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Gilbert Ortiz Clerk/Recorder, Pueblo County, Co

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELLA VISTA OF PUEBLO, A PLANNED COMMUNITY

THESE COVENANTS ARE BEING RERECORDED TO CORRECT ERRORS IN COVENANTS THAT WERE FILED ON MARCH 30, 2009 09:59:08 AM AT RECEPTION NUMBER 1800440

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELLA VISTA OF PUEBLO, A PLANNED COMMUNITY

This Declaration of Covenants, Conditions, Restrictions, and Easements for Bella Vista of Pueblo ("Declaration") is made this 27 day of March, 2009, by Bella Vista of Pueblo LLC, a Colorado Limited Liability Company ("Declarant") and Down by the Bay LLC dba Chateaux Homes ("Chateaux").

ARTICLE I
STATEMENT, PURPOSE, AND IMPOSITION OF COVENANTS

Section 1.1. Owner.

a. Declarant is the owner of or has the right to acquire the property in Pueblo County, Colorado, described on the attached Exhibit A.

b. Chateaux is the owner of the property in Pueblo County, Colorado described on the attached Exhibit B.

c. The property described on both Exhibits A and B shall be referred to in this Declaration as the "Property".

Section 1.2. Purpose. The purpose of the Declarant in making this Declaration is to create a planned, closed gate community known as Bella Vista of Pueblo (the "Project") in accordance with the Colorado Common Interest Ownership Act, C.R.S § 38-33.3-101 through § 38-33.3-319, as amended and supplemented from time to time. The project shall encompass all of the Property.

Declarant further intends to ensure the attractiveness of the Property, including the residences and other improvements constructed on it, to prevent any future impairment of the Property and to guard against the construction on the Property of improvements with improper or unsuitable materials or with improper quality or methods of construction; to protect and enhance the values and amenities of the Property; to provide for the operation, administration, use and maintenance of any common areas within the Property, to preserve, protect and enhance the values and amenities of the Property, and to promote the health, safety and welfare of the owners of the Property.

Section 1.3. Development and Use. Upon completion, the Project will consist of 85 lots, eighty-four (84) of which may be developed by the construction of a single-family residential dwelling. The Declarant may create lots or residences in excess of that number on the Property by the subdivision of existing lots.

Section 1.4. Imposition of Covenants. To accomplish the purposes indicated above, the Declarant hereby declares that from the date of recording this Declaration forward, the Property will constitute a planned, closed gate community known as Bella Vista of Pueblo under the Colorado Common Interest Ownership Act, and will be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements (collectively, these "Covenants"). These Covenants will run with the land and will be binding upon all persons or entities having any right, title or interest in all or any part of the Property, including the Declarant, and its heirs, successors and assigns, and its tenants, employees, guests and invitees. These Covenants will inure to the benefit of each owner of the Property. Chateaux consents to and agrees that the property described herein that is owned by Chateaux shall also constitute a part of the planned, closed gate community and shall be subject to this Declaration and these Covenants.

ARTICLE II
DEFINITIONS

The following terms, as used in this Declaration, are defined as follows:

Section 2.01. "Act" means the Colorado Common Interest Ownership Act C.R.S § 38-33.3-101 through § 38-33.3-319, as amended and supplemented from time to time, or any successor legislation to these statutes.

Section 2.02. "Annual Assessment"means the Assessment levied annually pursuant to Section 9.3.

Section 2.03. "Articles" or "Articles of Incorporation" means the articles of incorporation of the Association, which have been filed with the Secretary of State of Colorado to create Bella Vista of Pueblo Homeowners Association, Inc. as such articles may be amended from time to time.

Section 2.04. "Assessments" means the Annual, Special, and Default Assessments levied pursuant to Article IX to meet the estimated cash requirements of the Association.

Section 2.05. "Association" or "Bella Vista Association" means Bella Vista of Pueblo Homeowners Association, Inc., a Colorado nonprofit membership corporation, and any successor of that entity by whatever name charged with the duties and obligations of administering the Project.

Section 2.06. "Association Documents" mean the basic documents creating and governing the Project including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, and any design guidelines, procedures, rules, regulations or policies adopted under such documents by the Association, the Board of Directors and its authorized committees, the DRC and the Plat.

Section 2.07. "Board of Directors" or "Board" or "Bella Vista Board" means the Board of Directors of the Association, which is the executive board, as defined in the Act, designated in this Declaration to act on behalf of the Association.

Section 2.08. "Bylaws" means the bylaws of the Association, which establish the methods and procedures of its operation; as such, bylaws may be amended from time to time.

Section 2.09. "Common Area" means the real property and Improvements thereon in which the Association owns an interest for the common use, benefit and enjoyment of some or all of the Owners and such other persons as may be permitted to use the Common Area under the terms of this Declaration or any contract with the Association. Such interest owned by the Association may include, without limitation, estates in fee, estates for terms of years, or easements.

Section 2.10. "Common Expenses" means (i) premiums for the insurance carried by the Association under Article XII; (ii) all other expenses incurred by the Association in administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Area and any Improvements located on it; (iii) all expenses expressly declared to be Common Expenses by the Association Documents; (iv) all expenses lawfully determined to be Common Expenses by the Board of Directors; (v) all expenses designated as common

expenses or to be allocated among the Owners as provided in Article VI and (vi) all expenses for maintenance obligations as shown on the Plat.

Section 2.11. "Declarant" means Bella Vista of Pueblo LLC, a Colorado Limited Liability Company, or its successors or assigns, including any Successor Declarant to the extent the rights of Declarant are assigned to the Successor Declarant, as provided in this Declaration below.

Section 2.12. "Declaration of Annexation" means a declaration prepared and recorded in accordance with the provisions of Article XVI to incorporate Expansion Property within the Property governed by this Declaration.

Section 2.13. "Default Assessment" mean the Assessments levied by the Association pursuant to Section 9.6.

Section 2.14. "Default Rate" means an annual rate of interest that is the lesser of (i) five points above the prime rate charged by the Association's bank or such other rate as shall have been established by the Board of Directors, and (ii) the maximum rate permitted by the Act or other applicable law.

Section 2.15. "Design Review Committee", "Committee", or "DRC" means the committee formed pursuant to this Declaration to maintain the quality and architectural harmony of Improvements in Bella Vista, the Project.

Section 2.16. "Bella Vista Design Guidelines" means the guidelines and rules approved by the Design Review Committee for Bella Vista of Pueblo.

Section 2.17. "Development Rights" is defined in Section 11.1.2

Section 2.18. "Director" means a member of the Board.

Section 2.19. "Eligible Mortgage Holder" means a First Mortgagee or any insurer or guarantor of a First Mortgage which has notified the Association in writing of its name and address and status as a holder, insurer, or guarantor of a First Mortgage. Such notice will be deemed to include a request that the Eligible Mortgage Holder be given the notices and other rights described in Article XVII.

Section 2.20. "Bella Vista of Pueblo" means the community created by this Declaration, consisting of the Property and all of the Improvements located on the Property.

Section 2.21. "Expansion Property" means any property added to this Planned Community by the Declarant and subjected to this Declaration.

Section 2.22. "First Mortgage" means any Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

Section 2.23. "First Mortgagee" means the holder of record of a First Mortgage.

Section 2.24. "Improvement(s)" means all buildings, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, ponds, lakes, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including without limitation grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

Section 2.25. "Lot" or "Bella Vista Lot" means a parcel of land designated as a lot on any Plat of the Property field by the Declarant and reserved for development and occupancy of a single family residential dwelling, together with all appurtenances and Improvements now or in the future on the lot. (A Lot is a "unit" as defined in the Act.) Lot 4, Block 7 Filing No. 2 is reserved to be common area for development of clubhouse and shall not be included in the definition of "Lot" as used in this Declaration.

Section 2.26. "Manager" means such person or entity retained by the Board of Directors to perform certain functions of the Board pursuant to this Declaration or the Bylaws.

Section 2.27. "Member" means any person holding membership in the Association.

Section 2.28. "Mortgage" means any mortgage, deed of trust or other document which is recorded in the office of the Clerk and Recorder of Pueblo County, Colorado, and which encumbers any portion of the Property or interest therein as security for the payment of a debt or obligation.

Section 2.29. "Mortgagee" means any person named as a beneficiary or mortgagee under a Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.30. "Owner" or "Bella Vista Owner" means the owner of record, including Declarant, and including a contract seller, but excluding a contract purchaser, whether one or more persons, of fee simple title to any Lot, but does not mean or refer to any person who holds such interest merely as security for the performance of a debt or other obligation including a Mortgage, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

Section 2.31. "Period of Declarant Control" means the period during which Declarant, or a Successor Declarant may appoint and remove the Directors and Officers of the Association as permitted under the Act. The Period of Declarant Control will begin on the date this Declaration is first recorded in the office of the Clerk and Recorder of Pueblo County, Colorado, and will end no later than (i) 60 days after conveyance of 75% of the Lots that may be created within the Property to Owners other than Declarant or any Successor Declarant, (ii) two years after the last conveyance of a Lot by Declarant in the ordinary course of business, (iii) the date on which Declarant, or any Successor Declarant, voluntarily terminates the Period of Declarant Control by recording a notice to that effect in the office of the Clerk and Recorder of Pueblo County, Colorado, whichever of the foregoing dates or events occurs first. Notwithstanding the foregoing, the Period of Declarant Control will be extended at the option of Declarant if the Act is amended to allow for the extension of the Period of Declarant Control beyond the limiting dates outlined in this Section above, or if the Period of Declarant Control is reinstated or extended by agreement between Declarant and the Association. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will have all the rights and duties ordinarily given to Members under this Declaration.

Section 2.32. "Person" whether or not in capitalized form, means a natural person, a corporation, a partnership, a limited liability company, an association, a trust or any other entity or combination of the foregoing.

Section 2.33. "Plat" means the "Planned Unit Development", or any engineering survey or surveys of all or part of the Property, together with such other

diagrammatic plans and information regarding the Property as may be required by the Act or other applicable law, or as may be included in the discretion of Declarant, as each such survey may be amended and supplemented from time to time, and all as recorded in the office of the Clerk and Recorder of Pueblo County, Colorado.

Section 2.34. "Project" means the planned community of Bella Vista of Pueblo established by this Declaration.

Section 2.35. "Property" means and includes the property described on Exhibit A and Exhibit B and initially subjected to this Declaration, and also refers to any additional real property that has been incorporated in the Project from time to time and made subject to these Covenants pursuant to the provisions of this Declaration.

ARTICLE III
THE PROJECT PLANNED COMMUNITY

Section 3.1. Establishment of Planned Community. By this Declaration, the Project is established as a planned community under the Act, consisting of 85 Lots. Lot 4, Block 7, Bella Vista Filing #2 is reserved to be common area for the development of a clubhouse for use by Members.

Section 3.2. Declaration of Lot Boundaries. The boundaries of each Lot are delineated on the Plat, and each Lot is identified by the number or address noted on the Plat.

Section 3.3. Plat. The Plat will conform to the requirements of the Act and will be filed for record in the office of the Clerk and Recorder of Pueblo County, Colorado. The Plat may be filed as a whole or as a series of Plats from time to time. Any Plat filed subsequent to the first Plat will be termed a supplement to the Plat, and the numerical sequence of each supplement will be shown on it.

ARTICLE IV
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Owner, by virtue of being an Owner and for so long as he is an Owner, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of any Lot. No Owner,

whether one or more persons, will have more than one membership per Lot owned, but all of the persons owning each Lot will be entitled to rights of membership and of use and enjoyment appurtenant to such ownership.

Section 4.2. Transfer of Membership. An Owner shall not transfer, pledge or alienate his membership in the Association in any way except upon the sale or encumbrance of his Lot, and then only to the purchaser or Mortgagee of his Lot.

Section 4.3. Classes of Membership. Initially, the Association will have one class of voting membership, composed of all Owners, including Declarant. The Bylaws may set forth additional classifications of membership from time to time.

Section 4.4. Voting Rights. All Members will be entitled to vote on Association matters on the basis of one vote for each Lot owned, as each Lot is platted by Declarant except as set forth in Section 10.5. The number of votes will be determined by reference to the Plat as recorded by Declarant.

When more than one person holds an interest in any Lot, all such persons will be Members. The vote for such Lot may be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners are present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the multiple Owners casts the vote allocated to his Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

Any Owner of a Lot that is leased may assign his voting right to the tenant, provided that a copy of the instrument of assignment is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

Section 4.5. Appointment of Officers and Directors by Declarant. Until the expiration of the Period of Declarant Control and subject to the limitations of the Act, Declarant will retain the exclusive powers to appoint and remove Directors and officers of the Association.

Notwithstanding the foregoing, Declarant may voluntarily surrender the right to appoint and remove Directors and officers of the Association before the end of the Period of Declarant Control by providing a notice to that effect to the Association and

otherwise complying with the procedures for termination of this Special Declarant Right, as set forth in the Bylaws. However, upon voluntarily terminating this Special Declarant Right in advance of the expiration of the Period of Declarant Control, Declarant may require that specified actions of the Association or the Board, as described in an instrument executed and recorded by Declarant in the office of the Clerk and Recorder of Pueblo County, Colorado, be approved by Declarant before those actions become effective.

Section 4.6. Notice of Membership. Any person, on becoming a Member, will furnish the Secretary of the Association with a **photocopy** of the recorded instrument or such other evidence as may be specified by the Board under the Bylaws, or the Association rules, vesting the person with the interest required to make him a Member. At the same time, the Member will provide the Association with the single name and address to which the Association will send any notices given pursuant to the Association Documents. The Member will state in such notice the voting interest in the Association to which the Member believes he is entitled and the basis for that determination. In the event of any change in the facts reported in the original written notice including any change of ownership, the Member will give a new written notice to the Association containing all of the information required to be covered in the original notice. The Association will keep and preserve the most recent written notice received by the Association with respect to each Member.

Section 4.7. Owner's and Association's Addresses for Notices. All Owners of each Lot will have one and the same registered mailing address to be used by the Association or other Owners for notices, demands and all other communications regarding Association matters. The Owner or Owners of a Lot will furnish the registered address to the Secretary of the Association within five days after receiving title to the Lot. The registration will be in written form and signed by all of the Owners of the Lot or by such persons as are authorized by law to represent the interests of all Owners of the Lot.

If no address is registered or if all of the Owners cannot agree, then the address of the Lot will be deemed the registered address until another registered address is furnished as required under this Section.

If the address of the Lot is the registered address of the Owners, then any notice will be deemed duly given if delivered to any person occupying the Lot or sent to the Lot by any other means specified for a particular notice in any of the Association Documents, or if the Lot is unoccupied, if the notice is held and available for the Owners at the principal office of the Association.

All notices and demands intended to be served upon the Board of Directors will be sent to the address of the Association or such other address as the Board may designate from time to time by a notice delivered to all Owners in accordance with this Section. The initial address of the Association is 1700 Fortino Boulevard, Pueblo, CO 81008.

Unless a section in this Declaration or in the Act expressly provides otherwise, all notices given under this Declaration will be sent by personal delivery, which will be effective upon receipt; by overnight courier service, which will be effective one business day following timely deposit with a courier service; or regular mail, postage prepaid, which will be effective three days after deposit in the U.S. mail.

Section 4.8. Compliance with Association Documents. Each Owner will abide by and benefit from the provisions, covenants, conditions, and restrictions contained in the Association Documents.

ARTICLE V
POWERS AND DUTIES OF ASSOCIATION

Section 5.1. Association Management Duties. Subject to the rights and obligations of Declarant as set forth in the Act and in this Declaration and to the rights and obligations of the other Owners, the Association will be responsible for the administration and operation of the Project. The Board of Directors will exercise for the Association all powers, duties and authority vested in or obligated to be taken by the Association and not reserved to Declarant or the other Members by this Declaration, the other Association Documents, the Act or other applicable law.

Section 5.2. Common Area.

5.2.1. Covenant by Declarant. From time to time before the expiration of the period of Declarant Control, Declarant may, but will not be obligated to, convey to

the Association, by written instrument recorded with the Clerk and Recorder of Pueblo County, Colorado, selected parcels of the Property, together with any Improvements located on and any rights and easements appurtenant to such property, as Common Area.

Section 5.3. Provisions Generally Applicable to Common Area.

Section 5.3.1. Use of Common Area. Any Common Area generally is designated by this Declaration for the common use, benefit, and enjoyment of the Owners and their families, tenants, employees, guests and invitees, and such other persons as may be permitted to use the Common Area by the terms of this Declaration, by agreement established under this Article below, or otherwise.

Section 5.3.2. No Dedication to the Public. Nothing in this Declaration or the other Association Documents will be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area by such authority or utility, absent an express written agreement to that effect.

Section 5.3.3. Association's Responsibility for Common Area. The Association, subject to the rights and obligations of the Owners set forth in this Declaration and subject to the provisions of Section 5.4 below, will be responsible for the management and control of any Common Area and all Improvements on the Common Area, including furnishings and equipment related thereto, and will keep it in good, clean, and attractive condition and repair.

Section 5.3.4. Declarant's Right to Perform for the Account of the Association. In the event the Association does not repair or maintain the Common Area, Declarant shall have the right, but not the obligation, to perform such duties for the Association. In that event, Declarant will be entitled to reimbursement from the Association of all costs incurred by Declarant, such reimbursement being due within 30 days after the receipt by the Association of an invoice from Declarant, itemizing the costs incurred. After expiration of the 30-day period allowed for payment, Declarant may collect interest on the amount due at the Default Rate.

Section 5.3.5. Association's Agreements Regarding Common Area. The Association, acting through the Board of Directors, may grant easements, rights-of-

way, leases, licenses and concessions through or over the Common Area without the independent approval of the Owners subject, however, to the rights of Declarant and the Owners to use the Common Area as provided in this Declaration. Without limiting the generality of the foregoing, the Association may grant such rights to suppliers of utilities serving the Project or property adjacent to the Project, and to developers or owners of property adjacent to the Project for the purpose of accommodating minor encroachments onto the Common Area or other purposes that do not unreasonably interfere with the use and enjoyment of the Common Area by the Owners.

Section 5.3.6. Declarant's Agreements Regarding Common Area. Upon the transfer by Declarant to the Association of any Common Area as provided in this Declaration, Declarant may agree under the terms of the transfer, and subject to the limitations of the Act, that the Association may be required to contract with other organizations operating within or in the vicinity of Bella Vista, to allow use of all or part of the Common Area under such terms and for such charges as may be acceptable to Declarant and such association or other organizations. Any use of the Common Area by Owners and their families, tenants and guests, and such other persons permitted access to the Common Area shall be subject to any applicable Association rules governing the Common Area, as provided in Section 5.5.

Section 5.4. Rules and Regulations.

Section 5.4.1. Board's Power. From time to time and subject to provision of the Association Documents, the Board of Directors may adopt, amend and repeal rules and regulations governing, among other things and without limitation, the use of the Lots and the use of the Common Area. A copy of the Association rules in effect will be distributed to each Member, and any change in the Association rules also will be distributed within a reasonable time following the effective date of the change.

Section 5.4.2. Enforcement. The Board of Directors shall provide for enforcement of the Association rules as set forth in the Bylaws. Without limiting the generality of the foregoing, the Board may suspend the voting rights of a Member after notice and hearing as provided in the Bylaws for an infraction of the Association rules.

Section 5.5. Delegation by Association Board.

Section 5.5.1. Delegation to Manager. The Association, acting through the Board, may employ or contract for the services of a Manager to act for the Association and the Board and the officers according to the powers and duties delegated to the Manager pursuant to the Bylaws or resolution of the Board. Neither the Board nor any officer of the Association shall be liable for any omission or improper exercise by a Manager of any such duty, power or function so delegated by written instrument executed by or on behalf of the Board.

Section 5.5.2. Limitation. Any delegation by the Board under this Article V is subject to compliance with the Act and the Bylaws and the requirement that the Board, when so delegating, will not be relieved of its responsibilities under the Association Documents and the Act.

Section 5.6. Ownership of Personal Property and Real Property. The Association, through action of the Board, may acquire, hold and dispose of personal property and real property, including without limitation, any fee, leasehold or other property interests within the Project conveyed to the Association by Declarant. The beneficial interest in any such Property will be deemed to be owned by the Owners in individual shares allocated equally among the Lots subject to this Declaration from time to time. Such interests will not be transferable except with the transfer of a Lot. The conveyance of a Lot will transfer ownership of the transferor's beneficial interest in such personal property without any reference to it. Each Owner may use all such property in accordance with the purposes for which it is intended, without hindering or encroaching on the rights of others. The transfer of title to a Lot under foreclosure will entitle the purchaser to enjoy the interest in such property associated with the foreclosed Lot.

Section 5.7. Streets. Declarant elects to include streets and utilities in these streets which remain the responsibility of the Association in the Common Area and the Association will be responsible for them subject to any shared use agreements or other arrangements that may be established between the Association and other third parties permitted to use the Common Area, as provided in this Declaration. In any case, such maintenance will include periodic maintenance of the surface and regular snow, ice, and trash removal from all streets The Board will cooperate with traffic and fire control

officials as appropriate to post public and private drives, roads and streets with traffic control, fire lane and parking regulation signs.

Section 5.8. Books and Records. The Association will make available for inspection by Owners and Mortgagees, upon request, during normal business hours or under other reasonable circumstance current copies of the Association Documents, and the books, records and financial statements of the Association prepared pursuant to the Bylaws. Any Owner or Mortgagee may make a written request to the Association or a copy of the audited financial statements for the preceding year. The Association may charge a reasonable fee for copying such materials.

Section 5.9. Reserve Fund.The Association will establish and maintain an adequate reserve fund from Annual Assessments levied pursuant to Section 9.3 below for maintenance, repair or replacement of the Common Area and Improvements located within the Common Area that must be replaced on a periodic basis and for any other facilities made available to the Association that must be replaced on a periodic basis with contribution from the Association.

Section 5.10. Working Capital Account. The Association will also administer a working capital account funded as provided in Section 9.4.

Section 5.11. Implied Rights and Obligations. The Association will perform all of the duties and obligations imposed on it expressly by the Association Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Association Documents or reasonably necessary to satisfy any such duty or obligation. The Association may exercise any other right or privilege (i) given to it expressly by the Association Documents, (ii) reasonably implied from the existence of another right or privilege given expressly by the Association Documents, or (iii) reasonably necessary to effectuate any such right or privilege.

ARTICLE VI
CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

Section 6.1. General. This provision serves as notice that Bella Vista Design Guidelines govern all aspects of the design and plan of the Project, including, among other things, the right of an Owner or other party to construct, reconstruct, refinish,

alter or maintain a residence or other improvement upon, under or above any of the Property, to make or create any excavation or fill on the Property, to make any change in the natural or existing surface contour or drainage, to install any utility line or conduit on or over the Property, and to park or store any vehicles and other equipment on the Property.

The Bella Vista Design Guidelines may include, without limitation, the following:

Section 6.1.1. Standards establishing and dictating an architectural theme and requirements pertaining to building style and design, construction materials and site planning.

Section 6.1.2. Procedures for making application to The Bella Vista Design Review Committee including the documents to be submitted and the time limits in which The Bella Vista Design Review Committee must act to approve or disapprove any submission.

Section 6.1.3. Time limitations for the completion within specified periods after approval of the Improvements for which approval is required under The Bella Vista Design Guidelines.

Section 6.1.4. Designation of a building site on a Lot, establishing the maximum developable area of a Lot and setback or view corridor requirements.

Section 6.1.5. Minimum and maximum square foot areas of living space that may be developed on any Lot.

Section 6.1.6. Limitations on the height of any building or other improvement.

Section 6.1.7. Specifications for the location, dimensions and appearance or screening of any fences, mailboxes, accessory structures, antennae or other such Improvements.

Section 6.1.8. Regulations for parking vehicles off of the street, within an enclosed garage or a designated area on a Lot.

Section 6.1.9. Landscaping regulations, including requirements for installing and maintaining landscaping on the entire Lot and on parkways abutting the Lot and the street or road providing access to the Lot; time limitations within which all landscaping must be completed, limitations and restrictions prohibiting the

removal or requiring the replacement of existing trees, and guidelines encouraging the use of plants indigenous to the locale and compatible with the design theme of the Project; and other practices protecting the environment, aesthetics and architectural harmony of Bella Vista.

Section 6.2. Approval Required. Any construction or reconstruction, or the refinishing or alteration of any part of the exterior of any residence or other Improvement on the Property is absolutely prohibited until the Owner first obtains written approval from The Bella Vista Design Review Committee and otherwise complies with the provisions of this Declaration.

Section 6.3. Construction Methods. Specific rules regarding construction methods, including but not limited to excavation, drainage, utility lines, loading areas, waste storage, trash removal, materials storage, and transformers and meters, may also be set forth in The Bella Vista Design Review Guidelines and the Master Declaration, and all Owners will comply with those rules.

Section 6.4. The Design Review Committee.

Section 6.4.1. Committee and Guidelines. There is hereby established the Design Review Committee ("DRC"). The Bella Vista Design Guidelines shall be binding on all Owners and other persons governed by this Declaration. A copy of The Bella Vista Design Guidelines may be obtained from Declarant, and it is the responsibility of each Owner or other person to obtain and review the most recently revised guidelines.

Section 6.4.2. DRC Membership and Organization. The DRC shall initially be comprised of three (3) representatives of the Declarant. As The Bella Vista develops, two other members may be added at the sole discretion of the Declarant. During the period of Declarant Control all members of the DRC shall be appointed, removed, or replaced by the Declarant, in its sole discretion. After the period of Declarant Control the Board shall appoint, remove or replace members of the DRC.

Section 6.4.3. Purpose and General Authority. The DRC shall review, study and either approve or reject all proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in The Bella Vista Design

Guidelines and such rules and regulations as the DRC may establish from time to time to govern its proceedings. No Improvements shall be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor shall any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the DRC; provided, however, that Improvements that are completely within a building may be undertaken without such approval. All Improvements shall be constructed in accordance with approved plans.

Section 6.4.4. DRC Discretion. The DRC shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality, and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in The Bella Vista Design Guidelines. The DRC, in its sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental interest of Bella Vista, or other factors as necessary or desirable to fulfill the intent of The Bella Vista Design Guidelines, may excuse compliance with such requirements in specific situations and may permit compliance with different or alternative requirements.

Section 6.4.5. Binding Effect. The actions of the DRC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

Section 6.4.6. Expert Consultation. The DRC may avail itself of other technical and professional advice and consultants as it deems appropriate, and the DRC may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the DRC. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant shall be equivalent to approval or disapproval by the entire DRC.

Section 6.4.7. Expenses. Except as provided in this Section below, all expenses of the DRC shall constitute a Common Expense. The DRC shall have the right to charge a fee for each application submitted to it for review, in an amount which

may be established by the DRC from time to time, and such fees shall be collected by the DRC and remitted to help defray the expenses of the DRC's operation.

Section 6.4.8. Other Requirements. Compliance with The Bella Vista design review process is not a substitute for compliance with the City of Pueblo building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction of Improvements. Further, the establishment of the DRC and procedures for architectural review shall not be construed as changing any rights and restrictions upon Owners to maintain and repair their Lots and Improvements as otherwise required under Association Documents.

Section 6.4.9. Limitation of Liability. The DRC shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the DRC nor any individual DRC member shall be liable to any person for any official act of the DRC in connection with submitted plans and specifications, except to the extent the DRC or any individual DRC member acted with malice or wrongful intent. Approval by the DRC does not necessarily assure approval by the appropriate governmental board or Commission for the City of Pueblo. Notwithstanding that the DRC has approved plans and specifications, neither the DRC nor any of its members shall be responsible or liable to any Owner, developer, or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Board, the DRC, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events, the DRC shall be defended and indemnified by the Association in any such suit or proceeding which may arise because of the DRC's decision. The Association, however, shall not be obligated to indemnify each member of the DRC to the extent any such member of the DRC is adjudged to be liable for negligence or misconduct in the performance of his duty as a member of the DRC, unless and then only to the extent that the court in which such action or suit may be

brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper. Additionally, in the event any Owner commences legal proceedings to challenge the discretion of the DRC's decisions or interpretation of The Bella Vista Design Guidelines, the DRC, the Association, and the Declarant should they or any one of them prevail shall be entitled to recover from the Owner challenging such authority, reasonable attorneys' fees, and costs for its defense.

Section 6.5. Enforcement.

Section 6.5.1. Inspection. Any member or authorized consultant of the DRC, or any authorized officer, Director, employee or agent of the Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Association Documents and the plans and specifications approved by the DRC. This right of entry does not include the right to enter any structure.

Section 6.5.2. Completion of Construction. Before any Improvements on a Lot may be occupied, the Owner of the Lot shall be required to obtain a temporary certificate of compliance issued by the DRC indicating substantial completion of the Improvements in accordance with the plans and specifications approved by the DRC, and imposing such conditions for issuance of a final certificate of compliance as the DRC may determine appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the DRC may require, as a condition to the issuance of the temporary certificate of compliance, that the Owner deposit with the DRC such sums as may be necessary to complete the landscaping on the Lot by a specified date. If the landscaping is not completed as scheduled, the DRC may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Association for the failure of the Owner to comply with these covenants, including without limitation the remedies set forth in Section 6.5.5.

Section 6.5.3. Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the DRC, and upon written request of any Owner or his agent, an existing or prospective Mortgagee, or a prospective grantee, the DRC may issue an acknowledged certificate, in recordable form, setting forth generally whether, to the best of the DRC's knowledge, the Improvements on a particular Lot are in compliance with the terms and conditions of The Bella Vista Design Guidelines.

Section 6.5.4. Deemed Nuisances. Every violation of these Covenants is hereby declared to be and to constitute a nuisance and every public or private remedy allowed for such violation by law or equity against a Member shall be applicable. Without limiting the generality of the foregoing, these Covenants may be enforced as provided below.

(a) Fines for Violations. The DRC may adopt a schedule of fines for failure to abide by the DRC rules and The Bella Vista Design Guideline, including fines for failure to obtain any required approval from the DRC.

(b) Removal of Nonconforming Improvements. The Association, upon request of the DRC and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvements constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants or of the Design Guidelines. The Owner of the Improvements shall immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within 30 days after the Association gives the Owner notice of the expenses, the sum owed to the Association shall bear interest at the Default Rate from the date of the advance by the Association through the date or reimbursement in full, and all such sums and interest shall be a Default Assessment enforceable as provided in Article IX.

Section 6.5.5. Continuity of Construction. All Improvements commenced on the Property shall be prosecuted diligently to completion and shall be completed within 12 months after commencement, unless an exception is granted in writing by the DRC. If an Improvement is commenced and construction is then abandoned for more than 90 days, or if construction is not completed within the required 12-month

period, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine of not less than $100.00 nor more than $1,000.00 per day (or such other reasonable amount as the Association may set) to be charged against the Owner of the Lot until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board of Directors that such abandonment is for circumstances beyond the Owner's control. Such fine shall be a Default Assessment and lien as provided in Article IX.

ARTICLE VII
PROPERTY USE RESTRICTIONS

Section 7.1. General Restriction. The Property shall only be used for the purposes set forth in these Covenants and the other Association Documents, in compliance with the applicable ordinances of the City of Pueblo, and the laws of the State of Colorado and the United States, and other recorded covenants affecting all or any part of the Property.

Section 7.2. Residential Use of Lots. Each Lot shall only be used for residential purposes and developed by the construction of a single-family dwelling unit. No business or commercial Improvement may be erected on any Lot. Any business or commercial enterprise or other non-residential use must be approved in writing by DRC or the Board.

ARTICLE VIII
OWNERS' OBLIGATIONS FOR MAINTENANCE

Section 8.1. Owner's Responsibility for Lot. Except as provided in the Documents or by written agreement with the Association, all maintenance of landscaped areas will be the sole responsibility of the Association, excluding all flowerbeds, driveways, exterior walks, decks and patios. The owner shall be responsible for maintenance of all flowerbeds, driveways, exterior walkways, decks and patios on the owner's lot. The Association may, in the discretion of the Board, assume the maintenance responsibilities of such Owner if, in the opinion of the Board, the level and quality of maintenance being provided by such Owner does not satisfy the community wide standard of Bella Vista. Before assuming the maintenance

responsibilities, the Board will notify the Owner in writing of its intention to do so, and if the Owner has not commenced and diligently pursued remedial action within 30 days after the mailing of such written notice, then the Association may proceed. In those circumstances, the Owner will reimburse the Association for the expenses of the maintenance by the Board within 30 days after the Association notifies the Owner of the amount due, and any sum not reimbursed within that 30-day period will bear interest at the Default Rate from the date of the expenditure until payment in full. Such charges will constitute a Default Assessment enforceable as provided in Article IX.

Section 8.2. Owner's Negligence. If the need for maintenance, repair or replacement of any portion of the Common Area arises because of the negligent or willful act or omission of an Owner or his family member, guest, invitee, licensee or tenant, then the expenses incurred by the Association for the maintenance, repair or replacement will be a personal obligation of that Owner. If the Owner fails to repay the expenses incurred by the Association within 30 days after the notice to the Owner of the amount owed, then those expenses will bear interest at the Default Rate from the date of the advance by the Association until payment by the responsible Owner in full, and all such expenses and interest will constitute a Default Assessment enforceable as provided in Article IX.

ARTICLE IX
ASSESSMENTS

Section 9.1. Creation of Lien and Personal Obligation for Assessments. Each Owner of any Lot by accepting a deed for a Lot is deemed to covenant to pay to the Association (1) Annual Assessments imposed by the Board of Directors as necessary to meet the Common Expenses of maintenance, operation and management of the Common Area, to fund the reserve account contemplated under Section 9.3, and to generally carry out the functions of the Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration; and (3) Default Assessments which may be assessed against a Lot pursuant to the Association Documents for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents. .

All Assessments, which for purposes of this Article may include fines, interest, costs, reasonable attorneys' fees, and legal assistants' fees and other charges allowed under the Act, will be a charge on the land and will be a continuing lien upon the Lot against which each such Assessment is made until paid in full.

Each such Assessment, together with fines, interest, costs, reasonable attorneys' fees and legal assistants' fees, and other charges allowed under the Act, also will be the personal and individual obligation of the Owner of such Lot as of the time the Assessment becomes due. Two or more Owners of a Lot will be jointly and severally liable for such obligations. No Owner may exempt himself from liability for any Assessments by abandonment of his Lot or by waiver of the use or enjoyment of the Common Area. Suit to recover a money judgment for unpaid Assessments and related charges as listed above may be maintained without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 9.2. Purpose of Assessments. The Assessments levied by the Association will be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the project without limiting the foregoing; the Assessments may be used for the specific purposes listed in Section 9.3.1 below.

Section 9.3. Annual Assessments.

Section 9.3.1. Calculation of Annual Assessments. The Board of Directors will prepare a budget before the close of each fiscal year of the Association and submit the budget to the Association as required by the Act. Annual Assessments for Common Expenses will be based upon the estimated net cash flow requirements of the Association to cover items including, without limitation, the cost of routine maintenance, repair and operation of the Common Area; expenses of management; premiums for insurance coverage as deemed desirable or necessary by the Association; snow removal, landscaping, care of grounds and common lighting within the Common Area; routine renovations within the Common Area; wages; common water and utility charges for the Common Area; legal and accounting fees and costs; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any deficit remaining from a previous Assessment period; and

the supplementing of the reserve fund for general, routine maintenance, repairs and replacement of Improvements within the Common Area on a periodic basis, as needed.

Section 9.3.2. Apportionment of Annual Assessments. Each Owner will be responsible for that Owner's share of the Common Expenses (for Lots owned by each Owner) which will be divided equally among the Lots included in the Project under this Declaration from time to time. Accordingly, at any given time, each Lot's share of Common Expenses will be determined as a fraction, the numerator of which is one (1), and the denominator of which is the number of Lots then platted and incorporated in the Project. The foregoing is subject to the qualifications of Section 8.2 and the following: first, any Common Expenses or portion thereof benefiting fewer than all of the Lots will be assessed exclusively against the Lots benefited, and second, the costs of insurance may be assessed in proportion to risk, and third the costs of utilities may be assessed in proportion to usage, all to be determined solely by the Association.

Section 9.3.3. Collection. Annual Assessments will be collected in periodic installments as the Board may determine from time to time, but until the Board directs otherwise, they will be payable monthly in advance on the first day of each calendar month. The Association will have the right, but not the obligation, to make pro rata refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year. Any such excess funds not refunded will be applied to the next installment(s) of Annual Assessments due, and all such funds shall be placed into an interest-bearing account.

Section 9.3.4. Date of Commencement of Annual Assessments. The Annual Assessments will commence as to all Lots in the first phase of the Project no later than 60 days after the date of the first conveyance by Declarant of a Lot to an Owner. The first Annual Assessment will be prorated according to the number of months remaining in the calendar year.

Section 9.4. Capitalization of the Association. Upon acquisition of record title to a Lot from Declarant or any seller after Declarant, each Owner will contribute to the working capital and reserves of the Association an amount equal to two months' installments of the Annual Assessment at the rate in effect at the time of the sale. The Association will maintain the working capital funds in segregated accounts to meet

unforeseen expenditures or to acquire additional equipment or services for the benefit of the Members. Such payments to this fund will not be considered an advance of monthly payments for Annual Assessments.

Section 9.5. Special Assessments.

Section 9.5.1. Determination by Board. Subject to the budget procedures required by the Act, the Board of Directors may levy in any fiscal year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related to it to make up any shortfall in the current year's budget.

Section 9.5.2. Apportionment and Collection of Special Assessments. The Board will apportion Special Assessments among the Lots and collect payment according to the same guidelines as set forth for Annual Assessments in Section 9.3.4.

Section 9.5.3. Notice. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least 30 days prior to the due date.

Section 9.5.4. Member Approval. If any of the Special Assessments levied pursuant to this Section are to be used for the construction of new facilities as opposed to repair and reconstruction of existing facilities in the Project, and if the total amount of the Special Assessments levied for such construction exceeds 10% of the gross annual budget for the Association for that year, then the use of Special Assessments for that construction will require the approval of Owners representing at least 67% of the votes in the Association. The use of Special Assessments pursuant to this Section for constructing any Common Area will not apply to the construction of any Common Area to be completed by Declarant in development of the Project.

Section 9.6. Default Assessments. All monetary fines, penalties, interest or other charges or fees excluding Annual and Special Assessments levied against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, and any expense including without limitation

attorneys' fees and legal assistants' fees incurred by the Association as a result of the failure of an Owner to abide by the Association Documents, constitutes a Default Assessment, enforceable as provided in this Declaration below and in accordance with the Act.

Section 9.7. General Remedies of Association for Non Payment of Assessment. Any installment of an Annual Assessment or a Special Assessment which is not paid within 30 days after its due date will be delinquent. In the event that an installment of an Annual or Special Assessment becomes delinquent, or in the event any Default Assessment is established under this Declaration, the Association, in its sole discretion, may take any or all of the following actions:

Section 9.7.1. Assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;

Section 9.7.2. Charge interest from the date of delinquency at the Default Rate;

Section 9.7.3. Suspend the voting rights of the Owner during any period of delinquency;

Section 9.7.4. Accelerate all remaining Assessment installments for the fiscal year in question so that unpaid Assessments for the remainder of the fiscal year will be due and payable at once.

Section 9.7.5. Bring an action at law against any Owner personally obligated to pay the delinquent Assessment charges;

Section 9.7.6. File a statement of lien with respect to the Lot and foreclose as set forth in more detail below.

The remedies provided under this Declaration will not be exclusive, and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 9.8. Assessment Lien. Any Assessment chargeable to a Lot will constitute a lien on the Lot, effective the due date of the Assessment. To evidence the lien, the Association may, but will not be obligated to, prepare a written lien statement with respect to the Lot setting forth the name of the Owner, the legal description of the Lot, the name of the Association, and the delinquent Assessment amounts then owing. Any

such statement will be duly signed and acknowledged by the President or a Vice-President of the Association or by the Manager, and will be served upon the Owner of the Lot by mail to the address of the Lot or at such other address as the Association may have in its records for the Owner. At least ten days after the Association mails the statement to the Owner, the Association may record the statement in the office of the Clerk and Recorder of Pueblo County, Colorado. Thirty days following the mailing of such notice to the Owner, the Association may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. The Association will have the power to bid on a Lot at foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

Section 9.9. Successor's Liability for Assessment. All successors to the fee simple title of a Lot, except as provided in Section 9.10, will be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees and legal assistants' fees against such Lot without prejudice to any such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor will not be personal and will terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor will be entitled to rely on the statement of status of Assessments given by or on behalf of the Association under Section 9.13.

Section 9.10. Waiver of Homestead Exemption; Subordination of the Lien. The lien of the Assessments will be superior to and prior to any homestead exemption provided now or in the future by any federal law or the laws of the State of Colorado, and to all other liens and encumbrances except the following:

Section 9.10.1. Liens and encumbrances recorded before the date of the recording of this Declaration;

Section 9.10.2. Liens for real estate taxes and other governmental assessments or charges duly imposed against the Lot by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

Section 9.10.3. The lien for all sums unpaid on a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent,

including any and all advances made by the First Mortgage, even though some or all of such advances may have been made subsequent to the date of attachment of the Association's lien; all subject, however, to the limitations of the Act.

With respect to Section 9.10.3, any First Mortgagee who acquires title to a Lot by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Lot free of any claims for unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees and legal assistants' fees against the Lot which accrue prior to the time such First Mortgagee or purchaser acquires title to the Lot except as provided in the Act.

All other persons who hold a lien or encumbrance of any type not described in Sections 9.10.1 through 9.10.3 will be deemed to consent that the lien or encumbrance will be subordinate to the Association's future liens for Assessments, interest, late charges, costs, expenses and attorneys' fees and legal assistants' fees, as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Section 9.11. Reallocation of Assessments Secured by Extinguished Liens. The sale or transfer of any Lot to enforce any of the liens to which the lien for Assessments is subordinate will extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer to the extent provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Board of Directors. However, no such sale or transfer will relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of any Assessments made after the sale or transfer.

Section 9.12. Exempt Property. The following portions of the Property will be exempt from the Assessments, charges, and liens created under this Declaration:

1. Any easement or other interest in the Property dedicated and accepted by the City of Pueblo and devoted to public use;

2. All utility lines and easements; and

3. Common Area.

Section 9.13. Statement of Status of Assessments. The Association will furnish to an Owner or his designee or to any Mortgagee a statement setting forth the amount of unpaid Assessments then levied against the Lot in which the Owner, designee or Mortgagee has an interest. The Association will deliver the statement as required by the Act to the inquiring party within 14 calendar days after the registered agent of the Association receives a written request for such statement. The information contained in such statement, when signed by the Treasurer of the Association or the Manager, will be conclusive upon the Association, the Board and every Owner as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 9.14. Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment notice will not be deemed a waiver, modification or release of any Owner from the obligation to pay Assessments. In such event, each Owner will continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association in accordance with any budget procedures as may be required under the Act.

ARTICLE X
PROPERTY RIGHTS OF OWNERS

Section 10.1. Owners' Easements of Access and Equipment. Every Owner has a perpetual, nonexclusive easement for access to and from his Lot and for the use and enjoyment of the Common Area, which easement is appurtenant to and will pass with the title to every Lot, subject to the provisions set forth in this Article.

Section 10.2. Delegation of Use. Any Owner may delegate, in accordance with the Association Documents, his rights of access and enjoyment described in Section 10.1 above to his tenants, family, guests, licensees, or invitees, but only in accordance with the applicable rules of the Association and the other Association Documents.

Section 10.3. Easements of Record and of Use. The Property will be subject to all easements shown on any recorded Plat and to any other easements of record or of use as of the date of recordation of this Declaration.

Section 10.4. Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 10.5. Partition or Combination of Lots. Only the Declarant may create additional lots on the Property. Two Lots may be combined into one only with the written consent of Declarant, during the Special Declarant Rights Period, and after said period by the Board of Directors. Declarant's consent may be conditioned upon payment by the Owner or Owners concerned of all expenses related to giving the consent, including legal and accounting fees. Every agreement and recorded instrument for the combination of Lots will make adequate provision for the preservation of easements previously reserved with respect to the Lots. Further, each such agreement and instrument will adjust the liability for payment of Assessments related to such Lots, allocating to the newly combined Lot the total of the Assessments allocated to the Lots combined into the single parcel. The combined Lot shall have one voting membership in the Association.

Section 10.6. No Partition of Common Area. The Common Area will be owned by the Association, and no Owner will bring any action for partition or division of the Common Area. By acceptance of a deed or other instrument of conveyance or assignment, each Owner will be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Common Area, and this Section may be pleaded as a bar to any such action. Any Owner who institutes or maintains any such action will be liable to the Association, and hereby agrees to reimburse the Association for its costs, expenses and reasonable attorneys' fees and legal assistants' fees in defending such action.

ARTICLE XI
SPECIAL DECLARANT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Section 11.1. General Provisions. Throughout the Special Declarant Rights Period, Declarant will have the following Special Declarant Rights with respect to all of

the Property. The Special Declarant Rights Period shall begin the date of recording of this Declaration and it shall end on the date Declarant sells the last Lot owned by Declarant.

Section 11.1.1. Completion of Improvements. The right to complete Improvements as indicated on any Plat filed with respect to the Property;

Section 11.1.2. Development Rights. The right to exercise all "development rights," as defined from time to time in the Act and so referred to here as "Development Rights," including without limitation the right or combination of rights hereby reserved by Declarant, as follows:

(a) The right to create Lots and Common Area on the Property, including the Expansion Property.

(b) The right to subdivide Lots and convert Lots into Common Area on any part of the Property.

(c) The right to withdraw real estate, contained within the Property from the Project, as provided in Article XVI.

Section 11.1.3. Sales Activities. The right to maintain one sales office, one management office, up to 15 signs advertising the Project and up to 15 model residences on the Common Area and on Lots owned by Declarant, whether or not contained within the Property subject to this Declaration. The offices, model residences and signs will be of sizes and styles governed by The Bella Vista Design Guidelines, and may be relocated by Declarant from time to time. At all times, the offices, model residences and signs will remain the property of Declarant and may be removed from the Project by Declarant at any time during or promptly after the expiration of the Special Declarant Rights Period.

Section 11.1.4. Easements. The right to use easements through the Common Area on the Property for the purpose of making improvements on the Property.

Section 11.1.5. Association Directors and Office. The right to appoint any officer or Director of the Association, as provided in this Declaration or the Bylaws, but subject to the limitations of the Act.

Section 11.2. Order of Exercise of Declarant's Rights. The fact that Declarant may exercise one or more of Declarant's Development Rights or other Special Declarant Rights on one portion of the Property will not operate to require Declarant to exercise a Development Right or other Special Declarant Right with respect to any other portion of the Property.

Section 11.3. Supplemental Provisions Regarding Declarant's Rights. Without limiting the generality of the foregoing, certain of these Special Declarant Rights are explained more fully in this Article below. Further, Declarant reserves the right to amend this Declaration and any Plat in connection with the exercise of any Development Rights or any other Special Declarant Rights to the extent permitted by the Act, and Declarant also reserves the additional rights retained for the benefit of Declarant in this Article and in other provisions of this Declaration.

Section 11.4. Reservation for Expansion and Construction. Declarant hereby reserves for itself and its successors and assigns and for Owners in all future phases of the Project a perpetual easement and right-of-way for access over, upon and across the Property, for construction, utilities, drainage, ingress and egress, and for use of any Common Area. The location of these easements and rights-of-way may be made certain by Declarant or the Association by instruments recorded in Pueblo County, Colorado.

Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions and exclusions convenient or necessary for the development, use and operation of any other property of Declarant, as long as such action does not hamper the enjoyment of the Project, as built or expanded, by the Owners.

Section 11.5. Reservation of Easements, Exceptions, and Exclusions for Utilities, Infrastructure, and Access. Declarant reserves for itself and its successors and assigns and hereby grants to the Association, acting through the Board of Directors, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over any Common Area, for purposes including but not limited to streets, paths, walkways, drainage, recreation areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners

and the Association, in order to serve the Owners within the Project as initially built and expanded.

Section 11.6. Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across any Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights will be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot by that Owner or his family, tenants, employees, guests or invitees.

Section 11.7. Easements Deemed Created. All conveyances of Lots hereafter made, whether by Declarant or otherwise, will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE XII
INSURANCE AND FIDELITY BONDS

Section 12.1. Authority to Purchase. All insurance policies relating to the Common Area will be purchased by the Board of Directors or its duly authorized agent. The Board of Directors, the Manager and Declarant will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from *such* failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable costs. Notwithstanding the foregoing, if the insurance described in Sections 12.3 and 12.4 below is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy having been obtained, the Association promptly will cause notice of that fact to be hand delivered or otherwise delivered to all Owners by such methods as required by the Act.

Section 12.2. General Insurance Provisions. All such insurance coverage obtained by the Board of Directors will conform to any minimum requirements of the Act, and, to the extent not inconsistent with the Act, the following provisions:

Section 12.2.1. As long as Declarant owns any Lot, Declarant will be protected by all such policies in the same manner as any other Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article will not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor will such coverage be deemed to protect Declarant for or waive any rights with respect to warranty claims against Declarant as the developer of the Project.

Section 12.2.2. The deductible, if any, on any insurance policy purchased by the Board of Directors may be treated as a Common Expense payable from Annual Assessments or Special Assessments allocable to all of the Lots or to only some of the Lots, if the claims for damages arise from the negligence of particular Owners, or if the repairs benefit only particular Owners, or as an item to be paid from working capital reserves established by the Board of Directors. The Association may enforce payment of any amount due from an individual Owner toward the deductible in accordance with the provisions of this Declaration on Default Assessments. Except as otherwise set forth in this Article, the maximum deductible amount will be the lesser of $10,000 or one percent of the policy face amount.

Section 12.3. Physical Damage Insurance on Common Area. The Association will obtain insurance for all insurable Improvements on any Common Area in an amount equal to the full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which will include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment within the Common Area. In addition, such policy will afford protection against at least the following:

Section 12.3.1. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk"

endorsement covering sprinkler leakage, debris removal, and cost of demolition, vandalism, and malicious mischief, windstorm and water damage.

Section 12.3.2. In the event the Common Area contains a steam boiler, a broad form policy of repair and replacement boiler and machinery insurance in the lesser of (i) the amount of the insurable value of the building housing the boiler, or (ii) $2,000,000 (or such other amount as the Board deems advisable).

Section 12.3.3. Such other risks as will customarily be covered with respect to projects similar in construction, location, and use to the Project.

Section 12.4. Provisions Common to Physical Damage Insurance. In contracting for the insurance coverage obtained pursuant to this Section above, the Board of Directors will be required to make reasonable efforts to secure coverage which provides the following:

Section 12.4.1. A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Declaration not to do so.

Section 12.4.2. The following endorsements (or equivalent): (a) "cost of demolition"; (b) "contingent liability from operation of building laws or codes"; (c) "increased cost of construction"; and (d) "agreed amount" or elimination of co-insurance clause, and (e) "inflation guard" (if available).

Prior to obtaining any policy of physical damage insurance or any renewal thereof, and at such other intervals as the Board of Directors may deem advisable, the Board of Directors will obtain an appraisal from a general contractor or such other source as the Board may determine of the then current replacement cost of the Property, exclusive of the land, excavations, foundations and other items normally excluded from such coverage, subject to insurance carried by the Association, without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Article.

Section 12.5. Liability Insurance. The Association will obtain a comprehensive policy of commercial general liability insurance including bodily injury, libel, slander, false arrest, and invasion of privacy coverage, and property damage insurance with such limits as the Board of Directors may from time to time determine, insuring each

member of the Board of Directors, the Association, the Manager, and the respective employees, agents and all persons acting as agents against any liability to the public or the Owners, and their guests, invitees, tenants, agents and employees, arising in connection with the ownership, operation, maintenance or use of any Common Area and streets and roads within the Project and any other areas under the control of the Association. Declarant will be included in the coverage as an additional insured in Declarant's capacity as an Owner or Director. The Owners will be included as additional insureds, but only for claims and liabilities arising in connection with the ownership, existence, use, or management of any Common Area.

Such comprehensive policy of public liability insurance will include the following:

Section 12.5.1. Coverage for contractual liability, liability for non-owned and hired automobiles, and, if applicable, host liquor liability, employer's liability, and such other risks as will customarily be covered with respect to developments similar to the Project in construction, location and use.

Section 12.5.2. A cross liability endorsement under which the rights of a named insured under the policy will not be prejudiced with respect to an action against another insured.

Section 12.5.3. A "severability of interest" endorsement which will preclude the insurer from denying liability coverage to an Owner because of the negligent acts of the Association or another Owner.

The Board of Directors will review the coverage limits at least once every two years, but, generally, the Board will carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to the Project, and in no event will such coverage be less than $1,000,000 for all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits also will be obtained in an amount not less than $2,000,000.

Section 12.6. Fidelity Insurance. Fidelity bonds will be maintained by the Association to protect against dishonest acts on the part of its officers, Directors, trustees and employees, and on the part of all others who handle or are responsible for handling the funds of or administered by the Association. In addition, if responsibility for

handling funds is delegated to a Manager, such bonds will be required for the Manager and its officers, employees, and agents, as applicable. Such fidelity coverage will name the Association as an obligee and will be written in such amount as the Board may determine appropriate, and in any event in the minimum amount, if any, prescribed by the Act. Such bonds will contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. Such bonds shall cover the maximum funds that will be in the custody of the Association or any Manager at any time when the bond is in force.

Section 12.7. Flood Insurance. If any part of the Improvements on the Common Area are located in a Special Flood Hazard Area which is designated A, AE, AH, AO, A1-30, A99, V, VE or VI-30 on a Flood Insurance Rate Map, the Association will obtain a policy of flood insurance in an amount equal to 100% of the insurable value of the Improvements on the Common Area or the maximum coverage available under the appropriate National Flood Insurance Administration program. The maximum deductible amount will be the lesser of $5,000 or one percent of the policy face amount.

Section 12.8. Provisions Common to Physical Damage Insurance, Liability Insurance, Fidelity Insurance and Flood Insurance. Any insurance coverage obtained by the Association under the provisions of this Article above will be subject to the following provisions and limitations:

Section 12.8.1. The named insured under any such policies will include Declarant, until all of the Lots in the Project have been conveyed, and the Association, as attorney-in-fact for the use and benefit of the Owners, or the authorized representative of the Association including any trustee with whom the Association may enter into any insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the "Insurance Trustee," who will have exclusive authority to negotiate losses under such policies.

Section 12.8.2. Each Owner will be an insured person with respect to liability arising out of the Owner's interest in the Common Area or membership in the Association.

Section 12.8.3. In no event will the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees.

Section 12.8.4. The policies will provide that coverage will not be prejudiced by (I) any act or neglect of any Owner, including an Owner's family, tenants, servants, agents, invitees and guests, when such act or neglect is not within the control of the Association; or (ii) any act or neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the association has no control; or (iii) conduct of any kind on the part of an Owner, including the Owner's family, tenants, servants, agents, invitees and guests, or any Director, officer, employee or Manager of the Association, without prior demand to the Association and a reasonable opportunity to cure.

Section 12.8.5. The policies will contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be canceled in the middle or at the end of any policy year or other period of coverage or substantially modified or reduced, including cancellation for nonpayment of premiums, without at least 30 days' prior written notice mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

Section 12.8.6. The policies will contain a waiver by the insurer of any right to claim by way of subrogation against Declarant, the Board of Directors, the Association, the Manager, and any Owner and their respective agents, employees or tenants, and in the case of Owners, members of their households, and of any defenses based upon any co-insurance.

Section 12.8.7. The policies described in Sections 12.3 and 12.4 above will provide that any "no other insurance" clause will expressly exclude individual Owners' policies from operation so that the physical damage policy or policies purchased by the Board will be deemed primary coverage, and any individual Owners' policies will be deemed excess coverage.

Section 12.9. Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance will be obtained by the Association to protect the officers and Directors from personal liability in relation to their duties and responsibilities in acting as such officers and Directors on behalf of the Association.

Section 12.10. Workmen's Compensation Insurance. The Association will obtain workmen' compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 12.11. Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it deems appropriate with respect to the Association's responsibilities and duties.

Section 12.12. Insurance Obtained by Owners. Each Owner will have the right to obtain insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot and Improvements, personal property and personal liability. However, no insurance coverage obtained by an Owner will operate to decrease the amount which the Board of Directors, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that coverage. Any such insurance obtained by an Owner will include a waiver of the particular insurance company's right of subrogation against the Association and other Owners.

ARTICLE XIII

ASSOCIATION AS ATTORNEY-IN-FACT

Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on any Common Area upon damage or destruction as provided in Article XIV or a complete or partial taking as provided in Article XV below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner will constitute appointment of the Association as attorney-in-fact as provided in this Article. As attorney-in-fact, the Association will have full and complete authorization, right and

power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner that may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE XIV
DAMAGE OR DESTRUCTION

Section 14.1. Damage or Destruction of Common Area.

Section 14.1.1. Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Common Area, unless such damage or destruction is minor, the Association will obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of the Common Area so damaged or destroyed. "Repair and reconstruction" as used in this Article will mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

Section 14.1.2. Repair and Reconstruction. As soon as practical after obtaining estimates, the Association will diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction, and no consent or other action by any Owner will be necessary. Assessments of the Association will not be abated during the period of insurance adjustments and repair and reconstruction.

Section 14.1.3. Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance will be used for the purpose of repair, replacement and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 9.5, levy, assess and collect in advance from all Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

Section 14.1.4. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 9.5 constitute a fund for the payment of the costs of repair and reconstruction after casualty. It will be deemed that the first money disbursed in payment for the costs of repair and reconstruction will be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance will be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 9.5, or, if no Special Assessments were made, then on the basis of the allocation to the Owners of Common Expenses under Section 9.3.2, first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.1.5. Decision Not to Rebuild. If Owners representing at least 80% of the votes in the Association, including the vote of every Owner of Improvements that will not be rebuilt and including, during the Special Declarant Rights Period, the vote of Declarant, and any other votes required by the Act, agree in writing not to repair and reconstruct damage to the Common Area and no alternative Improvements are authorized, then and in that event the Property will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. Any remaining insurance proceeds will be distributed on the basis of the allocation to the Owners of the Common Expenses under Section 9.3.2 first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.2. Damage or Destruction Affecting Lots. In the event of damage or destruction to the Improvements located on any Lot, the Owner thereof will promptly repair and restore the damaged Improvements to their condition prior to such damage or destruction. If such repair or restoration is not commenced within 180 days from the date of such damage or destruction, or if repair and reconstruction is commenced but then abandoned for a period of more than 90 days, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine accruing at the rate of $1,000 per day or such other rate imposed by the Board in compliance with the Act, charged against the Owner of the Lot until repair and reconstruction is commenced,

unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances beyond the Owner's control. Such fine will be a Default Assessment and lien against the Lot as provided in Section 9.6 above.

ARTICLE XV
CONDEMNATION

Section 15.1. Rights of Owners. Whenever all or any part of the Common Area is taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice of the taking, but the Association will act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 15.2. Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking will be payable to the Association as trustee for the Owners for whom use of the Common Area was conveyed, and the award shall be disbursed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless, within 60 days after such taking, Owners representing at least 67% of the votes in the Association, including, during the Special Declarant Rights Period, the vote of Declarant, otherwise agree, the Association will restore or replace such Improvements so taken on the remaining land included in the Common Area to the extent lands are available therefore, in accordance with plans approved by the Board of Directors, the DRC, the City of Pueblo, if required, and any other authority having jurisdiction in such matters. If such Improvements are to be repaired or restored, the provisions in Article XIV above regarding the disbursement of funds with respect to casualty damage or destruction that is to be repaired will apply. If the taking does not involve any Improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds will be distributed in proportionate shares on the basis of the allocation to the Owners of Common

Expenses under Section 9.3.2, first to the Mortgagees and then to the Owners, as their interests appear.

Section 15.3. Complete Condemnation. If all of the Project is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration will terminate, and the portion of the condemnation award attributable to the Common Area will be distributed as provided in the Act.

ARTICLE XVI
EXPANSION AND WITHDRAWAL

Section 16.1. Incorporation of Additional Expansion Property. Declarant reserves the right to incorporate into the Project real property subject to the limitations and requirements of the Act.

Section 16.2. Declaration of Annexation. Any expansion of the Project may be accomplished by recording a Declaration of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Pueblo County, Colorado, before the expiration of the Special Declarant Rights Period. The Declaration of Annexation will describe the real property to be expanded, submit it to these Covenants, and provide for voting rights and Assessment allocations as provided in Sections 4.4, 9.3 and 9.5 of this Declaration. Specifically, each such Lot will be allocated one vote and liability for the Common Expenses equal to the liability allocated to each of the other Lots, and the proportionate voting interest and allocation of Common Expenses for the other Lots will be adjusted accordingly. Such Declaration of Annexation will not require the consent of Owners. Any such expansion will be effective upon the filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

Upon the recordation of any such Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass and refer to the Project as expanded. Such Declaration of Annexation may add supplemental covenants peculiar to the additional Property in question, or delete or modify

provisions of this Declaration as it applies to the additional Property added. However, this Declaration may not be modified with respect to that portion of the Property already subject to this Declaration, except as provided below for amendment.

Section 16.3. Withdrawal of Property. Declarant reserves the right to withdraw from the jurisdiction of these Covenants any parcel of the Property, including the additional Property, subject to the limitations of the Act. After withdrawal of any parcel from the regime of these covenants, the Common Expenses and votes attributable to the Lots remaining in the Project will be allocated in accordance with Sections 4.4, 9.3 and 9.5 above.

ARTICLE XVII
MORTGAGEE PROTECTIONS

Section 17.1. Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Mortgages. This Article is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 17.2. Percentage of Eligible Mortgage Holders. Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgage Holders is required, it will mean the approval or consent of Eligible Mortgage Holders under Mortgages encumbering Lots which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to Mortgages held by Eligible Mortgage Holders.

Section 17.3. Notice of Actions. The Association will give prompt written notice to each Eligible Mortgage Holder of the following:

Section 17.3.1. Any condemnation loss or any casualty loss which affects a material portion of the Common Area or any Lot in which an interest is held by the Eligible Mortgage Holder.

Section 17.3.2. Any delinquency which remains uncured for 60 days in the payment of Assessments by an Owner whose Lot is encumbered by a Mortgage held by such Eligible Mortgage Holder.

Section 17.3.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 17.3.4. Any proposed action which would require the consent of Eligible Mortgage Holders as required in Section 17.4 below.

Section 17.4. Consent Required.

Section 17.4.1. Document Changes. No amendment of any material provision of this Declaration described in this Section 17.4.1. may be effective without the vote of at least 75% of the Owners in the Association (subject to Section 20.3 below) and the approval in writing of at least 51 % of the Eligible Mortgage Holders. "Material" provisions include any provision affecting the following:

(a) Assessments, Assessment Liens, or the subordination or priority of Assessment liens.

(b) Voting rights.

(c) Reserves for maintenance, repair and replacement of the Common Area.

(d) Responsibility for maintenance and repairs.

(e) Rights to use the Common Area.

(f) Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project, except as provided in Article XVI above.

(g) Insurance or fidelity bonds.

(h) Imposition of any restrictions on an Owner's right to sell or transfer his Lot.

(i) Restoration or repair of the Property after hazard damage or partial condemnation in a manner other than that specified in this Declaration.

(j) Termination of this Declaration after the occurrence of substantial destruction or condemnation.

(k) The benefits of Eligible Mortgage Holders.

Section 17.4.2. Actions. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant

under the provisions of this Declaration, without the approval of at least 51% of the Eligible Mortgage Holders:

(a) Conveyance or encumbrance of the Common Area (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Project, or for other public purposes not inconsistent with the use of the Common Area by the Owners will not be deemed a transfer within the meaning of this clause).

(b) Restoration or repair of the Property (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration.

(c) Termination of this Declaration for reasons other than substantial destruction or condemnation, as permitted with the approval percentages specified in Articles XIV and XV above.

(d) Merger of the Project with any other common interest community.

(e) The granting of easements, leases, licenses or concessions through or over the Common Area (excluding, however, any such grants for public utilities or other public purposes not inconsistent with the use of the Common Area by the Owners).

(f) The assignment of the future income of the Association, including its right to receive Assessments.

(g) Any action not to repair or replace the Common Area except as permitted under Articles XIV and XV above.

Section 17.5. Notice of Objection. Unless an Eligible Mortgage Holder provides the Secretary of the Association with written notice of its Objection, if any, to any proposed amendment or action outlined above within 30 days following the receipt of notice delivered by certified or registered mail, return receipt requested, of such proposed amendment or action, the Eligible Mortgage Holder will be deemed conclusively to have approved the proposed amendment or action.

Section 17.6. First Mortgagees' Rights.

Section 17.6.1. Payment of Taxes and Insurance. First Mortgagees, jointly and severally, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area or Improvements

thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area. First Mortgagees making such payments will be owed immediate reimbursement from the Association.

Section 17.6.2. Cure of Delinquent Assessments. An Eligible Mortgage Holder will be entitled to cure any delinquency of the Owner of the Lot encumbered by the Eligible Mortgage Holder in the payment of Assessments. In that event, the Eligible Mortgage Holder will be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 17.7. Title Taken by First Mortgagee. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, will be liable for all Assessments due and payable as of the date title to the Lot vests in the First Mortgagee under the statutes of Colorado governing foreclosures. Except as provided in the Act such First Mortgagee will not be liable for any unpaid dues and charges attributable to the Lot which accrued prior to the date such title vests in the First Mortgagee.

ARTICLE XVIII
ENFORCEMENT OF COVENANTS

Section 18.1. Violations Deemed a Nuisance. Every violation of this Declaration or any other of the Association Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or in equity against anyone in violation of these Covenants will be available.

Section 18.2. Compliance. Each Owner or other occupant of any part of the Property will comply with the provisions of the Association Documents as the same may be amended from time to time.

Section 18.3. Failure to Comply. Failure to comply with the Association Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an

opportunity for a hearing as provided in the Bylaws will be given to the delinquent party prior to commencing any legal proceedings.

Section 18.4. Who May Enforce. Any action to enforce the Association Documents may be brought by Declarant, the Board, The Bella Vista Design Review Committee, the Design Review Committee, or the Manager in the name of the Association on behalf of the Owners. If after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Association Documents, then the aggrieved Owner may bring such an action.

Section 18.5. Remedies. In addition to the remedies set forth above in this Article, any violation of the Association Documents will give the Board, the Design Review Committee, The Bella Vista Design Review Committee, the Manager or Declarant, on behalf of the Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest of the Owners and the meaning of the Association Documents. If the offense occurs in any easement, walkway, Common Area or the like, or on the Owner's Lot, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

Section 18.6. Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 18.7. No Waiver. The failure of the Board of Directors, Declarant, The Bella Vista Design Review Committee, the Design Review Committee, the Manager or any aggrieved Owner to enforce the Association Documents will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Association Documents at any future time.

Section 18.8. No Liability. No member of the Board of Directors, the Declarant the Design Review Committee, The Bella Vista Design Review Committee, the Manager or any Owner will be liable to any other Owner for the failure to enforce any of the Association Documents at any time.

Section 18.9. Recovery of Costs. If legal assistance is obtained to enforce any of the provisions of the Association Documents, or in any legal proceeding (whether or not

suit is brought) for damages or for the enforcement of the Association Documents or the restraint of violations of the Association Documents, the prevailing party will be entitled to recover all costs incurred by it in such action, including reasonable attorneys fees and legal assistants' fees as may be incurred, or if suit is brought, as may be determined by the court.

ARTICLE XIX
RESOLUTION OF DISPUTES

If any dispute or question arises between Members or between Members and the Association or relating to the interpretation, performance, or nonperformance, violation, or enforcement of the Association Documents, such dispute or violation may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

ARTICLE XX
DURATION OF THESE COVENANTS AND AMENDMENT

Section 20.1. Termination. This Declaration and any amendments or supplements hereto will remain in effect from the date of recordation until the 21st anniversary of the date this Declaration is first recorded in the office of the Clerk and Recorder of Pueblo County, Colorado. Thereafter these Covenants will be automatically extended for five successive periods of 10 years each, unless otherwise terminated or modified as provided below.

Section 20.2. Amendment. This Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property, upon the written consent of Owners holding 75% or more of the votes in the Association, and upon compliance with Article XVII, as appropriate. Amendments made pursuant to this Section will inure to the benefit of and be binding upon all Owners, their families, tenants, guests, invitees and employees, and their respective heirs, successors and assigns. A certificate of a licensed abstract or title company showing record ownership of the Property and a certificate of the Secretary of the Association documenting votes held and voting rights exercised on the basis of

such ownership records will be evidence of such ownership and voting representation for the purposes of any such amendment.

Section 20.3. Declarant's Approval. Notwithstanding the provisions of Section 20.1, (i) no termination, extension, modification, amendment or restatement of this Declaration will be effective during the Period of Declarant Control, unless the written approval of Declarant is first obtained; and (ii) no termination, extension, modification, amendment or restatement of this Declaration may be made during the Special Declarant Rights Period to impair any of the Special Declarant Rights or Declarant's other rights under Article 11 or this Article 20 unless the written approval of Declarant is first obtained.

Section 20.4. Notice of Amendment. No amendment or revocation of this Declaration will be effective unless a written notice of the proposed amendment is sent to every Owner reasonably in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

Section 20.5. Effective on Recording. Any modification, amendment or revocation made in accordance with this Declaration will be immediately effective upon recording in Pueblo County, Colorado, a copy of such amendment, modification, or revocation executed and acknowledged by the necessary number of Owners (and by Declarant, as required), accompanied by a certificate of a licensed abstract or title company as to ownership, or alternatively, upon the recording in Pueblo County, Colorado, of a copy of the amendment, modification or revocation together with a duly authenticated certificate of the Secretary of the Association stating that the required number of consents of Owners were obtained, as evidenced by a certificate of a licensed title or abstract company or other authoritative evidence of compliance with the requirements of this Declaration regarding such matters, which will be placed on file in the office of the Association.

ARTICLE XXI
MISCELLANEOUS PROVISIONS

Section 21.1. Severability. This Declaration, to the extent possible, will be construed or reformed so as to give validity to all of its provisions. Any provision of this

Declaration found to be prohibited by law or unenforceable will be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 21.2. Construction. In interpreting words in this Declaration, unless the context provides or requires otherwise, the singular will include the plural, the plural will include the singular, and the use of any gender will include all genders.

Section 21.3. Heading. The headings are included only for purposes of convenient reference, and they will not affect the meaning or interpretation of this Declaration.

Section 21.4. Waiver. No failure on the part of the Association or the Board to give notice of default or to exercise or to delay in exercising any right or remedy will operate as a waiver, except as specifically provided above in the event the Board fails to respond to certain requests. No waiver will be effective unless it is in writing and signed by the President or Vice President of the Association or by a member of the Board on behalf of the Association.

Section 21.5. Limitation of Liability. Neither the Association nor any officer or member of the Board will be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under the Association Documents if the action or failure to act was made in good faith. The Association will indemnify all of the officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles of Incorporation and Bylaws.

Section 21.6. Conflicts Between Documents. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration will control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

Section 21.7. Assignment. Subject to the requirements and limitations of the Act, Declarant may assign all or any part of the Special Declarant Rights or any of Declarant's other rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale. Such successor will be identified, the particular rights being assigned will be specified, and, to the extent required, concomitant obligations will be expressly assumed by such

successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Pueblo County, Colorado.

DECLARANT:

BELLA VISTA AT PUEBLO, LLC
A Colorado Limited Liability Company

By: _____
Roger H. Fonda, President of TARBAD Development Co., Inc., Its Managing Member

STATE OF COLORADO)
)ss
COUNTY OF PUEBLO)

Subscribed and sworn to before me this 27th day of March, 2009 by BELLA VISTA AT PUEBLO, LLC, a Colorado Limited Liability Company by Roger H. Fonda, President of TARBAD Development Co., Inc., Its Managing Member.
Witness my hand and official seal.
My commission expires: 06/03/2011

SHARON T. JOHNSON NOTARY PUBLIC STATE OF COLORADO

_____
Notary Public Sharon T. Johnson

CHATEAUX:

DOWN BY THE BAY, LLC

By: _____
Jack W. Bay, Manager

STATE OF COLORADO)
)ss
COUNTY OF PUEBLO)

Subscribed and sworn to before me this 27th day of March, 2009 by DOWN BY THE BAY, LLC, a Colorado Limited Liability Company by Jack W. Bay, Manager .
Witness my hand and official seal.
My commission expires: 06/03/2011

SHARON T. JOHNSON NOTARY PUBLIC STATE OF COLORADO

_____
Notary Public Sharon T. Johnson

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Gilbert Ortiz Clerk/Recorder, Pueblo County, Co

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELLA VISTA OF PUEBLO, A PLANNED COMMUNITY

Property of Declarant, Bella Vista of Pueblo, LLC:

Bella Vista Filing #1, Pueblo County, Colorado:

Block 1: Lots 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 20, 21

Block 4: Lots 5, 6, 7, 8

Block 5: Lots 6, 7, 8, 9, 10

Block 6: Lots 1, 2, 3, 4

Parcels A, B, C, D, E, F, H, I, J, N

Bella Vista Filing #2, Pueblo County, Colorado:

Block 1: Lots 1, 2, 3, 4, 5, 6, 7

Block 2: Lots 1, 2, 3, 4, 5, 6

Block 3: Lots 1, 2, 3, 4, 5, 6

Block 4: Lots 1, 2, 3, 4, 5, 6, 7, 8

Block 5: Lots 1, 2, 3, 4

Block 6: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10

Block 7: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9

Parcels A, B, C, D

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Gilbert Ortiz Clerk/Recorder, Pueblo County, Co

EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELLA VISTA OF PUEBLO, A PLANNED COMMUNITY

Property of Down by the Bay LLC d/b/a Chateaux Homes:

Bella Vista File #1, Pueblo County, Colorado:

Block 1: Lots 1, 2, 6, 13, 19, 22