICAL MONUMENTS SET AND COMPLETE LEGEND.
- 3) AT THE TIME OF RECORDING, THIS PLAT IS SUBJECT TO R-3 ZONING REQUIREMENTS AND SPECIAL LIMITATIONS CONTAINED IN AO 99-148 INCLUDING A PROHIBITION ON DEVELOPING AREAS WITH SLOPES IN EXCESS OF 30 PERCENT, EXCEPT AS SHOWN ON EXHIBIT "B" OF SAID ORDINANCE.
- 4) THIS PLAT IS BEING DEVELOPED IN CONFORMANCE WITH AN APPROVED SITE PLAN ON FILE AT THE MUNICIPAL PLANNING DEPARTMENT.
- 5) EXISTING NATURAL VEGETATION IS TO REMAIN UNDISTURBED WITHIN THE OPEN SPACE TRACTS IN CONFORMANCE WITH AO 99-148.
- 6) DEVELOPMENT OF THIS PROPERTY SHALL BE IN CONFORMANCE WITH THE WETLANDS PERMIT # N-1993-0729 ISSUED BY THE US ARMY CORPS OF ENGINEERS.
- 7) THE MAINTENANCE AND SNOW PLOWING OF THE PRIVATE DRIVES SHALL BE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS' ASSOCIATION. THE MUNICIPALITY OF ANCHORAGE WILL NOT ASSUME RESPONSIBILITY FOR THE MAINTENANCE OF AND THE SNOW PLOWING AND/OR REMOVAL FROM THE PRIVATE DRIVES.
- 8) THE ACCESS EASEMENTS INCLUDE USE BY UTILITIES.
- 9) TRACTS F1p1, F1p2, AND F1f1d1 ARE OPEN SPACE TRACTS AND WILL BE CONVEYED TO THE EAGLE CROSSING HOMEOWNERS ASSOCIATION IN CONFORMANCE WITH THE EXISTING HOMEOWNERS ASSOCIATION DECLARATION.
- 10) THE MAINTENANCE OF THE GRASSED DRAINAGE SWALES SHALL BE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS' ASSOCIATION. THE MUNICIPALITY OF ANCHORAGE WILL NOT ASSUME RESPONSIBILITY FOR THE MAINTENANCE OF THE ROADSIDE DRAINAGE SWALES.
- 11) ALL LINES INTERSECTING CURVES ARE NON-RADIAL UNLESS SHOWN OTHERWISE.
- 12) THE MAINTENANCE OF THE LANDSCAPING LOCATED WITHIN THE RIGHTS-OF-WAY SHALL BE THE SOLE RESPONSIBILITY OF THE HOMEOWNERS' ASSOCIATION. THE MUNICIPALITY OF ANCHORAGE WILL ASSUME RESPONSIBILITY FOR THE MAINTENANCE AND/OR REPLACEMENT OF PLANTING IN THE LANDSCAPED AREA THAT IS LOCATED IN THE RIGHT-OF-WAY.
- 13) TRACTS F1f1d2, F1f1d3 AND F1p3 WILL BE SUBDIVIDED AND/OR DEVELOPED AT A LATER DATE.
- 14) THERE SHALL BE NO DISTURBANCE WITHIN THE 130' CREEK PROTECTION EASEMENTS EXCEPT AS ALLOWED IN AO 99-148 AND US ARMY CORPS PERMIT NUMBER N-1993-0729.
- 15) THERE SHALL BE RESERVED ADJACENT TO THE ACCESS EASEMENTS SHOWN HEREON A SLOPE RESERVATION EASEMENT SUFFICIENT TO CUT AND FILL SLOPES OF 1.5 FEET HORIZONTAL FOR EACH 1 FOOT VERTICAL (1.5 TO 1) OF CUT OR FILL FOR THE CONSTRUCTION AND MAINTENANCE OF COMMON ACCESS DRIVES.
- 16) THERE SHALL BE NO DIRECT VEHICULAR ACCESS FROM LOTS 32 TO THE ACCESS & UTILITY EASEMENT LOCATED ON THE SOUTH PORTION OF THESE LOTS. THERE SHALL BE NO DIRECT VEHICULAR ACCESS FROM LOT 48, BLOCK 24 AND LOT 8B BLOCK 25 TO EAGLE RIVER LANE.
- 17) A 10 FOOT WIDE PUBLIC PEDESTRIAN ACCESS EASEMENT WAS RECORDED FEBRUARY 3, 2000, BOOK 3593 PAGE 381 AND RE-RECORDED OCTOBER 4, 2000, BOOK 3703 PAGE 180, WHICH IS NOT DEDICATED, CREATED, PERPETUATED OR VACATED BY THIS PLAT.
- 18) TELECOMMUNICATIONS AND ELECTRIC UTILITIES CAN BE CONSTRUCTED WITHIN RIGHT-OF-WAY.



**LEGEND**

- 1) ROAD 1/4" = 100' PLANNED FOR A 40' WIDE ROAD
- 2) ROAD 1/4" = 100' PLANNED FOR A 20' WIDE ROAD
- 3) ROAD 1/4" = 100' PLANNED FOR A 10' WIDE ROAD
- 4) ROAD 1/4" = 100' PLANNED FOR A 5' WIDE ROAD
- 5) ROAD 1/4" = 100' PLANNED FOR A 2.5' WIDE ROAD

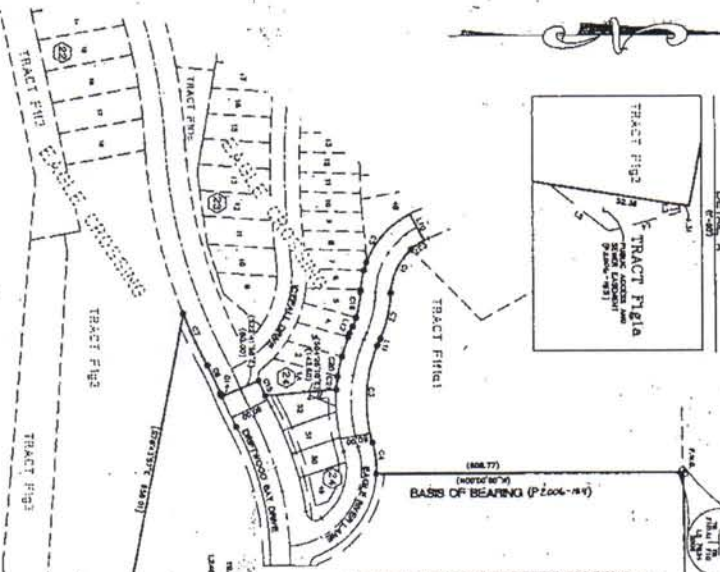
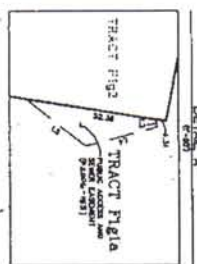
**NOTES**

- 1) THIS PROJECT IS ZONED R-1.5 WITH SPECIAL LAND-USE DISTRICTS THAT REQUIRE A DEVELOPER AS A CONDITION FOR THE GRANTING OF A PERMIT.
- 2) ALL LOTS SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 3) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 4) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 5) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 6) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 7) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 8) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 9) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 10) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 11) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 12) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 13) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 14) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 15) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 16) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 17) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 18) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.
- 19) THE LOCATION, SIZE, AND ADJACENT OF PUBLIC UTILITIES (WATER, SEWER, GAS, ETC.) SHALL BE SHOWN ON THIS PLAN. THE LOCATION OF ALL UTILITIES SHALL BE SHOWN ON THIS PLAN.
- 20) ALL UTILITIES SHOWN ON THIS PLAN SHALL BE CONVEYED BY A SINGLE DEED.

**TYPICAL SET MONUMENTS**



**TAX CERTIFICATION**  
 ALL REAL PROPERTY TAXES DUE BY THE PROPRIETORS OF THE REAL PROPERTY SHOWN ON THIS PLAN SHALL BE PAID TO THE COUNTY CLERK OF THE COUNTY OF OKLAHOMA, STATE OF OKLAHOMA, BY THE PROPRIETORS OF THE REAL PROPERTY SHOWN ON THIS PLAN, PRIOR TO THE RECORDATION OF THIS PLAN.



LINE	LENGTH	BEARING	AREA
1	100.00	S 89.00° E 100.00	10000.00
2	100.00	S 01.00° E 100.00	10000.00
3	100.00	S 89.00° W 100.00	10000.00
4	100.00	S 01.00° W 100.00	10000.00
5	100.00	S 89.00° E 100.00	10000.00
6	100.00	S 01.00° E 100.00	10000.00
7	100.00	S 89.00° W 100.00	10000.00
8	100.00	S 01.00° W 100.00	10000.00
9	100.00	S 89.00° E 100.00	10000.00
10	100.00	S 01.00° E 100.00	10000.00
11	100.00	S 89.00° W 100.00	10000.00
12	100.00	S 01.00° W 100.00	10000.00
13	100.00	S 89.00° E 100.00	10000.00
14	100.00	S 01.00° E 100.00	10000.00
15	100.00	S 89.00° W 100.00	10000.00
16	100.00	S 01.00° W 100.00	10000.00
17	100.00	S 89.00° E 100.00	10000.00
18	100.00	S 01.00° E 100.00	10000.00
19	100.00	S 89.00° W 100.00	10000.00
20	100.00	S 01.00° W 100.00	10000.00
21	100.00	S 89.00° E 100.00	10000.00
22	100.00	S 01.00° E 100.00	10000.00
23	100.00	S 89.00° W 100.00	10000.00
24	100.00	S 01.00° W 100.00	10000.00
25	100.00	S 89.00° E 100.00	10000.00
26	100.00	S 01.00° E 100.00	10000.00
27	100.00	S 89.00° W 100.00	10000.00
28	100.00	S 01.00° W 100.00	10000.00
29	100.00	S 89.00° E 100.00	10000.00
30	100.00	S 01.00° E 100.00	10000.00
31	100.00	S 89.00° W 100.00	10000.00
32	100.00	S 01.00° W 100.00	10000.00
33	100.00	S 89.00° E 100.00	10000.00
34	100.00	S 01.00° E 100.00	10000.00
35	100.00	S 89.00° W 100.00	10000.00
36	100.00	S 01.00° W 100.00	10000.00
37	100.00	S 89.00° E 100.00	10000.00
38	100.00	S 01.00° E 100.00	10000.00
39	100.00	S 89.00° W 100.00	10000.00
40	100.00	S 01.00° W 100.00	10000.00
41	100.00	S 89.00° E 100.00	10000.00
42	100.00	S 01.00° E 100.00	10000.00
43	100.00	S 89.00° W 100.00	10000.00
44	100.00	S 01.00° W 100.00	10000.00
45	100.00	S 89.00° E 100.00	10000.00
46	100.00	S 01.00° E 100.00	10000.00
47	100.00	S 89.00° W 100.00	10000.00
48	100.00	S 01.00° W 100.00	10000.00
49	100.00	S 89.00° E 100.00	10000.00
50	100.00	S 01.00° E 100.00	10000.00
51	100.00	S 89.00° W 100.00	10000.00
52	100.00	S 01.00° W 100.00	10000.00
53	100.00	S 89.00° E 100.00	10000.00
54	100.00	S 01.00° E 100.00	10000.00
55	100.00	S 89.00° W 100.00	10000.00
56	100.00	S 01.00° W 100.00	10000.00
57	100.00	S 89.00° E 100.00	10000.00
58	100.00	S 01.00° E 100.00	10000.00
59	100.00	S 89.00° W 100.00	10000.00
60	100.00	S 01.00° W 100.00	10000.00
61	100.00	S 89.00° E 100.00	10000.00
62	100.00	S 01.00° E 100.00	10000.00
63	100.00	S 89.00° W 100.00	10000.00
64	100.00	S 01.00° W 100.00	10000.00
65	100.00	S 89.00° E 100.00	10000.00
66	100.00	S 01.00° E 100.00	10000.00
67	100.00	S 89.00° W 100.00	10000.00
68	100.00	S 01.00° W 100.00	10000.00
69	100.00	S 89.00° E 100.00	10000.00
70	100.00	S 01.00° E 100.00	10000.00
71	100.00	S 89.00° W 100.00	10000.00
72	100.00	S 01.00° W 100.00	10000.00
73	100.00	S 89.00° E 100.00	10000.00
74	100.00	S 01.00° E 100.00	10000.00
75	100.00	S 89.00° W 100.00	10000.00
76	100.00	S 01.00° W 100.00	10000.00
77	100.00	S 89.00° E 100.00	10000.00
78	100.00	S 01.00° E 100.00	10000.00
79	100.00	S 89.00° W 100.00	10000.00
80	100.00	S 01.00° W 100.00	10000.00
81	100.00	S 89.00° E 100.00	10000.00
82	100.00	S 01.00° E 100.00	10000.00
83	100.00	S 89.00° W 100.00	10000.00
84	100.00	S 01.00° W 100.00	10000.00
85	100.00	S 89.00° E 100.00	10000.00
86	100.00	S 01.00° E 100.00	10000.00
87	100.00	S 89.00° W 100.00	10000.00
88	100.00	S 01.00° W 100.00	10000.00
89	100.00	S 89.00° E 100.00	10000.00
90	100.00	S 01.00° E 100.00	10000.00
91	100.00	S 89.00° W 100.00	10000.00
92	100.00	S 01.00° W 100.00	10000.00
93	100.00	S 89.00° E 100.00	10000.00
94	100.00	S 01.00° E 100.00	10000.00
95	100.00	S 89.00° W 100.00	10000.00
96	100.00	S 01.00° W 100.00	10000.00
97	100.00	S 89.00° E 100.00	10000.00
98	100.00	S 01.00° E 100.00	10000.00
99	100.00	S 89.00° W 100.00	10000.00
100	100.00	S 01.00° W 100.00	10000.00

**SURVEYOR'S CERTIFICATE**  
 I, the undersigned, being duly sworn, depose and say that the foregoing is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of Oklahoma, State of Oklahoma, and that the same was recorded in said office on the 15th day of November, 2006, at Oklahoma City, Oklahoma.

**APPROVALS**  
 PLANNING OFFICER: [Signature]  
 MUNICIPAL ENGINEER: [Signature]  
 DISTRICT ENGINEER: [Signature]

ANCHORAGE BEDDING'S DISTRICT PLAT NO. 2006-152

**ANCHORAGE BEDDING'S DISTRICT**  
 PLAT NO. 2006-152  
 EAGLE CROSSING SU  
 LOTS 40-42 BLOCK 24 TR  
 [Map showing lot locations]

**NOTARY'S ACKNOWLEDGEMENT**  
 I, the undersigned, Notary Public for the State of Oklahoma, do hereby certify that the foregoing is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of Oklahoma, State of Oklahoma, and that the same was recorded in said office on the 15th day of November, 2006, at Oklahoma City, Oklahoma.

**NOTARY'S ACKNOWLEDGEMENT**  
 I, the undersigned, Notary Public for the State of Oklahoma, do hereby certify that the foregoing is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of Oklahoma, State of Oklahoma, and that the same was recorded in said office on the 15th day of November, 2006, at Oklahoma City, Oklahoma.

**NOTARY'S ACKNOWLEDGEMENT**  
 I, the undersigned, Notary Public for the State of Oklahoma, do hereby certify that the foregoing is a true and correct copy of the original plat as recorded in the office of the County Clerk of the County of Oklahoma, State of Oklahoma, and that the same was recorded in said office on the 15th day of November, 2006, at Oklahoma City, Oklahoma.



## NOTES

(Plat 2006-156)

- 1.) THIS PROPERTY IS ZONED R-3 SL WITH SPECIAL LIMITATIONS THAT ARE CONTAINED IN AO99-148.
- 2.) THIS PLAT IS DEVELOPED AS A CLUSTER PLAT AND IS GOVERNED BY AMC 21.50.210.
- 3.) SET 1 1/4" PLASTIC CAP, MARKED WITH "LS 7834", ON A 5/8" X 30" REBAR, FLUSH WITH GROUND AT ALL CORNERS EXCEPT AS SHOWN.
- 4.) AT THE TIME OF RECORDING, THIS PLAT IS SUBJECT TO R-3 ZONING REQUIREMENTS AND SPECIAL LIMITATIONS CONTAINED IN AO 99-148 INCLUDING A PROHIBITION ON DEVELOPING AREAS WITH SLOPES IN EXCESS OF 30 PERCENT, EXCEPT AS SHOWN ON EXHIBIT "B" OF SAID ORDINANCE.
- 5.) DEVELOPMENT OF THIS PROPERTY SHALL BE IN CONFORMANCE WITH THE WETLANDS PERMIT #N-1993-0729 ISSUED BY THE US ARMY CORPS OF ENGINEERS.
- 6.) THE LOCATION, WIDTH, AND ALIGNMENT OF PUBLIC TRAIL EASEMENTS IN ACCORDANCE WITH THE AREA WIDE TRAILS PLAN SHALL BE RESOLVED WITH THE MUNICIPALITY OF ANCHORAGE BEFORE THE RECORDATION OF ALL PLATS WITHIN THE EAGLE CROSSING SUBDIVISION, AND BEFORE THE ISSUANCE OF ANY GRADING, EXCAVATION, FILL, OR BUILDING PERMIT FOR DEVELOPMENT OF THIS PROPERTY.
- 7.) TRACT F1g1a MAY BE DEVELOPED AT A LATER DATE.
- 8.) ALL LINES INTERSECTING CURVES ARE NON-RADIAL UNLESS SHOWN OTHERWISE.
- 9.) THIS PLAT IS BEING DEVELOPED IN CONFORMANCE WITH AN APPROVED SITE PLAN ON FILE AT THE MUNICIPAL PLANNING DEPARTMENT.
- 10.) THERE SHALL BE NO DIRECT VEHICULAR ACCESS TO DRIFTWOOD BAY DRIVE FROM THE LOTS CREATED HEREON.
- 11.) THE MAINTENANCE AND SNOW PLOWING OF THE PRIVATE DRIVES SHALL BE THE SOLE RESPONSIBILITY OF THE HOMEOWNER'S ASSOCIATION. THE MUNICIPALITY OF ANCHORAGE WILL NOT ASSUME RESPONSIBILITY FOR THE MAINTENANCE OF AND THE SNOW PLOWING AND/OR REMOVAL FROM PRIVATE DRIVES.
- 12.) THE TRAFFIC DEPARTMENT SHALL REVIEW DRIVEWAY ACCESS FOR LOTS 49-52 BLOCK 24.

EXHIBIT D

EASEMENTS AND LICENSES

1. Reservations and exceptions as contained in the U.S. Patent and/or in Acts authorizing the issuance thereof.
2. Taxes and assessments, if any, due the Municipality of Anchorage.
3. The terms, covenants, conditions and provisions, including rights-of-way and easements as contained in the Alaska Native Claims Settlement Act, dated December 18, 1971, U.S. Public Law 92-203, 85 Stat. 688, 43 U.S.C.A. 1601, et seq., and any amendments and addition thereto, and any regulations arising therefrom.
4. Easement for electrical transmission and/or telephone distribution and incidental purposes, including terms and provisions thereof, granted to Matanuska Electric Association, Inc., recorded on January 5, 1962 in Book 40 at Page 55. (Blanket Easement)

NOTE: Said instrument was executed June 26, 1950.

5. Easement for telephone line and related purposes, including terms and provisions thereof, granted to Matanuska Telephone Association, Inc., recorded on February 26, 1976 in Book 83 at Page 777. (Blanket Easement)

NOTE: Said instrument was dated December 14, 1955 and contains the following language:

This easement grants only the construction of telephone lines on the Matanuska Electric Co. lines and the right of way existing at the present time.

6. Notice of Zoning Action, disclosing that special limitations have been duly approved by the Assembly of the Municipality of Anchorage providing for the development of the herein described property in accordance with the provisions of Chapter 21.20 of the Anchorage Municipal Code and the terms and conditions of the special limitations as set forth in the Municipal zoning file AO 84-21, recorded April 12, 1985 in Book 1251 at Page 773.
7. Easement for a perpetual easement and right-of-way, including terms and provisions thereof, granted to State of Alaska, Department of Natural



Resources, recorded on February 3, 2000 in Book 3593 at Page 381 and then re-recorded on October 4, 2000 in Book 3703 at Page 186.

8. Public Use Easement, including terms and provisions thereof, granted to Anchorage, an Alaska municipal corporation, for public street, highway, walkway, trail and corridor for utilities of every kind and nature, recorded on August 28, 2001, and identified by document identification number 2001-058418-0. (Blanket Easement)
9. Right-of-way easement, including the terms and provisions thereof, granted to Enstar Natural Gas Company, a division of Semco Energy, Inc., recorded August 31, 2001, and identified by document identification number 2001-059456-0. (Blanket Easement)
10. Right-of-way easement, including terms and provisions thereof, granted to Matanuska Electric Association, Inc., recorded on February 19, 2003 and identified by document identification number 2003-015695-0. (Blanket Easement)
11. Easement for electrical transmission and/or telephone distribution and incidental purposes, including terms and provisions thereof, granted to Matanuska Electric Association, Inc., recorded on August 12, 2005 and identified by document identification number 2005-057001-0. (Blanket Easement)
12. Assignment and Assumption of Permits and Agreements, including the terms and provisions thereof, dated March 30, 2004, by and between Eagle Crossing Development Company, LLC and Driftwood Bay, LLC, recorded on April 1, 2004 and identified by document identification number 2004-021965-0.
13. Slope easements as dedicated and reserved on the plat(s) for the property comprising Mountain Vista.
14. Easements as shown on the plat(s) for the property comprising Mountain Vista.
15. Covenants and notes as shown on the plat(s) for the property comprising Mountain Vista.
16. Terms, conditions, provisions and future liens of the Uniform Common Interest Ownership Act, and supplements and amendments thereto, of the State of Alaska (Chapter 34.08 of the Alaska Statutes).



17. Covenants, conditions, restrictions and/or easements, including the terms and provisions thereof, as contained in the Declaration recorded March 16, 2000, in Book 3607 at Page 779.

Said instrument discloses an association designated as "Eagle Crossing East Master Association" and reference is made to the information set out therein as follows: (i) amendment recorded on September 30, 2005 in the records of the Anchorage Recording District, Third Judicial District, State of Alaska, and identified by document identification number 2005-070841-0; and (ii) amendment recorded on February 9, 2006 in the records of the Anchorage Recording District, Third Judicial District, State of Alaska, and identified by document identification number 2006-008486-0.

18. Subject to any unpaid assessments owing the Eagle Crossing East Master Association.
19. Amended and Restated Declaration of Covenants, conditions, restrictions and/or easements, including terms and provisions thereof, as contained in instrument recorded June 4, 2004 in the records of the Anchorage Recording District, Third Judicial District, State of Alaska and identified by document identification number 2004-041296-0, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
20. Covenants, conditions and restrictions, including the terms and provisions thereof, but deleting any covenant, condition or restriction indicating a preference limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c), as contained in an instrument recorded June 3, 2005, Serial Number 2005-037439-0.

Amended by instrument recorded September 26, 2006, Serial Number 2005-069382-0.

Amended by instrument recorded November 17, 2005, Serial Number 2005-083363-0.

Amended by instrument recorded February 9, 2006, Serial Number 2006-008485-0.



Corrected by instrument recorded March 1, 2006, Serial Number 2006-012860-0.

21. Covenants, conditions, restrictions and/or easements, including terms and provisions thereof, recorded on May 6, 2003, Serial Number 2003-043790-0.

Amended by instrument recorded June 10, 2003, Serial Number 2003-056306-0.

Amended by instrument recorded October 21, 2004, Serial Number 2004-079181-0.

Amended by instrument recorded September 30, 2005, Serial Number 2005-070841-0.

22. Unrecorded Subdivision Agreement, by and between the Municipality of Anchorage and Driftwood Bay, LLC, including the terms and provisions thereof, as disclosed by notice recorded July 8, 2004, Serial Number 2004-050272-0.

NOTE: Does not create a lien.

23. Unrecorded Subdivision Agreement, by and between the Municipality of Anchorage and Driftwood Bay, LLC, including the terms and provisions thereof, as disclosed by notice recorded May 19, 2006, Serial Number 2006-032831-0.

NOTE: Does not create a lien.

24. Water Main Extension Agreement, including the terms and provisions thereof, by and between the Municipality of Anchorage and Driftwood Bay, LLC, dated July 15, 2004, recorded August 4, 2004, Serial Number 2004-057977-0.

Amended by an instrument recorded April 13, 2006, Serial Number 2006-023444-0.

25. Sanitary Sewer Main Extension Agreement, including the terms and provisions thereof, by and between the Municipality of Anchorage and Driftwood Bay, LLC, dated July 15, 2004, recorded August 4, 2004, Serial Number 2004-057978-0.



Amended by instrument recorded April 13, 2006, Serial Number 2006-023445-0.

26. Eagle Crossing Phase H & I Water Main Extension Agreement, including the terms and provisions thereof, by and between Municipality of Anchorage and Eagle Crossing Development Company, LLC, dated April 14, 2004, recorded May 4, 2004, Serial Number 2004-032000-0.

Assigned to Driftwood Bay, LLC by instrument recorded May 24, 2004, Serial Number 2004-038472-0.

27. Eagle Crossing Phase H & I Sewer Main Extension Agreement, including the terms and provisions thereof, by and between Municipality of Anchorage and Eagle Crossing Development Company, LLC, dated April 14, 2004, recorded May 4, 2004, Serial Number 2004-032001-0.

Assigned to Driftwood Bay, LLC by instrument recorded May 24, 2004, Serial Number 2004-038472-0.





## EXHIBIT E

### STANDARDS FOR ARCHITECTURAL CONTROLS

#### **Section 1. General.**

No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place except in compliance with this Exhibit E and the Design Guidelines and upon approval of the appropriate committee under Section 2 below.

Any Unit Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Common Interest Community shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

#### **Section 2. Architectural Review.**

Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Exhibit E shall be handled by the two committees as described in subsections (a) and (b). The members of the Committees need not be Unit Owners or representatives of Unit Owners, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Executive Board. The Executive Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

**a. Initial Construction Committee.** The Initial Construction Committee ("ICC") shall consist of one to three persons and shall have exclusive jurisdiction over all original construction on any portion of the Common Interest Community. Until one hundred percent (100%) of the Common Interest Community has been developed and conveyed to Unit Owners other than Builders or Dealers, the Declarant retains the right to appoint all members of the ICC who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Executive Board shall



appoint the members of the ICC, who shall serve and may be removed in the Executive Board's discretion.

**b. Modifications Committee.** The Executive Board may establish a Modifications Committee ("MC") to consist of at least three (3) and no more than five (5) persons, all of whom shall be appointed by and shall serve at the discretion of the Executive Board. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures on Units or containing Units and any common elements. The ICC shall have the right to veto any action taken by the MC which the ICC determines, in its sole discretion, to be inconsistent with the Design Guidelines.

### **Section 3. Guidelines and Procedures.**

The Declarant shall prepare the initial design and development guidelines and application and review procedures (the "Design Guidelines") which shall apply to all construction activities within the Common Interest Community. The Design Guidelines may contain general provisions applicable to all Units, as well as specific provisions which vary from Unit to Unit depending upon location, unique characteristics, and intended use.

The ICC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The ICC shall make the Design Guidelines available to Unit Owners, builders, and Dealers who seek to engage in development or construction within the Common Interest Community and all such Persons shall conduct their activities in accordance with such Design Guidelines. In the Declarant's discretion, such Design Guidelines may be recorded in the Anchorage Recording District, Third Judicial District, State of Alaska, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

The MC may adopt detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ICC.



**Section 4. Submission of Plans and Specifications.**

a. No construction or improvements shall be commenced, erected, placed or maintained on any Unit, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications ("building plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefor shall have been submitted to and approved in writing by the ICC or MC, as appropriate. The Design Guidelines shall set forth the procedure for submission of the building plans.

b. In reviewing each submission, the ICC or MC, as appropriate, may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in the relation to surrounding structures and plant life. The committees may require relocation of native plants within the construction site as a condition of approval of any submission.

The ICC or MC, as appropriate, shall, within fifteen (15) days after receipt of each submission of the building plans, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of building plans, or (ii) the segments or features of the building plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such objections. In the event the appropriate committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the building plans, the building plans shall be deemed disapproved. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

c. If construction does not commence on a project for which building plans have been approved within six (6) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Unit Owner to resubmit the building plans to the Declarant for reconsideration.

**Section 5. No Waiver of Future Approvals.**

Each Unit Owner acknowledges that the members of the ICC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to



any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

**Section 6. Variance.**

The ICC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ICC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

**Section 7. Limitation of Liability.**

Review and approval of any application pursuant to this Exhibit E is made on the basis of aesthetic considerations only and neither the ICC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Executive Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

**Section 8. Enforcement.**

Any structure or improvement placed or made in violation of this Exhibit E shall be deemed to be nonconforming. Upon written request from the Executive Board or the Declarant, Unit Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should a Unit Owner fail to remove and restore as required, the Executive Board or its designees shall have the right to enter the Unit, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a special assessment.

Any contractor, subcontractor, agent, employee, or other invitee of a Unit Owner who fails to comply with the terms and provisions of this Exhibit E and the Design Guidelines may be excluded by the Executive Board from the Common Interest Community. In such event, neither the Association, its officers, its committees, nor its



directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Exhibit E and the decisions of the ICC and MC.

**Section 9. Application; Amendment.**

This Exhibit E shall not apply to the activities of the Declarant, nor to improvements to the Common Elements by or on behalf of the Association.

This Exhibit E may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.



## EXHIBIT F

### OCCUPANCY RESTRICTIONS

1. **Newspaper Delivery receptacles.** Newspaper stands and receptacles on individual Units for the purpose of newspaper delivery are not permitted.

2. **Private Landscaping Easements.** No dog run, shed, greenhouse, wood-pile, play equipment, or any other similar structure shall be placed in private landscape easements.

3. **Utility Lines, Aerials and Antennas.** All electrical service, telephone lines and television cable shall be placed underground. No aerials or antennas shall be placed or erected upon any Unit or affixed in any manner to the exterior of any residential unit or structure on the property, except direct broadcast cable antennas which do not exceed one and one-half (1.5) feet in diameter and which are approved by the Executive Board, in its sole discretion, after reviewing the antennas' exact designs, locations, and placements. No dish antennas, short wave antennas, transmitters, or base stations for amateur radio transceivers or other radios shall be permitted.

4. **Water and Sewer.** No individual well or water system or sewage disposal system shall be installed on any Unit.

5. **Sight Distance.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and six (6) feet above the roadways shall be placed or permitted to remain on any corner Unit within the triangular area formed by the street property lines and a 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 sightline limitations shall apply on any Unit within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

6. **Temporary Structures.** No temporary structure, boat, truck, trailer, camper, or recreational vehicle of any kind shall be used as a living area while located in the planned community; however, trailers or temporary structures for use incidental to the initial construction of improvements on a Unit may be maintained thereon but shall be removed within a reasonable time after completion of construction of the project.

7. **Additional Vehicle Restrictions.** No repair or restoration of any motor vehicle, boat, trailer, aircraft, or other vehicle shall be permitted on any portion of any Unit



except for emergency repairs thereto, and then only to the extent necessary to enable movement thereof to a proper repair facility. No vehicles or equipment shall be parked or placed in a public right-of-way for more than twenty-four (24) hours. No vehicle or equipment owned by or under the control of a resident or Unit Owner shall be placed on a public street within the planned community for more than forty-eight (48) cumulative hours in any week.

8. **Commercial Vehicles.** With the sole exception of marked police patrol vehicles in active service, no commercial or governmental vehicles, or commercial or construction equipment, shall be parked, placed, erected, or maintained on any Unit for any purpose except during the period of construction.

9. **Vehicles, Boats, Campers, etc.** Unit owners may park seasonal-type vehicles (i.e., snow machines, boats, campers, recreational vehicles, etc.) in the driveway of their Unit for up to forty-eight (48) consecutive hours in any week. All inoperable vehicles, including but not limited to automobiles, trucks, campers, boats, recreational vehicles, snow machines, or other machinery, shall be kept in a garage or other closed structure. Unit Owners may, however, park operational vehicles in the driveway of their Unit. The purpose of this provision is to keep all inoperable vehicles and equipment out of sight.

10. **Additional Waste Restrictions.** Except on the day of trash pick-up, all trash containers must be screened. All equipment for the storage or disposal of such trash, garbage, or other waste shall be kept in a clean and sanitary condition. There shall be no exterior fires whatsoever, except barbecue fires contained within receptacles therefor.

11. **Natural Resource Extraction.** No natural resource extraction operation of any nature shall be permitted upon or in any Unit, nor shall wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Unit. No derrick or other structure designed for use in oil or natural gas drilling shall be erected, maintained, or permitted upon any Unit.

12. **Windows and Facades.** No garments, rugs, or other objects shall be hung from the windows or facades of the improvements to a Unit, nor shall any garments, rugs, or other objects be dusted, shaken, or beaten from, about, or upon such windows or facades. Only customary curtains, shades, draperies, or some combination thereof, which are visible from the exterior of the improvements to a Unit, shall be used. Pursuant to and without limiting the foregoing, no newspaper, metal foil, sheets, blankets, or similar materials shall be used as window coverings.

13. **Land Uses and Building Type.** No lot shall be occupied or used for any purpose other than as a single family residence, except that professional or business uses may be conducted in a dwelling provided that said uses must be incidental to the use of



the dwelling for residential purposes. Further, non-residential activities must comply with governmental regulations addressing home occupations. No signs may indicate in any way that a non-residential activity is being conducted, and no increase in street traffic, substantial or insubstantial, is permissible. Notwithstanding the foregoing, the use of a lot for a bed and breakfast or as a child care facility, of any size, is not permissible. No outhouse of any kind, tent, shed or trailer, or any other temporary dwelling, shall be erected or maintained on any lot or be used for living purposes, nor shall any garage be used for dwelling purposes.





## EXHIBIT G

### DESIGN GUIDELINES

1. **Structure Type.** No building or structure shall be erected, altered, placed, or permitted to remain on any Unit other than:

- (a) one single-family dwelling;
- (b) one garage. Every dwelling must have a garage capable of housing at least one (1) automobile. Larger garages capable of housing two (2) automobiles are also permitted. Larger garages, capable of housing more than two (2) automobiles, may be permitted by the Initial Construction Committee ("ICC") on a case-by-case basis;
- (c) fences, gates and associated structures;
- (d) a greenhouse;
- (e) a garden tool shed, children's playhouse or like structure;
- (f) a doghouse and/or pen; and
- (g) any other accessory building, shed, structure, or other item permitted by the ICC or Modifications Committee ("MC").

None of the items listed above may be constructed, installed, placed or made without the express written approval of the ICC or MC as required by Exhibit E, "Standards for Architectural Controls," to the Declaration. No structure, other than the primary residence, shall have a footprint larger than eight (8) feet by ten (10) feet. A Unit Owner shall not assume that any of the items listed in (c) through (g) above will be approved by the ICC or MC. Each request will be treated on a case-by-case basis, and the ICC or MC has, in its sole discretion, the right to decide if the proposed improvement contributes to the appearance of the entire neighborhood.

2. **Size.** No dwelling smaller than one thousand, two hundred (1,200) square feet of gross floor area for building/living space, excluding porches, garages, covered patios, or sundecks shall be constructed on Lots in Mountain Vista unless the ICC expressly waives the size requirement. Any such waiver will be granted only if the ICC, in its sole discretion, determines that the proposal substantially conforms with the intent of these Design Guidelines and the finished appearance contributes to the appearance of the entire neighborhood.



3. **Building Height.** Building height shall conform to the Municipality of Anchorage zoning requirements for Zoning District R-1.

4. **Exterior Appearance, Colors, and Materials.** To ensure the development of high standards, the ICC or MC shall be responsible for approving exterior colors to promote a pleasing and compatible neighborhood appearance. In doing so, the ICC or MC shall have the power to approve or disapprove any exterior color and/or trim before application. Such approval or disapproval shall be made by the determination of the appropriate committee designated in Exhibit E, "Standards for Architectural Controls," to the Declaration ("the approving committee"), in its sole discretion, as to whether the proposed color and/or trim adversely affect(s) the overall appearance of the neighborhood. Overly vibrant colors will be disallowed, as will color schemes that clash with the neighborhood's overall appearance.

Similarly, the ICC or MC shall be responsible for approving the type of materials used on Unit exteriors. High maintenance exterior finishes, such as log oil or similar clear lacquer or varnish, shall not be allowed on the exterior of any structure. However, natural semi-transparent stains or other similar finishes which are designed to mimic clear finishes, which may have been manufactured to offer longer-term low maintenance, may be approved on a case by case basis, at the sole discretion of the approving committee.

All sides of the homes in Mountain Vista may be constructed with T1-11 plywood siding installed vertically, an approved equal finish with grooves placed no wider than twelve (12) inches apart, or an aesthetically equivalent or better finish, as may be approved by the Board in its sole discretion. The Unit Owner shall blend the paint, if necessary, while applying it to the structure's surfaces in order for the paint to appear the same color on all surfaces when dried. Other permitted exterior finishes are wood composition lap siding, real brick, real stone, designer block, stucco, or an approved equal finish. The application of stucco, however, is to be used only as an accent treatment and is limited to not more than 10% of the exterior surface area of any dwelling, unless this limitation is modified by the approving committee, in its sole discretion. Exterior colors shall be restricted to soft "earth tones" as determined by the approving committee, in its sole discretion. The exterior colors and materials must be approved by the approving committee prior to their application and installation.

All roofs shall be of a material, color, and texture as approved by the ICC or MC. Flat roof construction shall not be permitted. The pitch of the roof must exceed five percent. No maximum or minimum pitch is otherwise specified; however, the approving committee's approval or disapproval will be based on the visual impact of the roof on the Lot or on neighboring Lots, dwellings, roads, and open spaces. The overall appearance of the dwelling shall be an important consideration.



All projections including, but not limited to, chimney flues, vents, gutters, downspouts, utility boxes, porches, railings and exterior stairways shall match the color of the surface from which they project, or shall be of any approved color. Any building projections must be contained within any setback restrictions.

Garage doors must be painted the same color as the home. Only raised panel wood or raised panel metal garage doors are allowed, unless expressly approved by the approving committee.

**5. Placement of Structures.** The location of any and all man-made structures is subject to the approval of the ICC. Structures, as defined in the Anchorage Municipal Code, may project into the yard areas provided that any such projection complies with the requirements set forth in the Anchorage Municipal Code. Minimum setback requirements are as follows:

Front yard:	20 feet
Side yard:	5 feet
Rear yard:	10 feet

unless the ICC approves the reduction of one or more of the setback requirements to the minimum as established by the Anchorage Municipal Code. Front yard setbacks are to be varied to avoid a uniform appearance and the ICC may require additional front yard setbacks.

**6. Completion of Construction.** Once commenced, any construction of a dwelling must be pursued to completion with diligence and continuity, and in no event shall such construction period exceed one year, except for certain interior unfinished areas previously approved by the ICC. During the course of construction, the Unit Owner or builder shall protect from damage contiguous pavements, curbs, walks, streets, shoulders, and utility structures in the vicinity of, or leading to the construction area, and shall keep pedestrian and road rights-of-way, as well as drives, reasonably clear of equipment, building materials, dirt, debris, and similar items. No buildings constructed elsewhere shall be moved to or placed on any Lot except with the approval of the ICC. No building shall be in any manner occupied while in the course of original construction or until it complies with all applicable requirements of the Declaration, the Municipality of Anchorage, and this Exhibit. All other improvements shall be completed within ninety days following commencement of construction.

**7. Fences.** No fence or wall shall be erected until after the plans for such fence or wall are approved in writing by the ICC. No fence or wall shall be erected or placed in the front yard of any Lot nearer to the street than the front of the residence unless otherwise approved by the ICC. No metal, plastic, chain link, processed wood, or wood link fences shall be allowed in the planned community. Only natural wood fences shall be



permitted; however, posts and their brackets may be metal or processed wood with approval of the approving committee. All fences must be properly maintained as an attractive addition to the Lot. Fences include dog runs, pens, garden enclosures, and any other visible exterior boundary dividers.

**8. Landscaping.** It is the intent of Declarant to require that landscaping be completed promptly after construction is completed. All homes substantially completed between and including the dates of July 1st and May 1st of the following year are to be landscaped, including the tree and shrub requirements set forth in paragraph 9 below, no later than the first of August of that following year. Homes substantially completed after May 1st and on or before June 30th of the same year must be landscaped, including the tree and shrub requirements set forth in paragraph 9 below, by August 15th of that same year. All walks, driveways, and parking areas shall be paved or similarly improved. Vegetable gardens are not permitted in the front yard of a Lot without the express written approval of the approving committee. All Unit Owners must submit their landscaping plans to the ICC for approval and all tree removal, tree thinning, vegetation removal, or planting of new trees or vegetation must be in accordance with an approved landscape plan.

**9. Trees.** No Unit Owner shall be permitted to completely clear a Lot where standing trees of size and beauty exist. Space may be cleared for construction and trees may be thinned, so long as the maximum natural beauty and aesthetic values of such trees are retained. A minimum of one (1) evergreen tree of not less than six (6) feet in height, two (2) deciduous trees of not less than eight (8) feet in height, and three (3) shrubs not less than three (3) feet in height are to be maintained on the front portion of each Lot. The front portion of a Lot for the purpose of this section shall be limited to the area between the front of the building and the curb unless approved by the ICC. Trees and vegetation in the rear and sides of the Lot are not to be substituted for the vegetation required in this paragraph. Upon prior written request, the ICC may approve deviations from these requirements to accommodate lot size, shape and/or topography.

**10. Exterior Lighting.** All exterior lighting fixtures shall: 1) broadcast light downward and at no more than a 30 degree angle from the perpendicular line between the fixture and the ground, and 2) not reveal any exposed light source beyond the lot line. This shall not prohibit accent and flood lighting that is directed towards the home so long as it does not shine directly beyond the lot. All other forms of lighting shall not be installed without prior written approval from the approving committee. Generally, mercury vapor lights, street-light style, and broadcast area lighting will not be approved for use. Low wattage entry bulbs may be approved on a case by case basis. Exterior lighting shall be identified on plans.



## EXHIBIT H

### PARTY WALL AGREEMENT

(for and between Units 2A and 2B, Units 3A and 3B, 4A and 4B, 5A and 5B,  
6A and 6B, 7A and 7B, and 8A and 8B, Block 25)

1. Definition; Rules of Law. Each wall and foundation which is built as a part of the original construction of dwellings upon Units 2A and 2B, Units 3A and 3B, Units 4A and 4B, Units 5A and 5B, Units 6A and 6B, Units 7A and 7B, and Units 8A and 8B, Block 25, is constructed on a Unit Boundary and constitute a Party Wall. To the extent not inconsistent with the provisions of this Party Wall Agreement, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

2. Unit Ownership. A Unit Owner owns the Improvements located on its respective Unit.

3. Repair and Maintenance. The lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and other materials constituting a part of the finished surfaces of a Party Wall are a part of the Unit to be maintained and repaired by its respective Unit Owner. Additionally, chutes, flues, ducts, wires, conduit, bearing walls, bearing columns, or other fixtures lying within the Party Wall and serving only one Unit, are a part of said Unit to be maintained and repaired by its respective Unit Owner. Subject to paragraph 5, below, all other portions of the Party Wall used by both Unit Owners shall be repaired and maintained by both Unit Owners, the cost of which shall be shared equally by said Unit Owners.

Any repairing or rebuilding of the Party Wall shall be on the same location, and of the same size as the Party Wall being repaired or replaced, and of the same or original Party Wall or portion thereof. The Party Wall as repaired or reconstructed under the provisions of this Party Wall Agreement shall be and remain a Party Wall. The Unit Owner causing such repairs or reconstruction shall have the right to enter on the Unit of the other Unit Owner to the extent reasonably necessary in performance of the work, provided that due precaution shall be taken not to damage the property of the other Unit Owner.

4. Construction and Extension. Absolutely no improvements may be constructed on a Unit except in conformity with the Declaration, covenants, and any government entity having jurisdiction. Either Unit Owner who uses the Party Wall may, in



connection with the extension of one of the dwellings, extend the height of the Party Wall or the length of the Party Wall to such limits of height and length as may be imposed by the Declaration, covenants, or governmental land-use restrictions, so long as the extension does not impair the strength or injure the foundations of the building, and does not threaten differential settling or differential front jacking of the existing building and the extension. The other Unit Owner shall have the right to use the extended part of the Party Wall and to join to it by paying the Unit Owner who has constructed the extension one-half the cost of such part of the Party Wall as the other Unit Owner shall use. Although any extension of the Party Wall shall be a part of the existing Party Wall, the other Unit Owner shall be responsible for only one-half the costs of repair and maintenance of such part of the Party Wall as said Unit Owner shall use.

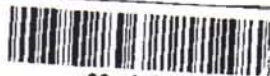
5. Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Unit Owner who has used the Party Wall may restore it, and if the other Unit Owner thereafter makes use of the Party Wall, it shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any Unit Owner to call for a larger contribution from the other Unit Owner under the applicable rule of law regarding liability for negligent or willful acts or omissions.

6. Insurance. Unit Owners shall maintain fire and extended coverage insurance, at a minimum, on the building jointly to the extent necessary to fully fund the repair or replacement of the Party Wall if damaged by fire or other insured casualty. The right of the Unit Owners to separately further insure their own dwellings shall not hereby be impaired.

7. Exterior Appearance. The exterior colors and materials, including the roofs, of dwellings joined by a Party Wall must be identical. Any changes to the exterior color(s) and/or materials from the original color(s) and/or materials of the Units must conform with the Declaration, covenants, and any government entity having jurisdiction. The Unit Owner desiring to change the colors and/or materials must first secure the written consent of the other Unit Owner to such changes. Each Unit Owner shall be responsible for the cost of paint and/or other materials applied to its dwelling.

8. Weatherproofing. Notwithstanding any other provision of this Party Wall Agreement, an Owner who by its negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

9. Right to Contribution Runs With Land. The right of any Unit Owner to contribution from any other Unit Owner under this Party Wall Agreement shall be appurtenant to the land and shall pass to such Unit Owner's successor in title.



10. Disputes. Any controversy that may arise between the Unit Owners with respect to the necessity for, or cost of repairs, or with respect to any other rights or liabilities of the Unit Owners under this Party Wall Agreement, shall be submitted to three arbitrators, one to be chosen by each of the Unit Owners, and the third by the two arbitrators first chosen. The decision of the arbitrators shall be final and conclusive on said Unit Owners.

