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I, Kathleen S. Beckett, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Kathleen S. Beckett - County Clerk

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
BELLA VISTA HEIGHTS SUBDIVISION PHASES 1 & 2 IN  
MEDFORD, JACKSON COUNTY, OREGON**

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BELLA VISTA HEIGHTS, LLC, an Oregon limited liability company, ("Declarant") is the owner, in fee simple of that real property located in Jackson County, Oregon, commonly known as "Bella Vista Heights Subdivision, Phases 1 & 2" which is depicted on the Partition Plat recorded in the Official Records of Jackson County in Volume 33, Page 10 attached hereto as Exhibit "A," and by this reference incorporated herein (the "Property");

#### RECITALS

**WHEREAS**, Bella Vista Heights Subdivision Phases 1 & 2, is a Planned Community, subject to the Planned Community Act (ORS 94.550 to 94.783);

**WHEREAS**, Declarant desires to create a Planned Unit Development (PUD) meeting the needs of both traditional family housing with diverse housing opportunities in a comfortable and attractive environment accomplished by the implementation of these covenants providing for the maintenance, preservation, and architectural control in the privately owned parcels and common areas within the community; and to promote the health, safety, welfare and well being of the residents of Bella Vista Heights PUD;

**WHEREAS**, for the benefit and protection of the Property, to enhance its value and attractiveness, and as an inducement to the lenders and investors to purchase loans secured by lots within the property, Declarant provides herein for a comprehensive system of land use and building controls within the property;

**NOW, THEREFORE**, Declarant hereby declares that the Property described below, will be held, sold, conveyed, encumbered, leased, rented, used, occupied and improved subject to the Restrictions, Covenants and Conditions declared below which will be deemed to be covenants running with the land and imposed on, and intended to benefit and burden each lot (as hereinafter defined) and other portions of the Property in order to maintain a high quality of life within Bella Vista Heights PUD Phases 1 & 2. Any conveyance, transfer, sale, assignment, lease or sublease of a lot in the Property shall, and hereafter be deemed to, incorporate by reference all provisions of this Declaration. The provisions of this Declaration shall be enforceable by the Declarant, any lot owner, the association created herein, and any first mortgagee of any lot or portion of the Property.

#### ARTICLE I INTERPRETATION/DEFINITIONS

- 1.1 **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a PUD to create an attractive living environment.

1.2 **Covenants Running with the Land.** It is intended that this Declaration shall be operative as a set of covenants running with the land, or equitable servitudes, binding on Declarant, its successors and assigns, all subsequent owners of the Property, together with the grantees, successors, heirs, executors, administrators, devisees or assigns thereof.

1.3 **Definitions.**

1.3.1 **"Architectural Control Committee"** or **"ACC"** or will consist of Bella Vista Heights, LLC and their designated representatives to enforce the Architectural standards of the Property and to approve or disapprove plans for improvements proposed for any Lot or parcel of the Property, as described in Section 8.1.

1.3.2 **"Articles"** means the Articles of Incorporation of Bella Vista Homes Homeowner's Association, as amended from time to time, and of any successor thereto.

1.3.3 **"Association"** means the Bella Vista Homes Homeowner's Association.

1.3.4 **"Association Land"** means such part of parts of the Property and such buildings, structures and improvements thereon, and other real or personal property or interest therein as the Association may at any time own in fee or in which the Association may at any time have a leasehold interest including, but not limited to, Common Areas, for as long as the Association is the owner of the fee or leasehold interest, including any Private Streets owned by the Association.

1.3.5 **"Association Rules"** means the rules and regulations adopted by the Board pursuant to Section 3.4, as such rules and regulations may be amended from time to time.

1.3.6 **"Board of Directors"** or **"Board"** means the body responsible for the Association's general governance and administration, selected as provided in the Bylaws.

1.3.7 **"Business Use"** shall be construed to have its ordinary, generally accepted meaning and shall include any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. The leasing of an Owner's own Lot for single family residential purposes shall not be considered a trade or business. A permitted Business Use shall mean a "Business Use" which complies with all of the following: (a) the existence or operation of business activity is not apparent or detectable by sight, sound or smell from outside the Lot on which it occurs; (b) the business activity does not involve individuals coming onto a Lot who do not reside on the Lot or door-to-door solicitation of residents of Lots; (c) not more than one employee which is not a family member works on the Lot; (d) commercial deliveries are not made to the Lot; and (e) the business activity consistent with a residential character of property use and not a nuisance, hazardous or offensive, or a threat to the security or safety of other Owners and Occupants, as may be determined in the sole discretion of the Board.

1.3.8 "**Bylaws**" means the Bylaws of the Association and its successors adopted in accordance with the Articles, as such Bylaws may be amended or supplemented from time to time, attached hereto as Exhibit "B" and recorded herewith.

1.3.9 "**Common Areas**" means all of the Property, excepting the Lots therein but including easements on Lots or other real property which have been or will be duly conveyed to the Association. The common area shall include the common areas depicted on the plat attached hereto as Exhibit "A".

1.3.10 "**Common Expenses**" means the costs incurred by the Association in conducting its operations and activities, administering, maintaining and operating the Property, and in owning or leasing any portion thereof, including, but not limited to the following:

(a) The costs of any maintenance, management, operation, repair and replacement of the Common Areas, and all other areas in the Property which are managed or maintained by the Association, other than those areas being managed or maintained as a Reimbursement Assessment;

(b) Unpaid Assessments and Reimbursement Assessments;

(c) The costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(d) The costs of utilities and services (including, but not limited to, water electricity, gas, sewer, trash pick-up and disposal) which are provided to the Association for the Common Areas, landscaping maintenance and other services which generally benefit and enhance the value and desirability of the Property and which are provided by the Association;

(e) The costs of insurance maintained by the Association as permitted herein;

(f) Reasonable reserves for contingencies, replacements and other property purposes, if deemed appropriate by the Board, to meet anticipated costs and expenses including, but not limited to, maintenance, repairs and replacement of those Common Areas which must be maintained, repaired or replaced on a periodic basis;

(g) The costs which the Board may elect to incur to bond the members of the Board, officers of the Association, any professional managing agent or any other Person handling the funds of the Association;

(h) Taxes paid by the Association;

(i) Amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof;

(j) The costs incurred by the ACC;

(k) The costs incurred by any other committees established by the Board or the President;

(l) Other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas; or the costs of any other item or items designated by, or to be provided or performed by the Association pursuant to this Declaration, the Articles, Bylaws, Association Rules, or Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.3.11 "**Declarant**" means Bella Vista Heights, LLC, and its successors and assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots and Parcels acquired by such successor or assigns.

1.3.12 "**Declaration**" means this Declaration of Covenants, Conditions and Restrictions and all Supplemental Declarations, as such declarations may be amended from time to time.

1.3.13 "**Design Guidelines**" means the rules, regulations, restrictions, Architectural standards and design guidelines from time to time adopted by the ACC pursuant to Article VIII.

1.3.14 "**Development Plan**" means the development plan approved by the City, as the same may be amended from time to time.

1.3.15 "**Improvement**" shall mean, but not be limited to buildings, sheds, utility buildings, roads, driveway, dams, channels, basins, parking areas, fences, walls, retaining walls, poles, basketball goals, patio covers, antennas, dish antennas, excavations, rocks, hedges, plantings, planted trees, and shrubs, and all other improvements of any type of kind.

1.3.16 "**Bella Vista Heights Phases 1 and 2**" is the Property described in Exhibit "A".

1.3.17 "**Lot**" That portion of the Property conveyed or to be conveyed by the Declarant to an individual Owner in fee simple. For the purposes of this Declaration, a Lot shall exist from and after the date of recording an instrument making such Lot subject to this Declaration.

1.3.18 "**Member**" means every Person who is a member of the Association.

1.3.19 "**Occupant**" means any Person, other than an Owner, in rightful possession of any portion of the Property, whether as a guest, tenant or otherwise.

1.3.20 "**Owner**" means the Record owner, whether one or more Persons or entities, of fee simple title, whether or not subject to any Mortgage, to any Lot which is a part of the Property, including contract purchasers but excluding those having such interest merely as security for the performance of an obligation. If fee simple title to any Lot is vested of Record in a trustee pursuant to Oregon law (as amended from time to time), legal title shall be deemed to be in the beneficiary.



1.3.21 **"Party Walls"** or **"Party Fences"** shall mean those walls and fences described in Section 2.10.

1.3.22 **"Person"** means an individual, corporation, partnership, trustee or other entity capable of holding title to real property, and their respective heirs, personal representatives, successors and assigns.

1.3.23 **"Private Roads"** and **"Private Streets"** are synonymous and mean any street, roadway, drive, sidewalk, walkway, path or other right-of-way within, or partly within, the Property which has not expressly been dedicated to the public use and is required to be maintained under this Declaration (including, but not limited to, the streets and rights-of-way within the Property designated as private access ways and private utility easements and which are not required to be maintained under any Declaration). In the event that the Board elects to dedicate or transfer a Private Road to public use, and expenses must be incurred for the purpose of bringing the Private Road into conformance with the specifications of the City, the expenses shall be considered costs of capital improvements and subject to the provisions hereof for Capital Improvement Assessments.

1.3.24 **"Project"** means the development and improvement of the Property which is subject to this Declaration, including all elements reasonable and necessary for its completion.

1.3.25 **"Property"** means the real property described in Exhibit "A" or as hereafter made subject to this Declaration together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.3.26 **"Record," "Recording," "Recorded" or "Recordation"** means an instrument of record in, or the act of recording an instrument with, the office of the County Clerk for Jackson County, Oregon, or other officer charged with the duty of recording and maintaining records for real property having jurisdiction of the Property.

1.3.27 **"Setback"** means the minimum distance between the Unit or other structure referred to and a given street, road or Lot line.

1.3.28 **"Single Family"** means one or more individuals, each related to the other by blood, marriage or legal adoption, living together as a "traditional" family. If two unmarried individuals are living together, all other persons living in the home must be related to at least one such individual by blood or legal adoption. "Single family" does not include any group home or similar uses, even though the individuals may have common needs or interests.

1.3.29 **"Turnover"** means the date at which the Declarant turns over responsibility for the administration of the Property to the Association.

1.3.30 **"Unit"** means any building or portion of a building situated upon a Lot, designed and intended for use and occupancy as a residence (by a Single Family).

1.3.31 "**Visible from Neighboring Property**" means that an object is or would be visible to a six-foot tall person standing at ground level on any part of the adjoining or neighboring property, or public right-of-way at an elevation no greater than the elevation of the base of the object being viewed, except where the object is visible solely through a view fence and would not be visible if the view fence were a solid fence.

1.3.32 "**Buffer Zone**" means the fifty-foot (50) Common Area agricultural buffer abutting the Roxy Ann Vineyard along the south side of the Property as depicted on Exhibit "A".

Terms used in this Declaration if not otherwise defined shall have the meaning ascribed to such terms in this Declaration.

## **ARTICLE II USE AND MAINTENANCE OBLIGATIONS**

The following covenants, conditions, restrictions, and reservations of easements and rights shall apply to all Lots and Common Areas, the Owners thereof, and all occupants thereof.

2.1 Land Use and Building Type. Lots and Units shall be used for residential purposes only, except as specifically provided for in this Declaration. No building shall be erected, altered, placed or permitted to remain on any Lot without the approval of the Architectural Control Committee ("ACC") per Article 8.2. One and two-story homes, in addition to a basement level, may be approved. All homes shall be constructed on site. Mobile and modular homes shall not be permitted. No building shall be occupied until the building is 100% complete.

2.1.1 Owners shall be obligated to construct a Unit and obtain a Certificate of Occupancy from the City within twenty-four (24) months from close of escrow. The ACC may extend this time in its sole discretion where an Owner has shown compelling circumstances justifying delay, and the Owner has taken reasonable steps to complete said construction.

2.1.2 The commencement of any construction prior to the written approval of the ACC, or the failure to obtain a Certificate of Occupancy within 24 months shall constitute violations of this Declaration and the Owner shall be subject to a penalty of \$1,000.00 per day for each day that the required plan review is in violation of this Declaration. All costs resulting from any required alteration to the plans by the ACC, including but not limited to construction, legal, architectural, engineering shall be the sole responsibility of the Lot Owner in violation of this requirement. Penalties imposed for such violations shall constitute a Reimbursement Assessment, as provided in Section 5.4.

2.2 Landscaping/Maintenance of Grounds. Each Owner shall maintain all paved, concrete and other synthetically surfaced areas, including, but not limited to, driveways, roadways and parking areas, in good condition and repair.

2.2.1 Park Strip/Landscape Plan. The improvement of all Lots shall incorporate a landscape plan. Landscaping shall be designed, installed, and completed pursuant to standards

adopted by the ACC and the landscape plan approved by the City of Medford, where applicable. The plan, including soil removal or additions and contour grading, shall be approved in writing by the ACC prior to commencement of any landscape work being done. The landscape plan shall include lawn in the park strips and in the front yard. The owner shall install the park strips and all landscaping within six (6) months from the date of completion of the Unit. Landscape plans shall include a drainage plan. All drainage plans must be designed to eliminate excess water pooling or excess drainage to adjacent lots. All proposed retaining and feature walls must be shown on the site plans and landscape plans.

2.2.2 Street Trees. Owners shall be required to plant street trees consistent with the landscape plan approved by the City of Medford. All required street trees shall be planted within thirty (30) days after completion of a Unit. Street trees are to be planted in conformity with the standards set forth by the City of Medford, the approved street tree plan, and the landscape plan approved by the ACC.

2.2.3 McAndrews Frontage Landscaping. In addition to the foregoing, Owners of Lots 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 95, which contain street frontage landscaping along McAndrews Road, shall be required to install a wrought iron fence at the back of the lot and in the location, and consistent with the plan, approved by the City of Medford. Maintenance of said frontage landscaping, including the fence, shall be the responsibility of the Association, by way of an easement granted for maintenance.

2.2.4 Penalty for Failure to Comply. In the event an Owner fails to install landscaping and street trees consistent with the standards adopted by the ACC, and/or fails to install within the aforementioned timeframe, the Declarant or the Association shall impose a penalty upon the Owner of \$500.00 per day for each day that the landscape and trees are in violation of said standards, or not installed within the requisite time, unless a variance is granted in writing from the ACC. Such penalty shall be charged as a Reimbursement Assessment as provided in Section 5.4.

2.2.5 Landscape Maintenance. Landscaping and street trees are to be well maintained by Owners and shall remain in conformance with the original approved plan unless changes are approved by the ACC. If the Owner(s) does not perform the required maintenance, the Declarant or the Association may perform the necessary maintenance and or changes necessary and shall charge the Owner for such costs as a Reimbursement Assessment as provided in Section 5.4. The Owner(s) who has failed to perform the required maintenance or changes as determined by the ACC shall be liable for all damages resulting therefrom, including, without limitation, all costs of completing the necessary maintenance or changes thereon.

2.3 Sidewalks. Within thirty (30) days after completion of a Unit, Owners are required to construct sidewalks along the front (and, in the case of corner Lots, along the front and side) of the Lot in conformity with the standards set forth by the City of Medford. Owners shall also install adequate sleeves under the sidewalk to allow for irrigation of the landscaping within the park strip. An easement (and/or right of way dedication) for sidewalk access and maintenance exists on all lots as shown on the final plat. All sidewalks will conform to City specifications and regulations. If an Owner, its representative, agent or employee, causes damage to any sidewalk located on or adjacent to such Owner's Lot, the Owner must repair or replace the sidewalk so that

it will be returned to its original condition. Sidewalk maintenance and repair including ice and snow removal are the Lot Owner's responsibility.

2.4 Signs. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the Property or carried by any person or by any other means displayed within the Property except the following:

2.4.1 For Sale or For Rent Signs. An Owner may erect one sign not exceeding 2 feet by 3 feet in area, fastened only to a stake in the ground and extending not more than 3 feet above the surface of the ground advertising the Lot for sale.

2.4.2 Declarant's Signs. The Declarant may erect signs or billboards.

2.4.3 Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs will not be erected more than 60 days in advance of the election to which they pertain and are removed within 15 days after the election, and so long as consistent with City of Medford ordinances.

2.4.4 School and Business Logos. Emblems or bumper stickers advertising a resident's school or business mounted upon vehicles parked or driven in the subdivision.

2.4.5 Such signs as may be required by legal proceedings, or prohibition of which is precluded by law.

2.4.6 Street and directional signs and such signs as may be required for traffic control and regulation of Common Areas.

2.4.7 As may be approved by the Association or Declarant; security monitoring signs - one per lot; and security monitoring window emblems - maximum of one per window.

Declarant, the Association and their agents will have the right to remove any sign, billboard, or other advertising structure that does not comply with the foregoing requirements; and in so doing, will not be subject to any liability in connection with such removal.

2.4.8 Flags and Flagpoles. Within the front yard area, but set back at least 15 feet from the front property line, Owners may display a standard sized American Flag from a wall mounted standard or from a residentially scaled flag pole, not to exceed 18 feet in height. Proper flag etiquette must be observed (flag not torn or faded, right side up, lighted at night etc.) Except as used by the Declarant, no advertising flagpoles, standards, flags, banners, balloons, billboards, flashing lights or lighted panel signs are allowed to be placed anywhere within the Property or in the public right-of-ways or landscape areas immediately adjacent to the Property.

2.4.9 Statues. Statues, lawn ornaments and yard decorations of any size or type must be placed so as not to be Visible from Neighboring Property. However, this restriction shall not apply to the display of exterior holiday decorations.



2.5 Antennae. Except as may otherwise be permitted by the ACC, subject to any guidelines or standards adopted by the ACC, no exterior radio antenna, television antennae, or other antennae, satellite dish, or audio or visual reception device of any type shall be placed, erected, or maintained on any Lot except inside a Unit concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction upon the Lots; and provided further, however, that the requirements of this subsection shall not apply to those "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended from time to time. As to "antennae" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 and/or applicable regulations, as amended, the Association shall be empowered to adopt rules and regulations governing the types of "antennae" (including certain satellite dishes) that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996 and/or applicable regulations, as amended, establishing reasonable, nondiscriminatory restrictions or requirements relating to appearance, safety, location and maintenance. Notwithstanding the above, a satellite dish antennae eighteen inches (18") in diameter or smaller may be installed (a) on the rear of the dwelling of a Lot or on the enclosed garage located on a Lot, and (b) at an elevation no higher than thirty-six inches (36") above the eaves of the roof. The satellite dish antennae should be in the least conspicuous location on the roof when viewed from the street in front of the dwelling from where an acceptable quality signal can be received, or in the rear yard of the Lot with landscape screening and with approval of the ACC.

2.6 Gas Containers. Propane and butane and other compressed or liquid gas containers larger than 20 pound capacity are prohibited, unless approved in writing by the ACC.

2.7 Clothes Hanging Devices. No clothes hanging devices exterior to a dwelling are to be constructed on the Lot except those of a temporary nature that are screened from view from the front of the Lot.

2.8 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, landscaping or other improvements; or (b) that which Declarant or the Association may require for the operation and maintenance of the Property.

2.9 Approvals. Walls, fences, porches and patios must be pre-approved by the ACC, except the wrought iron fencing along the McAndrews Road frontage, which has been approved by the City of Medford.

2.10 Party Fences and Party Walls. For purposes of this Declaration, Party Walls and Party Fences shall mean those walls and fences that are generally characterized by one of the following:

2.10.1 Any wall or fence which lies over the line dividing one piece of real property from another piece of real property owned by a different Person, with some portion of the wall or fence falling on each side of the dividing line;

2.10.2 Any wall or fence which lies immediately adjacent to and abutting (but not over) such a dividing line so that the edge of the wall or fence closest to the dividing line falls at or forms the dividing line; or

2.10.3 Any wall or fence which forms part of one continuous structure running across more than one Lot without a physical break or separation occurring at property lines.

2.10.4 Except as hereinafter provided, the rights and duties of Owners with respect to Party Walls and Party Fences between Lots shall be as follows:

(a) The Owners of contiguous Lots who have a Party Wall or Party Fence shall both equally have the right to use such wall or fence, provided that such use by one Owner does not interfere with the use and enjoyment of the wall or fence by the other Owner.

(b) In the event that any Party Wall or Party Fence is damaged or destroyed through the act of an Owner or any Occupants, agents, guests or invitees of the Owner, or members of the Owner's family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Party Wall or Party Fence without cost to the Owner of the adjoining Lot. Any dispute over an Owner's liability for such damage shall be resolved as provided in paragraph (c) below, but any liability imposed on an Owner hereunder shall not prevent the Owner from seeking indemnity therefore from the Persons causing such damage.

(c) In the event any Party Wall or Party Fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, or any Occupants, agents, guests or invitees of the Owner or members of the Owner's family, it shall be the obligation of all Owners whose Lots adjoin the Party Wall or Party Fence to rebuild and repair it at their joint expense, with the expense being allocated among the Owners in accordance with the frontage of their Lots on the Party Wall or Party Fence.

(d) Notwithstanding anything to the contrary herein, there shall be no impairment of the structural integrity of any Party Wall or Party Fence without the prior consent of all Owners of any interest therein, whether by way of easement, fee or otherwise.

(e) Any dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall or Party Fence, or with respect to the sharing of the cost thereof, shall be submitted to the Board, the decision of which shall be binding. Anything in the foregoing to the contrary notwithstanding:

(f) In the case of Party Walls and Party Fences between Common Areas and Lots, or constructed by Declarant or the Association on Common Areas within a Lot, the Association shall be responsible for all maintenance thereof, except that each Owner of a Lot shall be responsible for patching, painting or otherwise maintaining the portion of any Party Fence or Party Wall facing his Lot or the portion thereof which is not a portion of the Common Area. Notwithstanding the foregoing, in the event that any Party Wall or Party Fence is damaged or destroyed through the act of an Owner or any Occupants, agents, guests or invitees of the



Owner, or members of the Owner's family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Party Wall or Party Fence without cost to the Association.

2.11 Retaining Walls and Side Yard Walls and Fences. Retaining walls and side yard walls and fences shall not be removed. Any retaining wall or property line wall constructed on side lot lines adjacent to another Lot must comply with the design guidelines established by the ACC.

2.12 Parking/Vehicles

2.12.1 Campers, Boats, Snowmobiles, and Recreational Vehicles. No campers, boats, marine craft, hovercraft, boat trailers, travel trailers, motor homes, snowmobiles, camper bodies, golf carts, and other types of recreational vehicles and non-passenger vehicles, equipment, implements or accessories may be kept on any Lot unless the same are fully enclosed within an enclosed garage or similar structure located on such Lot, and said vehicles and accessories are in operable condition. The ACC, as designated in this Declaration, will have the absolute authority to determine from time to time whether a vehicle and/or accessory is operable and fully enclosed. Upon an adverse determination by said ACC, the vehicle and/or accessory will be removed and/or otherwise brought into compliance with this subsection. No dismantling or assembling of motor vehicles, boats, trailers, snow mobiles, recreational vehicles, or other machinery or equipment will be permitted in any driveway or yard adjacent to a street. This Section shall not apply to emergency vehicle repairs. Notwithstanding the foregoing, short term, infrequent parking (not to exceed 24 hours in any 30-day period) is permitted for loading, unloading, and cleaning of said vehicles.

2.12.2 No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, the Common Maintenance Areas or on any easement unless such vehicle, trailer, implement or apparatus is in use for maintaining such area or easement, provided, however, that this restriction will not apply to driveways or streets intended for vehicular use.

2.12.3 Commercial Vehicles. No commercial vehicle with a gross vehicle weight ratio greater than one (1) ton will be parked on any street right-of-way or Lot except within an enclosed structure which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity. No trucks or vehicles of any size, which transport flammable or explosive cargo, may be kept on the Property at any time. No vehicles or similar equipment may be parked on the landscaped areas of any Lot or Common Area.

2.12.4 Motor Vehicles. No vehicles or similar equipment will be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks, and pick-up trucks with attached bed campers that are in operating condition and have current license plates and are in daily use as motor vehicles on the streets and highways of the State of Oregon. No abandoned, derelict or inoperable vehicles may be stored or located on any Lot or street.

2.12.5 Unused Vehicles. No unused automobiles or vehicles of any kind shall be stored or parked on any Lot except in an enclosed garage. An "unused vehicle" shall be defined as any vehicle which has not been driven under its own power of a period of thirty (30) consecutive days or longer. In the event any unused vehicle remains parked on any tract or Lot within the Property boundaries, the Declarant or the Association shall have the right to remove the same after forty-eight (48) hours notice to the owner thereof, the expenses to be charged against the owner thereof, and such charges shall become Reimbursement Assessments against the Lot Owner.

2.13 Garbage. No garbage or trash shall be kept, maintained or contained in or upon the Property so as to be visible from a Lot or the Common Areas or the street except temporarily, in containers approved by Association Rules or the City Waste Management Contractor, for the day of pickup. No incinerators shall be kept or maintained on the Property and no trash or garbage shall be burned on the premises. No refuse pile, garbage, compost pile or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on the Property. No cans, bags, containers or receptacles for the storing or disposal of trash, garbage, refuse, rubble, or debris will be stored, kept, placed or maintained on any Lot where visible from any street except solely on a day designated for removal of garbage and rubbish and on which days only such cans, bags, containers, and receptacles may be placed in front of a residence and beside a street for removal but will be removed from view before the following day. Materials incident to construction of improvements may be stored on Lots during construction by Declarant. Notwithstanding the foregoing, the ACC may (but shall not be obligated to) designate one or more locations within the Property to be centralized collection points for recycling of trash, garbage, or similarly reusable materials.

2.13.1 In the event any Owner fails to remove debris or unsightly material, the Declarant or the Association may remove said debris or unsightly material and assess the cost of removal, including reasonable overhead charge, against the Owner as a Reimbursement Assessment.

2.14 Unsightly or Unkempt Conditions. All portions of a Lot outside enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate within, upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Property.

2.14.1 Woodpiles or other material shall be stored in a manner so as not to be Visible from Neighboring Property and not to be attractive to rodents, snakes, and other animals and to minimize the potential danger from fires.

2.14.2 No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any person or property.

2.14.3 Storage (except in approved structures or containers) of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels on the Common Area (except by the Association), or, if not in active use, any portion of a Lot which is visible from outside the Lot is prohibited. No machinery or equipment of any kind shall be placed, operated or maintained

upon or adjacent to any Lot or Parcel, except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction or modification) of a building, appurtenant structures of other Improvements; and (b) that which Declarant or Association may permit or require for the development, operation and maintenance of the Property.

2.15 Air-Conditioning Units. No air-conditioning or heat pump apparatus will be installed on the ground in front of a residence nor will any air-conditioning apparatus or evaporative cooler be attached to any front wall or any window of a residence.

2.16 Commercial or Institutional Use. No Lot, and no building erected or maintained on any Lot, shall be used for manufacturing, industrial, business, professional, commercial, institutional or other non-residential purposes. Nothing in this Section shall prohibit an Owner's use of a residence for conducting a "Business Use" as that term is defined in Section 1.3.7.

2.16.1 This Section shall not apply to restrict Declarant's activities in the Property, nor shall it restrict the activities of persons approved by Declarant involved with the development and sale of property in the Property. Additionally, this Section shall not apply to any Association activity relating to operating and maintaining the Property, including, if any, the Property's recreational and other amenities.

2.16.2 Leasing a Unit for a period of at least six (6) months is not a "business" within the restrictions of this subsection.

2.17 Detached Buildings. No detached accessory buildings, including, but not limited to, detached garages (other than provided herein) and storage buildings, will be erected, placed or constructed upon any Lot without the prior consent of the ACC. Every outbuilding, inclusive of such structures as a storage building, or greenhouse will be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. Exterior paint and roofing materials of such outbuildings shall be consistent with the existing paint and roofing materials of the dwelling.

2.18 Window Treatment. No aluminum foil, reflective film or similar treatment will be placed on windows or glass doors. Temporary window treatments must be removed within forty-five (45) days from close of escrow.

2.19 Athletic and Recreational Facilities. Outdoor athletic and recreational facilities such as playscapes, swing sets and sport courts of a permanent nature will not be placed on any Lot within the Property between the street right-of-way and the front of a Unit unless approved by the ACC. Notwithstanding the foregoing, portable basketball goals may be permitted if the pole mounted on the side of a driveway or sports court and portable basketball goals may be temporarily placed adjacent to the driveway but within the Lot, subject to Board-adopted rules and regulations.

2.20 Security. The Association is not responsible for security of any Lot or any Unit and each Owner and occupant of a Lot, and their respective guests and invitees, is responsible for their

own personal safety and the security of their property. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to enhance the level of safety or security, which each person provides for himself and his property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security nor ineffectiveness of security measures undertaken.

2.21 Security Waiver of Liability. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its Tenants and all occupants of its Lot that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

2.22 Prohibited Structures. The following structures are prohibited on any Lot:

2.22.1 Dog Runs and animal pens of any kind, if such structures are Visible from Neighboring Property;

2.22.2 Temporary Structures, including, without limiting the generality thereof, any trailer, tent, shack, garage, barn, motor home or mobile home or other outbuilding, and no prefabricated or relocated structure shall be used on any Lot at any time as a residence, either temporarily or permanently. This restriction shall not be interpreted to limit the right of Declarant or any Builder to use trailers or outbuildings as sales offices, selection center offices, construction offices or material storage facilities.

2.23 Occupants Bound. The Governing Documents apply to all occupants of and visitors to any Lot. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents/Use Restrictions and shall be responsible for all violations and losses to the Common Area caused by such persons, notwithstanding the fact that such persons also are fully liable and may be sanctioned for any violation.

2.24 Pool Equipment. All pool equipment stored on any Lot shall be screened so as to be neither Visible from Neighboring Property nor able to be seen through any view fence.

2.25 Repair of Building. No building or structure on the Property shall be permitted to fall into disrepair. Each such building and structure shall at all times be kept by the Owner in good condition and repair and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Article VIII, such building or structure shall be promptly repaired or rebuilt, or shall be removed within twelve (12) months of the incident and the portion of the Property upon which such improvements were located shall be cleared and restored to a presentable and safe condition.



2.26 Violation of Law. No Owner shall permit anything to be done or kept in or upon his Lot or in or upon any Common Areas that will result in the violation of any law or other applicable requirement of governmental authorities.

2.27 Animals. No animals, including, but not limited to, horses or other domestic farm animals, fowl or poisonous reptiles of any kind, may be kept, bred or maintained in any Lot or in or upon any Common Area, except a reasonable number of commonly accepted household pets as determined in the Board's discretion. No animals shall be kept, bred or raised within the Property for commercial purposes. In no event shall any domestic pet, to include cats, be allowed to run free away from its owner's Lot without a leash, or conduct itself so as to create an unreasonable annoyance. All City and County animal and animal control ordinances shall be complied with. Pets which are permitted to roam free, or, in the Association's sole discretion, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to other Owners or residents of any portion of the Property shall be removed upon the Board's request at the Owner's expense. If the Owner fails to honor such request, the Board may cause the pet to be removed at the Owner's expense.

2.28 Nuisances. No Owner shall permit or suffer anything to be done or kept about or within his Lot, or on or about the Property, which will obstruct or interfere with the rights of Declarant, other Owners, Occupants or authorized Persons to use and enjoy the Common Areas, or annoy them by unreasonable noises or otherwise, nor shall an Owner commit or permit any nuisance. The foregoing shall include a prohibition against speakers, horns, whistles, bells or other devices, except security devices used solely for security purposes, which are audible from neighboring lots. No Owner shall engage in any activity which materially disturbs or destroys the vegetation, wildlife, or air quality within the Property or which results in unreasonable levels of sound or light pollution. Nothing shall be done or maintained on any part of a Lot that emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace, quiet, safety, comfort, or serenity of the occupants and invitees of other Lots. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, which in the Board's reasonable determination tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants and invitees of other Lots.

2.28.1 Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration unless they are in violation of the Design Guidelines or requirements of the ACC. The Board, in its sole discretion and power, but subject to the provisions hereof, shall have the right to determine the existence of any unreasonable annoyance or nuisance under this Declaration.

2.29 Leasing. For purposes of this Declaration, "leasing" is defined as regular, exclusive occupancy of a home by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or compensation. A Lot may be leased only in its entirety (e.g., separate rooms within the same home may not be separately leased). No fraction or portion may be leased.

2.29.1 No structure on a Lot other than the primary home shall be leased or otherwise occupied for residential purposes, except that structures used for ancillary purposes, such as an "in-law suite" or detached "guest house," may be occupied, but not independently leased. There shall be no subleasing of a home or assignment of leases except with the Board's prior written approval.

2.29.2 All leases shall require that Tenants and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents. The restrictions on lease terms set forth in this paragraph shall not apply to Lots owned by Declarant.

2.29.3 A copy of the lease, receipt signed by tenant acknowledging receipt of the governing documents and agreement to abide by same and address and contact information of the property owner together with such other additional information as the Board may require, shall be given to the Board or its designee by the Owner within ten days of execution of the lease. The Board may adopt reasonable use restrictions and rules regulating leasing and subleasing and the activities of Tenants and subtenants.

2.29.4 No transient Tenants may be accommodated in a home. All leases, including approved subleases, shall be in writing and shall be for an initial term of at least six (6) months, except with the Board's prior written consent.

2.30 Lights. No spotlights, flood lights, neon lamps, mercury lights or other high intensity lighting shall be placed or utilized upon any Lot which, in any manner, will allow light to be directed or reflected on the Common Areas, or any part thereof, or any other Lot or Parcel, except as may be expressly permitted by the Association Rules or the Design Guidelines. All exterior lighting shall be maintained and installed to minimize light pollution.

2.30.1 Pedestrian-Scale Street Lights. All Owners shall be required to install a pedestrian-scale street light on each Lot located within the front-yard setback, at the entrance to the driveway. The light shall be of the type, and in the location, as approved in the Master Landscape Plan.

2.31 Exterior Holiday Decorations. Lights or decorations may be erected on the exterior of Homes in commemoration or celebration of publicly observed holidays provided that such lights or decorations do not unreasonably disturb the peaceful enjoyment of adjacent Owners by illuminating bedrooms, creating noise or attracting sightseers. All lights and decorations must be removed within thirty (30) days after the holiday has ended. Christmas decorations or lights may not be displayed prior to November 1st of any year. For other holidays, decorations or lights may not be displayed more than four (4) weeks in advance of the holiday. The Association will have the right, upon thirty (30) days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The Association, and the individuals removing the lights and decorations, will not be liable to the Owner for trespass, conversion or damages of any kind except in the case of intentional misdeeds and gross negligence.



2.32 Garage Doors.

2.32.1 Garages and Driveways. Garages may be used as a builder's sales offices prior to permanent occupancy of the main structure; and sales offices will be converted to garages prior to permanent occupancy. With the exception of periods when garages are used by Builders as sales offices, all garages will be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation, office, or business purposes.

2.32.2 Garage doors will be kept closed at all times except when in immediate use.

2.32.3 No carport will be permitted on a Lot.

2.33 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind will be permitted upon or in any Lot, nor will oil wells, tanks, tunnels, mineral, including gravel and sand, excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas will be erected, maintained or permitted upon any Lot. No tank for the storage of oil or other fluids may be maintained on any of the Lots above the surface of the ground.

2.34 Mineral Exploration. No Lot or other Property shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, sand, gravel, gas, earth or any earth substance of any kind, except for the drilling, operation and maintenance of any testing, inspection or other water wells approved by the Declarant.

2.35 Fires. Other than barbecues, in properly constructed barbecue pits or grills, and fire pits in compliance with the Association Rules and the Design Guidelines, or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Property nor shall any other similar activity or condition be permitted.

2.36 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction which would interrupt the normal drainage of the land or within any area designated by Recorded plat, or other Recorded instrument, as a "drainage easement" except that, with the prior consent of the County and the ACC, nonpermanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities.

2.37 Diseases and Insects. No Owner shall permit any thing or condition to exist upon the Property which shall induce, breed or harbor infectious plant disease or noxious insects.

2.38 Restriction on Further Subdivision, Property Restrictions and Rezoning.

2.38.1 No Single Family lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board. However, this restriction shall not apply where part of a Lot is transferred to an adjacent Lot Owner for the purpose of increasing the size of the adjacent Lot. This

provision shall not, in any way, limit Declarant from (a) re-platting, subdividing or separating into Lots any property at any time owned by Declarant, or (b) Recording an instrument to fix the location of any easement reserved by Declarant in this Declaration not previously depicted with certainty on a plat, map or other instrument of Record.

2.38.2 No further covenants, conditions, restrictions or easements shall be Recorded by any Owner (except Declarant) or other Person against any Lot without the provisions thereof having been first approved in writing by the Board and Declarant (until Turnover occurs and Declarant no longer owns any property subject to this Declaration) for consistency with this Declaration and the general plan of development for the project reflected by this Declaration and the Development Plan. Any covenants, conditions, restrictions or easements Recorded without such approval being evidenced thereon shall be null and void.

2.38.3 No application for rezoning of any Lot or Parcel, and no application for any variance or use permit, shall be filed with any governmental authority by any Owner (except Declarant) unless the proposed use of the Lot has been approved by the Board and the proposed use otherwise complies with this Declaration.

2.38.4 An Owner may own more than one Lot, which if contiguous, may be combined into a single Lot with the consent of the City and the Board and Declarant (until the Declarant no longer owns any property subject to this Declaration). However, any such combination of Lots, except as hereinafter provided, shall not reduce or alter the voting rights obtained by ownership of each Lot nor shall it reduce or otherwise alter the total assessment for each Lot. The Owner of such Lots will be entitled to one Membership in the Association for each Lot that was combined (so long as Memberships may be held by Owners hereunder). The combined Assessments attributable to each of the former separate Lots shall be attributable to the entire combination of Lots and the entire combination shall be subject to the Assessment Lien.

2.39 Utility Service. No lines, wires, or other services for the communication or transmission of electric current or power or electromagnetic impulses, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the Property unless they are contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the ACC. Notwithstanding the foregoing but subject to any applicable requirements of the City, the ACC may authorize the erection of microwave towers and similar structures on Association Land for centralized reception, transmission and retransmission of microwave and similar signals. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the ACC. No individual water supply system or sewage disposal system will be permitted on any Lot, including, but not limited to, water wells, cesspools or septic tanks.

2.40 Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way, intersection, adjacent Lot, or other Common Area from ground level to a height of eight feet without the prior approval of the ACC.

2.41 Health, Safety and Welfare. In the event any uses, activities, and facilities are deemed by the Board to be an unreasonable annoyance or a nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Board may make such rules restricting or regulating their presence on the Property as part of the Association Rules or may direct the ACC to make rules governing their presence on Lots as part of the Design Guidelines. Any such rules shall be consistent with the provisions of this Declaration.

2.42 Model Homes. The provisions of this Declaration which prohibits nonresidential use of Lots and regulates parking of vehicles shall not prohibit the construction and maintenance of model homes by Persons engaged in the construction of homes on the Property and parking incidental to the visiting of such model homes so long as the location of such model homes is approved by the ACC, the opening and closing hours are approved by the Board, and the construction, operation (including means of access thereto, amount of lighting and number and appearance of signs) and maintenance of such model homes otherwise comply with all of the provisions of this Declaration and the Association Rules. The ACC may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of the County and any rules of the ACC.

Any homes constructed as model homes shall cease to be used as model homes at any time the Owner or Occupant thereof is not actively engaged in the construction and sale of single family residences on the Property or the Project and no home shall be used as a model home for the sale of homes not located on the Project. Notwithstanding the foregoing, the provisions of this Section shall at all times be subject and subordinate to the provisions of Section 10.3.

2.43 Safe Condition. Without limiting any other provision in this Section, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners and Occupants of their respective Lots or the Common Areas.

2.44 Easements. For Lots 10-22, as designated on the final plat, Owners shall be prohibited from modifying any slope easement without the prior approval of the ACC and the City of Medford Public Works Department.

2.45 Fire Access/Sprinkler Requirements. Lots 68, 69, 70, 71, 72, 87, 88, 89, 90, 91, 92, 93, 95 and 98 shall be required to completely protect the Unit with an approved automatic fire sprinkler system if any portion of the exterior wall of the first story of the building is located more than 150-feet from fire apparatus access as measured by an approved route around the exterior of the building.

2.46 Right of Inspection. Upon twenty-four (24) hours written notice (emergencies excepted) and during reasonable hours, any authorized member of the Board, or any authorized representative of the Board, shall have the right to enter upon and inspect the Lot and the exterior of the Dwelling Unit or any of the improvements thereon for the purpose of ascertaining whether or not the provisions of these Restrictions, the Bylaws and the rules and regulations adopted by the Board, have been or are being complied with, and such persons shall not be deemed guilty of

trespass by reason of such entry or inspection. If such inspection is made by the ACC upon authorization by the Board, a report shall be made to the Board which will decide the action to be taken. These rights shall be exercised in such a manner as to reasonably minimize any adverse impact upon the Owner's right to enjoyment of his Lot.

2.47 Penalties for Violations. The Board may adopt a schedule of penalties which shall be imposed upon Owners for violations of the requirements and restrictions set forth in this Section 2, the remainder of this Declaration and the Bylaws of the Association. Following the adoption or revision of such schedule and at least thirty (30) days prior to the imposition of any penalties pursuant to such schedule, the Board shall cause a copy of the schedule to be mailed to all Owners. The penalties may be imposed with or without further notice as provided in the schedule of penalties. Penalties imposed for such violations shall constitute a Reimbursement Assessment, as provided in Section 5.4.

### **ARTICLE III MEMBER ASSOCIATION**

3.1 Purpose of Association. The Association is to be incorporated as a nonprofit corporation to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Property, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles, Bylaws, Association Rules and Design Guidelines. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the benefit of Owners in accordance with the provisions of this Declaration, the Articles and the Bylaws.

3.2 Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration, the Association and its directors, officers, employees, agents and Members shall have such rights and powers as are set forth in the Articles and Bylaws and are not inconsistent with law or this Declaration. Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person could do or which now or hereafter may be authorized by law, provided the Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient in furtherance of the purposes set forth in this Declaration. A copy of the Articles and Bylaws shall be available for inspection at the office of the Association during reasonable business hours.

3.3 Initial Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws and this Declaration. The initial Board shall be composed of three (3) members appointed by Declarant. Thereafter, the Board shall be elected as provided in the Bylaws. The Board may also appoint various committees (which may consist, in whole or in part, of individuals who are not on the Board) and may appoint a manager or managing agent who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager or managing agent.



3.4 Association Rules. The Board shall be empowered to adopt, amend and repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules"). The Association Rules may include the establishment of a system of fines and penalties enforceable as Reimbursement Charges. The Association Rules shall govern such matters in furtherance of the purposes of the Association including, but not limited to, the use of the Common Areas. In the event of any conflict between any provision of the Association Rules and any provisions of this Declaration, or the Articles, Bylaws or Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of (and in the following order of importance) this Declaration, the Articles, Bylaws or Design Guidelines to the extent of any such conflict and in that order. Upon such mailing or delivery, the Association Rules shall have the same force and effect as if set forth in and a part of this Declaration. The Association Rules shall not materially change the rights, preferences or privileges of any person, or the restrictions on any Lot, as herein set forth.

3.5 Manager or Managing Agent. All powers, duties and rights of the Association or the Board, as provided by law and herein, may be delegated to an individual or corporate manager or managing agent; provided, however, that no such delegation shall relieve the Association of its obligation to perform any such delegated duty. Any agreement for management, or any other contract providing for services to the Association, shall not exceed a term of three years, which term may be renewed by agreement of the parties for successive one-year periods. Any such contract shall be subject to termination by either party without cause upon 30 days written notice to the other party.

3.6 Rights of Enforcement. The Board shall have the first right to enforce the provisions of this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument relating to the Property which (a) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced either by the Association or by Declarant. If, however, both the Board and the Declarant fail or refuse to enforce this Declaration or any provision thereof after reasonably informative written notice of a violation of these Declarations is provided to them, then an Owner may enforce them on behalf of the Association by any appropriate legal action, whether at law or in equity and the Association and the Declarant may pursue whatever rights and remedies might be available to them at law or in equity.

3.7 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Board may enter into contracts and transactions with others, including Declarant and any affiliated Persons, for the performance of the Association's duties and other purposes consistent with the Declaration, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee may be employed by or otherwise connected with Declarant or any affiliated Person, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or

committee of which he is a member, which shall authorize any contract or transaction described above or grant or deny any approval sought by Declarant or other Person, and may vote thereon to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

3.8 Change of Use of Association Land. Prior to Turnover, without the approval or consent of any Member or other Person; and after Turnover, upon (a) adoption of a resolution by the Board stating that, in the Board's opinion, the then present use of a designated part of the Association Land or of the Association's interest in other Common Areas is no longer in the best interest of the Owners and Occupants or no longer necessary or appropriate for the purposes intended, and with (b) the approval of such resolution by a Majority of Members (excluding Declarant) who are voting in person or by proxy at a meeting duly called for such purpose, and (c) the consent of Declarant (so long as Declarant owns any property subject to the Declaration); the Board shall have the power and right to sell, exchange, convey or abandon such Association Land or interest or change the use thereof (and, in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided that any such new use (i) shall be for the benefit of the Owners and Occupants, (ii) shall be consistent with any deed restrictions (and zoning regulations) restricting or limiting the use of the Association Land, and (iii) shall be consistent with the then effective Development Plan. Notwithstanding the foregoing, if the Board determines, and the resolution of the Board recites, that any transaction involving the disposition or exchange of Association Land or the interest of the Association in Common Areas will not have an adverse effect on the Association and the Owners and Occupants of the Property, the Board may, in lieu of calling a meeting pursuant to (b) above, give notice to all Members of the proposed transaction and of any right to object thereto which might be available hereunder and, if no more than 20% of the Members object in writing to the Association within 30 days after the giving of such notice, the transaction shall be deemed approved by the Members and a meeting of the Members shall not be necessary. Notwithstanding the foregoing, any modification, closure, removal, elimination or discontinuance other than on a temporary basis of a pool, spa or recreation or community building must be approved by a majority of Owners at a meeting or by written ballot.

3.9 Purposes for which Association's Funds may be Used. The Association, except as otherwise permitted in this Declaration, shall apply all funds collected and received by it (including Assessments, Reimbursement Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Property and the Owners and Occupants by devoting said funds and property, among other things, to the Common Expenses. Notwithstanding such requirements, all funds of the Association shall be deemed to be the sole property of the Association in its corporate capacity, and not trust funds, and the Association shall not be deemed to hold any such funds as trustee or in any fiduciary capacity, except as expressly provided herein. The Association also may expend its funds for any purposes which any municipality in the State of Oregon may expend its funds under the laws of the State of Oregon or such municipality's charter.

3.9.1 Operating Funds. The Association shall establish and maintain an operating fund into which shall be deposited all monies paid to the Association as regular, capital improvement



and reimbursement Assessments and miscellaneous fees, and from which fund the Association shall make disbursements in the performance of its rights and duties as provided for in this Declaration.

3.9.2 Reserve Fund. The Association shall also establish and maintain a reserve fund for replacement of all items of common property which will normally require replacement, in whole or in part, in more than three (3) and less than thirty (30) years. The items may be identified in the reserve account as those which are insurable by a common carrier of all-purpose risk insurance.

3.9.3 The operating fund and the reserve fund shall be kept in separate accounts.

3.9.4 All expenses of the Association for its performance of its rights and duties under this Declaration shall be paid from the operating fund and the reserve fund and shall be shared among the Owners as provided for the payment of assessments in this Article 3. All profits of the Association shall be deposited in the operating fund and reserve fund as may be determined by the Board and shall be shared equally by the Owners.

#### **ARTICLE IV MEMBERSHIPS AND VOTING**

4.1 Transfer of Membership. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be affected by deed, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Oregon. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to the Lot to the new Owner(s) thereof.

4.2 Use of Membership: Designees. The Board may provide in its rules or Bylaws for the use of Designees and/or proxies by Members.

4.3 Memberships. Every Owner shall be a Member of the Association, and such membership shall be appurtenant to, and inseparable from, ownership of a Lot. There shall be only one membership per Lot. If a Lot is owned by more than one person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 4.4 and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

#### 4.4 Voting.

4.4.1 Members Entitled to Vote . Only Members of the Association shall be entitled to vote. The voting privileges of each Class of Members shall be as provided herein. Any action by the Association which must have the approval of the Association membership before being undertaken shall expressly require the vote or written assent of a prescribed percentage of the total voting power of the Association, as more particularly stated within the Declaration.

(1) Class A Members. Class A Members shall have one (1) vote for each Lot. When more than one person owns a single Lot, all Owners shall be members of the Association. However, the vote for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner (or Owners) casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner(s) was acting with the authority and consent of any other Owners of said Lot. The right to vote may not be severed or separated from the lot ownership to which it is appurtenant, and any sale, transfer, or conveyance of such Lot to a new Owner or Owners shall operate to transfer the appurtenant vote without the requirement of any express reference thereto.

(2) Class B Member. The Class B Member shall be the Declarant, its successors and assigns. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership as provided in Section 4.3 above.

4.4.2 In determining the votes outstanding, all Lots which may have then become part of the Project and on which assessments have commenced, as provided for herein, shall be counted, whether or not all such Lots are all owned by Declarant or have been improved with a Unit. Class B membership shall be converted to Class A membership and shall forever cease to exist at Turnover.

4.4.3 Voting Procedures. Any vote may be cast in person or by proxy. All proxies shall be in writing, dated, signed by the Owners giving the proxy and filed with the Secretary before the commencement of any meeting. A proxy shall terminate eleven (11) months after its date unless the proxy specifies a shorter term. Every proxy shall automatically cease upon the sale of the Lot by the Owner and upon the death or incapacity of the Member who executed the proxy.

4.4.4 Declarant's Right To Vote. Notwithstanding any other provision of this Declaration, and except as provided in Section 10.5, any provision of this Declaration which provides for approval by a prescribed percentage of Members' votes, other than the Declarant, shall be effective and construed also to require the affirmative vote of a majority of the total votes of all Members, including the Declarant.

4.4.5 Suspension of Voting Rights . The voting rights of an Owner shall be suspended during such period as any assessment due hereunder from such Owner remains unpaid; provided, however, that the Board shall give any such Owner at least fifteen (15) days notice prior to such suspension, and such Owner shall be entitled to a hearing before the Board in accord with the Bylaws.

## ARTICLE V ASSESSMENTS

5.1 Creation of Assessments. There are hereby created Assessments for Association expenses as the Board may specifically authorize from time to time. Each owner by accepting a Deed or entering into a recorded Real Estate Contract for any portion of the Property, is deemed to covenant and agreed to pay these assessments.

5.1.1 There shall be four (4) types of assessments:

- (a) Regular Assessments.
- (b) Capital Improvement Assessments;
- (c) Special Assessments; and
- (d) Reimbursement Assessments.

5.2 Regular Assessments. Within sixty (60) days prior to the beginning of each fiscal year, the Board shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its rights and duties under this Declaration, which benefit the Association or all Owners, in general, as opposed to direct benefit to a Lot or the Owners of a Lot, including a reasonable provision for unanticipated expenses and replacements and less any anticipated surplus from the prior year's fund. Within thirty (30) days after adopting a proposed annual budget for the Association, the Board shall provide a summary of the budget to all Owners. The Board may not, without the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant, impose a regular annual assessment per Lot which is more than twenty percent (20%) greater than the regular assessment for the immediately preceding fiscal year. Such estimated amount shall be assessed equally to the Owners. The amount per Lot so assessed to each Owner is called "the Regular Assessment."

5.2.1 So long as the Declarant owns any land located within the Property, the Declarant may, but shall not be obligated to, bear a portion of the Regular Assessments for any year by payment of a subsidy which may be treated as either a contribution or an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be conspicuously disclosed as a line item in the Common Expense budget and the treatment of such subsidy shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

5.2.2 There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of a Member as provided for special meetings in the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the notice of assessments.

5.2.3 In computing the applicable percentage of the new annual assessment, any increase due to an increase in utility charges, which term includes charges for wet and dry utilities including but not limited to water, sewer, rubbish, gas, electricity, phone services, cable services, high speed data communication services, and satellite services, shall not be included, but shall be automatically passed on as part of the assessment.

5.3 Special or Emergency Assessments. In addition to the Regular Assessments, the Board may levy during any fiscal year a Special or Emergency assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair of any common watered areas or utilities, unexpected repair or replacement of the Common Area, including the necessary fixtures and personal property related thereto, or any extraordinary expense not contemplated by this Declaration of whatsoever nature which results in a benefit to the Association or all Owners, in general, as opposed to a direct benefit to a Lot or the Owners of a Lot, provided that, in any fiscal year, the Board may not, without the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant levy Special or Emergency assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. No Special or Emergency assessment shall be levied with respect to the initial construction of the Common Area, or with respect to the construction by the Declarant of additional Common Area hereafter annexed to the Project and made subject to this Declaration, it being understood that all such construction shall be at the sole cost and expense of the Declarant. Except as otherwise provided herein, Special and Emergency assessments shall be assessed to the Owners equally and shall be paid as the Board shall determine.

The provisions herein with respect to Special and Emergency assessments do not apply in the case where the assessment against a member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the Member and his Lot into compliance with the provisions of this Declaration or the Bylaws.

5.4 Reimbursement Assessments. The Board may levy, during any fiscal year, Reimbursement Assessments for the purpose of defraying all costs and expenses incurred by the Association for the repair or maintenance necessitated by the failure of an Owner or tenant to maintain a Dwelling Unit or Lot and by the failure or breach by an Owner of the provisions of this Declaration, Association Rules or Bylaws and for the purpose of imposing penalties for violations of the provisions of this Declaration.

5.5 Payment of Assessments. Each Owner shall be obligated to pay Regular Annual Assessments made pursuant to this Section 5 to the Association on or before the first day of January, in advance, or in such other manner as the Board shall designate. The Board shall provide each Owner with a statement of such assessment within thirty (30) days prior to the beginning of each fiscal year, but shall not be obligated to provide monthly statements to any Owner thereafter. Special or Emergency Assessments and Reimbursement Assessments shall be payable in such manner as the Board shall designate. A delinquent payment on an assessment shall accrue interest at the rate of twelve (12%) per annum commencing ten (10) days following



the due date of the payment. In addition, a late fee of \$50.00 per month, for each month that the assessment is not paid shall be charged to cover administration expenses. Accrued interest and late fees shall be deemed part of the assessment.

5.6 Commencement of Assessments. The Regular Assessments shall commence upon the close of the sale of the first Lot to someone other than Declarant. The first Regular Assessment shall be adjusted according to the number of months remaining in the fiscal year. The initial payment due with respect to a partial month from an Owner, other than Declarant, shall be prorated as of the close of escrow for the purchase of such Owner's Lot. All other assessments shall commence as the Board shall determine. The Association shall, within ten (10) days after demand and upon payment of a reasonable fee as determined by Resolution of the Board, furnish to an Owner a certificate signed by an officer of the Association stating whether assessments on his Lot have been paid.

5.7 Covenant to Pay Assessments. Declarant covenants for each Lot owned, and each Owner, other than Declarant, by acceptance of a deed to a Lot, shall be deemed to covenant to pay assessments levied in accordance with Section 5.

5.8 Enforcement. Each assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the person who was the Owner of such Lot at the time such assessment became due and payable. In the event of a default in payment of any such assessment, the Association may enforce each such obligation by any and all remedies provided by law. In the event the Association brings an action to enforce each such assessment obligation, any judgment rendered in any such action shall include a sum for reasonable attorneys' fees in such amount as the Court may adjudge against the defaulting Owner, including reasonable attorneys' fees on appeal.

5.9 No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

5.10 Declarant's Obligation for Assessments. Prior to Turnover, Declarant may elect to defer payment of Reserve Assessments on all of its unsold Lots, which in no case may be deferred beyond Turnover. Unless the Declarant otherwise notifies the Board in writing at least sixty (60) days before the beginning of each year, the Declarant shall be deemed to have elected to continue deferring payment on the same basis as during the immediately preceding year.

5.10.1 In-Kind Payment. The Association is authorized to enter into contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

5.11 Failure to Timely Approve Budget. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined the budget in effect for the immediately preceding year shall continue for the current year.

5.12 Reserve Budget. The Board shall annually prepare a reserve budget that takes into account the number and nature of replaceable assets within the Common Area, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect to both amount and timing by annual Regular Assessments over the budget period.

5.13 Lien for Assessments. The Association shall have a lien against each Lot to secure payment of delinquent assessments, as well as interest subject to the limitations of Oregon law, late charges and costs of collection (including attorneys' fees). Each owner hereby waives to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption law in effect at the time any assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms hereof.

5.13.1 Such lien shall be superior to all other liens, except: (a) the liens of all taxes, bonds, assessments, and other levies that by law would be superior; and (b) the lien or charge of any first mortgage of record at the time such lien attaches (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by judicial foreclosure.

5.13.2 The Association may bid for the Lot at foreclosure and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure:

(a) no right to vote shall be exercised on its behalf; and

(b) no assessment shall be levied on it. The Association may sue the Owner(s) for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

5.13.3 The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any prior or subsequent assessments except pursuant to foreclosure of a first mortgage. A Mortgagee or other purchaser of a Lot who is unrelated to the Owner of the Lot being foreclosed who obtains title pursuant to foreclosure of the mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessments, including such acquirer, its successors and assigns.

5.14 Failure to Assess. Failure of the Board to fix assessments amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments or whatever other assessments as may be due on the same basis as



during the last year for which an assessment was made if any until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

5.15 Exempt Properties. Common Area, and any property dedicated to and accepted by any governmental authority or public utility, shall be exempt from payment of Regular Assessments and Special Assessments.

5.16 Capitalization of Association. Upon initial conveyance by Declarant of record title to a Lot, each Owner thereof, other than Declarant, shall pay \$500.00 as an initial contribution to the working capital of the Association. This amount shall be in addition to, not in lieu of, the annual Regular Assessments and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration. This Section shall not apply in any subsequent conveyance of a Lot by an Owner other than Declarant or its assigns.

5.17 Certificate of Payment. Any Person acquiring an interest in any Lot shall be entitled to a certificate from the Board setting forth the amount of due but unpaid Assessments and Reimbursement Charges relating to the Lot, if any, and such Person shall not be liable for, nor shall any lien attach to the Lot in excess of the amount set forth in the certificate, except for Assessments and Reimbursement Charges which occur or become due after the date thereof and any interest, costs, attorneys' fees and any late charges related to such Assessments and Reimbursement Assessments.

5.18 Rules Regarding Billing and Collection Procedures. Any failure of the Association to send a bill to an Owner shall not relieve an Owner of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given such notice prior to such foreclosure or enforcement as may be required by law. Such a notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an assessment period. Successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.

5.19 Pledge of Assessment Rights as Security. The Association shall have the power to pledge the right to exercise its assessment powers and rights provided for in this Declaration as security; provided, however, that any such pledge occurring after Turnover shall require (a) the prior affirmative vote or written assent of a majority of Members, and (b) the consent of Declarant (so long as Declarant owns any property subject to this Declaration).

5.20 Other Charges and Costs Assessable. The Association may levy and assess charges, costs, and fees for matters such as, but not limited to, the following, in such reasonable amount(s) as the Board may determine in its discretion at any time and from time to time, including reimbursement of charges that are made to the Association by its managing agent or any other Person: copying of Association or other documents; return check fees; facsimiles; long distance telephone calls, notices and demand letters; transfer charges including but not limited to charges related to transfer of Lot ownership or to the leasing of a Lot and the dwelling located thereon;

and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the Assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments.

5.21 Time and Manner of Payment; Late Charges and Interest. The Board may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Owner shall also be liable for attorney's fees and other related costs incurred by the Association as a result of his delinquency, and if any suit, action or arbitration proceeding is brought to collect and/or foreclose the Assessment Lien for any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorney's fees to be fixed by the court and included in any judgment or award rendered thereon.

## **ARTICLE VI COMMON AREA**

6.1 Description of Common Area. The Common Area of the Property is shown on the Final Plan and/or Final Plat and includes the private roads, sidewalks, walking paths, parking areas, catch basins, water features, designated open space, Agricultural Buffer Zone, private easements, and any vertical improvements within the designated open spaces, thereon. The Common Area is depicted on Exhibit "C".

6.2. Owner's Easement of Use and Enjoyment. Every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Area and any easements shown on the final plat, a nonexclusive easement for ingress and egress over and through the Common Area, and a nonexclusive easement for vehicular ingress and egress over and through those portions of the Common Area which shall be designated as private streets on the recorded maps of the respective tracts within the Project. Such easements shall be appurtenant to the following:

6.2.1 The right of the Association to sell, transfer or encumber all or any portion of the Common Area to a person, firm or entity, whether public or private, and the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such sale, transfer, encumbrance or dedication shall be effective except upon the prior vote or written consent of Members representing sixty-six and two-thirds percent (66 2/3%) of the voting power of the Association and sixty-six and two-thirds percent (66 2/3%) of the voting power in members other than the Declarant; provided, however, that a dedication required by a governmental agency as a condition to a recording a final plat covering any portion of the Real Property shall require no such prior vote or written consent.

6.2.2 Delegation. Any Owner may delegate his right of use and enjoyment to the Common Area to the members of his family or tenants who reside on his Lot. Tenants shall not have the right to further delegate the Owner's right to use and enjoy the Common Area. As to tenants, such Owner shall notify the Association in writing of such delegation and the names of

such delegates, and such member shall not thereafter be entitled to use and enjoy the Common Area so long as his right shall be so delegated. The rights and privileges of any delegate shall be in accordance with and subject to this Declaration; provided, however, that the Owner making such delegation (and his Lot) shall remain liable for the assessments herein provided for and subject to all of the terms and conditions of this Declaration.

6.2.3 The Association may bar or restrict the Members' use of any portion of the Common Area where ordinary use could be dangerous, unreasonably increase Association costs, or be detrimental to the environment.

6.2.4 The Association may suspend the voting rights and right to use of the Common Area (other than roadways and walkways) by a Member for any period during which any assessment against his Lot remains unpaid, or any violation of this Declaration or the Association's published rules for which he is responsible remains unabated.

6.2.5 The Association shall have the right to impose a reasonable limit on the number of guests of Members and occupants and to impose a reasonable limit on the use of Common Areas by persons who are not owners, and to charge admission, membership or other special use fees for the use of any recreational or other facility situated upon the Common Areas when all or any portion of the costs of the ownership, operation, maintenance and repair of such facility, in the opinion, of the Association, be borne by users of the facilities rather than all Members of the Association.

6.2.6 The Association shall establish reasonable rules and regulations, which are not inconsistent with this Declaration pertaining to or restricting the use of the Common Areas by Members, occupants, or other persons.

6.3 Special Areas. Certain portions of the Common Area may have special designations on the Plat, including but not limited to the Agricultural Buffer Zone and water retention/detention areas, etc. Those areas are subject to any special use restrictions set forth on the Plat and any supplemental regulations by the Association consistent with the Plat restrictions.

6.4 Property Entry Signs. The Declarant may at any time erect, and the Association shall thereafter maintain, such project entry and identification signs and related landscaping fencing and improvements located within the Common Area or easements for such purpose, as the Declarant shall deem necessary. The Members shall have no right to use these easement areas, except while carrying out the maintenance and repair duties of the Association. The Owners of Lots subject to these easements may not do anything in the easement areas which is inconsistent with, or detrimental to, their intended purpose.

6.5 Public Liability Insurance. Public liability insurance shall be provided by the Association, as provided in the Bylaws, in a form and amount necessary to adequately protect the Association and its members from loss for injury or accident occurring in or on the Common Area, or as a result of the actions of the Association.

**ARTICLE VII  
MAINTENANCE OF COMMON AREA**

7.1 Common Areas, Open Space, Parks and Public Right of Way. The Association, or its Manager, shall maintain, repair, improve and otherwise manage all Common Areas depicted on Exhibit "A", including, but not limited to, common area landscaping and lighting, walkways, riding/walking paths, park facilities, open spaces, entry sign easements or designated sign areas, water features, Agricultural Buffer Zone, common area fencing, McAndrews Road frontage landscaping, and storm and irrigation water facilities; provided, however, the Association shall not be responsible for providing or maintaining (a) sidewalks; (b) park strips; and/or (c) pedestrian scale street lighting.

7.1.1 The Board shall use a reasonable standard of care in providing for the repair, management and maintenance of Common Areas so that the Property will reflect a pride of ownership. In this connection the Association may, subject to any applicable provisions relating to Special or Emergency Assessments, in the discretion of the Board:

- (a) Construct, reconstruct, repair, replace or refinish any improvement or portion thereof upon Common Areas;
- (b) Replace injured and diseased trees and other vegetation in any Common Areas;
- (c) Place and maintain upon any Common Area such signs as the Board and Committee may deem appropriate for the proper identification, use and regulation thereof; and
- (d) Do all such other and further acts which the Board deems necessary or appropriate to preserve and protect the Common Areas, the streetscapes, and the beauty thereof, in accordance with the general purposes specified in this Declaration.

7.1.2 The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its Manager.

7.2 Assessment of Costs of Maintenance and Repair of Common Areas and Public Areas. In the event that the need for maintenance, repair or replacement of Common Areas and other areas maintained by the Association is caused through the willful or negligent act of any Owner or Occupant or the family, guests, or invitees of either, the cost of such maintenance or repairs shall be a Reimbursement Assessment against the Owner and his Lot secured by Assessment Lien. Any charges or fees to be paid by the Owner of a Lot in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also be a Reimbursement Assessment and shall be secured by Reimbursement Assessment Lien.

7.3 Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance or an unreasonable condition (as determined



by the Board) with respect to other Owners or Occupants, or as to detract from the appearance or quality of the surrounding Lots or other areas of the Property or the Project which are affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot, or portion thereof is failing to perform any of its obligations under the Declaration, or applicable Design Guidelines, the Board may by resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice to the offending Owner that unless corrective action is taken within ten (10) days, the Board may cause such action to be taken at the Owner's cost. If, at the expiration of the ten-day period of time, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause remedial action to be taken. The cost of any such remedial action shall become a Reimbursement Assessment against the offending Owner and the Owner's Lot and shall be secured by an Assessment Lien. Notwithstanding the foregoing, if the Board believes that immediate action is or may be necessary to avoid a risk of serious physical injury to persons or damage to property, the Board shall be entitled to take whatever reasonable action it may believe to be necessary to guard against or prevent such injuries or damage without being required to wait ten days after giving notice to the affected Owner.

7.4 **Right of Entry.** Representatives and agents of the Association, including, but not limited to, property managers, security and emergency personnel, shall have the right to enter upon all Lots, and Common Areas when responding to an emergency or when otherwise reasonably deemed necessary for the protection of persons or property, and neither the Association, nor any representative or agent thereof, shall have any liability to any person when acting in good faith in effecting such entry.

#### **ARTICLE VIII ARCHITECTURAL AND LANDSCAPE CONTROL**

8.1 **Appointment of Architectural Control Committee ("ACC").** The ACC shall consist of no less than three (3) or more than seven (7) individuals, as specified from time to time by resolution of the Board. Declarant shall appoint the initial members of the ACC and all replacements until 100% of all lots have been conveyed to Owners other than Declarant. Members appointed by Declarant need not be members of the Association. Thereafter, members of the ACC shall be appointed by, and serve at the pleasure of, the Board. Individuals appointed to the ACC, other than those appointed by Declarant, must satisfy such requirements as may be set forth in the Design Guidelines and not be delinquent in any assessments or have any uncured violations of this Declaration, the Design Guidelines, or any other governing documents. Declarant voluntarily may (but shall not be required to) permit Members to appoint one or more members of the ACC at any time before Turnover.

8.2 **Design Guidelines.** So long as not in conflict with this Declaration or any amendments hereto, the ACC shall establish reasonable procedural rules, regulations, restrictions, architectural standards and design guidelines (the "Design Guidelines"), which the ACC may, from time to time as approved by the Board, amend, repeal or augment and shall not be subject to any of the requirements for amendments stated in this Declaration as amended. Any change in the Design Guidelines will be effective only if it is approved by Declarant (so long as Declarant owns any



property subject to this Declaration). Neither the provisions of this Article XIII nor the Design Guidelines shall apply to buildings and other structures or improvements constructed by Declarant or its agents or employees, and such buildings and other structures may have an architectural style and present general aesthetics which are quite distinct from the architectural styles and aesthetics elsewhere in the Property or the Project. A copy of the current Design Guidelines shall at all times be a part of the Association's records. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

8.2.1 Designation of a "Building Envelope" within a Lot, thereby establishing the maximum developable area of the Lot where terrain, size or other factors require such designation, and including preservation of views for neighboring Lots;

8.2.2 Procedures for assuring conformity of completed improvements to drawings and specifications approved by the ACC; provided, however, as to purchasers and encumbrancers in good faith and for value, unless notice of non-completion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the ACC, is Recorded with the County Recorder of Jackson County, Oregon, and given to the Owner of the Lot within one year following completion of the improvement, or unless legal proceedings shall have been instituted to enforce compliance or completion within said one-year period, the completed improvements shall be deemed to be in compliance with plans and specifications approved by the ACC and in compliance with the architectural standards of the Association and this Declaration, but only with respect to purchasers and encumbrancers in good faith and for value; and

8.2.3 Such other limitations and restrictions as the ACC in its reasonable discretion shall adopt, including, but not limited to, the regulation of all landscaping (including, but not limited to, absolute prohibition of certain types of landscaping, trees and plants), construction, reconstruction, exterior addition, change or alteration to or maintenance of any building, structure, wall or fence, including, but not limited to, the nature, kind, shape, height, materials, exterior color, surface texture, and location of any such improvement, exterior artwork and works of art visible from any other Lots or Common Areas, including, but not limited to, sculpture and statues.

8.2.4 Subjective determinations and/or criteria bearing on compatibility with architecture, style, design, and appearance generally, viewsheds of other residences, the terrain within the property or visible from it and such other matters as the ACC may conclude, in good faith but in the exercise of the ACC's reasonable discretion, are relevant or appropriate to a harmonious appearance and lifestyle within the Property and the project.

### 8.3 General Provisions Regarding Architectural Control.

8.3.1 The ACC may delegate its responsibilities for reviewing drawings and specifications, except final review and approval as may be required by the Design Guidelines, to one or more of its members or architectural consultants retained by the ACC. Upon any such delegation, the interim approval or disapproval of drawings and specifications by the member or consultants shall be equivalent to interim approval or disapproval by the entire ACC.

8.3.2 The address of the ACC shall be the address established for giving notice to the Association, unless otherwise specified in the Design Guidelines or by written notice to Owners. The ACC's address shall be the place for the submittal of drawings and specifications and the place where the current Design Guidelines shall be kept.

8.3.3 The Design Guidelines shall not apply to, and nothing contained in this Article n shall be construed to prevent or impair in any way, any development, operation, construction or improvement by Declarant or any other Person or property that is not made subject to this Declaration.

8.3.4 The establishment of the ACC and the procedures herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain or repair their Lots as may otherwise be specified in this Declaration, the Bylaws or Association Rules.

8.3.5 The ACC, at the request of an Owner (including, but not limited to, Declarant) may, but shall have no obligation to, (i) change the size, configuration or location of any Building Envelope on the Owner's Lot, or (ii) approve the changing of the natural grade of a Lot, or portions thereof, by cut, fill or similar procedures. The ACC may require that some portions of Building Envelopes on Lots adjoining any golf, tennis or similar other recreational facilities remain undeveloped except for such walls, landscaping, swimming pool and similar improvements as the ACC may permit.

#### 8.4 Procedures for Approval.

8.4.1 Except for Improvements constructed by the Declarant, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless complete plans and specifications therefore shall have been first submitted to and approved in writing by the ACC and the City of Medford.

8.4.2 The ACC or a designated representative may conduct a site visit with the Owner or his designated representative, prior to preparation of any plans or drawings.

8.4.3 Plot plans shall show the location on the Lot of any structures proposed to be constructed, placed, altered or maintained; driveways, sidewalks, decks, patios, floor plans, elevations and complete landscape plan; finished grades different from the existing grades on the Lot; proposed colors, including color schemes for roofs and all exteriors, indicating the materials for the same or such other features as required by the ACC. (Scale 1/8"=1'-0")

8.4.4 All plans shall be reviewed and approved by the ACC prior to submitting a site plan application or a building permit application to the City of Medford (whichever comes first). The plans shall include a stamp of approval from the ACC prior to City review.

8.4.5 Buildings proposed for construction with crawl spaces or basements shall include Engineer Certification for the foundation.

8.4.6 Two complete sets of the final plans and specifications for said work shall be submitted. (Scale 1/4"=1'-0")

8.4.7 No construction, structure, or improvement shall commence or shall be erected, altered, placed or maintained upon any Lot unless and until the final plans, elevations, and specifications therefore have received such written approval as herein provided. All construction, improvements, installations, remodeling, or alterations shall comply strictly with the approved plans and any terms and conditions imposed by the ACC in its written approval. Once approved, no construction, structure, or improvement may vary from the approved plan without further written approval of the ACC. Any person purchasing any portion of the Property subject to this Declaration acknowledges that the breach or violation of this covenant is likely to result in irreparable harm to the rights and interests of other owners in the Property and that the Declarant, the ACC or the Association, on behalf of such owners, shall be entitled to injunctive relief, temporary or permanent, without the posting of an injunction bond, in order to prohibit such violation; provided, however, that this provision shall be in addition to any other remedies available hereunder or at law or equity.

8.4.8 The ACC is authorized to charge a fee for review of plans including requiring the Owner to pay a deposit. At the time of submission of the plans and specifications as set forth herein, the Owner is required to pay a deposit or Plan Review Fee of \$200.00 for each building submitted for review. This deposit is to be used by the ACC for any third party consultation deemed necessary by the ACC. Any remaining deposit amount shall be returned to the Owner upon receipt of ACC's final approval. The ACC shall provide full approval, conditional approval, or disapproval of said plans and specifications in writing within forty-five (45) days from the receipt thereof. If a request for approval has not been granted within forty-five (45) days from the date of submission of all information requested by the ACC, the proposal shall be deemed approved. All conditions of approval and variances shall be confirmed in writing. One set of said plans and specifications with the ACC's approval or disapproval endorsed thereon shall be returned to the Owner and the other copy thereof shall be retained by the ACC. Approval of plans and specifications for all construction, installations, improvements, remodeling or alterations shall be valid only for an twelve-month (12) period. Failure to commence construction within 12 months following the date of approval shall require reapplication and re-submittal of plans, specifications, and fees to the ACC.

8.4.9 The ACC shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid, in the event, such plans and specifications are not in accord with all the provisions of this Declaration. Considerations may include, but shall not be limited to, the following: if a proposed color is not a natural earth tone (brown) or other color approved in writing by the ACC; if the proposed structure is not in harmony with the general surroundings of such lot or the adjacent structure; if the ACC deems said plans and specifications to be contrary to the interest and the welfare and rights of all or any part of the Property. The decision of the ACC in any of these matters shall be final, and no building or improvement of any kind shall be constructed or placed upon any Lot in the Property, without the prior written consent of the ACC. If the ACC disapproves the proposal, the applicant shall have the right to appeal such decision to the Board by giving written notice thereof to the President or Secretary of the Board within ten (10) days after written notice of disapproval is given to the applicant by the ACC. Any such

appeal shall be conducted pursuant to rules and regulations established by the Board. The Board's decision shall be final.

8.4.10 In addition to the required approvals by the ACC as provided in this article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the City of Medford, Oregon, as required, shall be a precondition to commencement of any construction, alteration, addition to, or change in any Improvement. All work on any improvement once started must be continued on a continuous and diligent basis until completion, which shall not exceed 18 months without approval from the ACC.

8.5 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

8.5.1 Upon the completion of any construction or reconstruction or the alteration or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required under this Section 8, the Owner shall give written notice thereof to the ACC.

8.5.2 Within sixty (60) days thereafter the ACC, or its duly authorized representatives, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished to substantial compliance with the approved plans and shall report its findings and recommendation to the Board. If the Board finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance, specifying particulars of noncompliance, and shall require the Owner to remedy such noncompliance.

8.5.3 If upon the expiration of ten (10) days from the date of such notification, the Owner shall have failed to remedy such noncompliance the Board shall set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing date shall be not more than thirty (30) days nor less than ten (10) days in advance of notice thereof by the Board to the Owner, the ACC and, in the discretion of the Board, to any other interested party. The hearing procedures shall conform to those adopted by the Board pursuant to the Bylaws.

8.5.4 At the hearing, the Owner, the ACC and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more than fifteen (15) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance, and the Owner shall reimburse the



Association for all expenses incurred in connection therewith upon demand. If the Owner does not promptly repay such expenses to the Association, the Board shall levy a Reimbursement Assessment against such Owner pursuant to Section 5.5 hereof.

8.5.5 If for any reason the Board fails to notify the Owner of any noncompliance within sixty (60) days after receipt of said notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

8.6 No Waiver of Future Approvals: Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

8.7 Variance. The ACC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may be granted only when unique circumstances dictate, and no variance shall:

8.7.1 Be effective unless in writing; or

8.7.2 Preclude the ACC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

8.8 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own expense and cost, remove such structure or improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the Lot, remove the violation, and restore the Lot to substantially the same condition as previously existed. All costs, together with the interest at rate of 12% and administration expenses, may be assessed against the benefited Lot and collected as a Reimbursement Assessment.

8.8.1 Unless otherwise specified in writing by the ACC granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and opportunity for a hearing before the Board, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Reimbursement Assessment.



8.8.2 The Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ACC.

8.8.3 Soils Condition. Declarant, the Association and/or the ACC make no warranty or representation concerning the soil and/or the characteristics or structural stability of the Properties.

8.8.4 Each Owner shall assess the sufficiency of the load-bearing capacity of his or her Lot and the effect of possible soil subsidence upon the structures intended to be placed thereon that are, in part, dependent upon the condition of the underlying soils, footing, foundation and structural design and plans used for construction on the Lot. Declarant, the Association and/or the ACC shall not be liable should the footing, foundation or structural design or plan of the structures placed on the Properties prove insufficient to prevent structural distress or damage to the structures erected thereon by the Owners caused by soil subsidence, settlement, collapse or expansion. Each Owner agrees to cause construction upon his or her Lot to be in conformity with the recommendations contained within the soils report prepared for the Properties, available at the office of the Declarant, or recommendations of an independent soils report prepared by a consultant retained by the Owner.

8.8.5 Buildings proposed for construction with crawl spaces or basements shall include Engineer Certification regarding depth of ground water and soil conditions and proposed mitigation methods to be submitted with each Building Permit.

8.9 Non-Liability for Approval of Drawings and Specifications. Drawings and specifications shall be approved by the ACC as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances. By approving such drawings and specifications neither the ACC, the Association, the Board, the Declarant, or any Member, officer or director thereof, assumes any liability or responsibility therefore, or for any defect in any structure constructed from such drawings and specifications. Neither the ACC, the Association, the Board, the Declarant, or any Member, officer or director thereof shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of:

8.9.1 The approval or disapproval of or failure to approve any drawings and specifications, whether or not defective;

8.9.2 The construction or performance of any work, whether or not pursuant to approved drawings and specifications;

8.9.3 The development, or manner of development of any property within the Property;

8.9.4 The change in the size, configuration or location of any Building Envelope or the changing of the natural grade of any Lot; or

8.9.5 The execution and filing of an estoppel certificate pursuant to the Design Guidelines (whether or not the facts therein are correct) if the action, with the actual knowledge possessed by him, was taken in good faith.

8.10 Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the ACC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements.

8.11 Approval of drawings and specifications by the ACC, or the approval of any change in the size, configuration or location of any Building Envelope, or a change in the natural grade of any Lot is not, and shall not be deemed to be, a representation or warranty that the drawings, specifications or changes comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

8.12 Reconstruction of Common Areas. Any reconstruction by the Association or Declarant after destruction by casualty or otherwise of Common Areas, which is accomplished in substantial compliance with "as built" plans for the Common Areas, shall not require compliance with the procedural provisions of this Article or the Design Guidelines.

8.13 Emergencies. Notwithstanding the foregoing, in the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Property, the Board, the ACC and Declarant shall have authority (without the prior approvals described above) to take whatever remedial action may be necessary anywhere in the Property to protect Persons and property until such time as applicable approval procedures provided for in this Article can reasonably be utilized.

8.14 Fines. The ACC may levy a fine in an amount determined by the ACC and approved by the Board against any Owner and any Lot subject to assessments hereunder for failure to obtain required approval from the ACC or for failure to comply with the requirements of such approvals and may require security deposits to assure compliance with Property restoration and other requirements.

## **ARTICLE IX PROPERTY RIGHTS AND EASEMENTS**

9.1 Conveyance of Common Area. The Declarant hereby covenants for itself, its successors and assigns, that, prior to or at the Turnover Meeting required by ORS 94.609, it will convey title to the Common Area to the Association, free and clear of all liens and encumbrances, except the covenants, conditions and restrictions herein set forth, easements and utility rights-of-way then of record. All of the Common Area shall be for the use and benefit of Phases 1 and 2.

9.2 Utility Easements. Each Lot shall be conveyed to Owners, other than Declarant, and thereafter held by such Owners, their successors and assigns subject to any and all easements of record at the time of the initial conveyance of the particular Lot involved to an Owner other than

Declarant for the use and benefit of the several authorized public and/or other utilities, including but not limited to, cable television, sanitary sewers, water, gas, and electrical and drainage easements, and no Owner shall damage or interfere with the installation and maintenance of such utilities, or in any manner change the direction or flow of drainage channels in any such easements, or in any manner obstruct or retard the flow of water through drainage channels in any such easements.

## **ARTICLE X DEVELOPMENT RIGHTS**

10.1 Limitations of Restrictions. Declarant is undertaking the work of constructing residential dwellings, and incidental improvements upon the Lots included within the Project, including property which may be subsequently annexed thereto. The completion of that work and the sale, rental and other disposal of said Units is essential to the establishment and welfare of said property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in these Restrictions shall be understood or construed to:

10.1.1 Prevent Declarant, its contractors, or subcontractors, from obtaining reasonable access over and across the Common Area of the Property or from doing on any Lot or any portion of the Project, including property annexed thereto, whatever is reasonably necessary or advisable in connection with the completion of said work; or

10.1.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Project, including property annexed thereto, such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or

10.1.3 Prevent Declarant from conducting on any part of the Project, including property annexed thereto, its business of completing said work and of establishing said property as a residential community and of disposing of said property in parcels or lots by sale, lease or otherwise, including the right to maintain model homes and sales offices; or

10.1.4 Prevent Declarant from maintaining such signs within the Project, including property annexed thereto, as may be necessary for the sale, lease or disposition of the lots therein, including the right to maintain a sales and resale office in or on some portion of the Project owned by Declarant.

10.2 Declarant's Development Rights . Notwithstanding any other provision herein contained, Declarant and any successors thereto expressly retain unalterable rights to develop the Property,

in the manner deemed desirable by Declarant in Declarant's sole discretion, provided, however, that Declarant has or shall obtain governmental consents where required by law.

10.2.1 This Declaration shall not in any manner constitute a limitation on Declarant's fee title rights to any of the Property prior to development hereunder, nor shall it impose any obligation on Declarant, or any other person or entity to improve or develop any of the Property. Upon development of all the Property Declarant shall have constructed or shall construct the following amenities which shall be a part of the Common Area:

1. Identification Signs
2. Common Area Landscaping (excluding landscaping of park strips to be installed by Lot Owner)
3. Private Streets/Lanes (excluding sidewalks to be constructed by Lot Owner)
4. Lighting of Open Space and/or Private Streets (excluding pedestrian scale street lights to be installed by Lot Owner)
5. Pedestrian Access Way
6. 50 Foot Agricultural Buffer
7. Arterial Street frontage landscaping (excluding wrought iron fence to be installed by each Owner of Lots 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 95)
8. Canova Park
9. Fencing of Common Area (excluding arterial fencing described above)

Said amenities shall be constructed no later than the time when Declarant has sold all Lots.

10.2.2 It is anticipated that development of the Property will extend over a period of years, and for that reason the Declarant shall retain the flexibility to develop the Property in the manner deemed best by Declarant in Declarant's sole discretion. Declarant's reserved rights shall include the power to restrict access to portions of the Common Area as reasonably necessary during the course of construction, and thereafter, for health, safety, privacy and security purposes, as deemed appropriate by Declarant. There shall be no limitation other than that imposed by appropriate governmental agencies having jurisdiction upon Declarant's rights to develop and sell the property in any manner deemed appropriate by Declarant.

10.2.3 Nothing in this Declaration shall limit the right of Declarant to commence and complete construction of improvements to the Property or to alter the foregoing or the Lots or Common Area or to construct such additional improvements (including fencing) as Declarant deems advisable prior to the completion and sale of the entire Real Property. Declarant shall have a matchline easement over and across all boundary lines in the Common Areas for the purpose of adding or removing materials to insure that the boundary lines between the Common

Areas and the Lots in the Project are appropriately aligned. Provided, however, except as otherwise provided herein, after completion, conveyance and acceptance by the Association of each parcel of the Common Area, it may be altered by Declarant only with approval of sixty-six and two-thirds percent (66 2/3%) of the Class A Members.

10.3 Declarant may use any of the Lots within the Project owned by him for model homesites, sales offices, and parking therefor, and for any other purpose for which Declarant may use the Common Area as provided herein. Declarant may use any dwellings upon Lots owned by him as a temporary overnight residence and for promotional purposes in connection with its sales program. Declarant shall have the right and easement to enter upon, use and enjoy and designate and permit others (including without limitation, Declarant's agents, employees, representatives, contractors and prospective purchasers and lenders) to enter upon, use and enjoy the Common Area, including but not limited to, all streets, sidewalks, parking areas and open areas, for common driveway purposes, for drainage and encroachment purposes and for ingress to and egress from the Common Areas for the purpose of completing improvements thereon or for the performance of necessary repair work and for entry onto adjacent property in connection with the development of additional Phases of the overall project; provided, however, that the exercise of such right and easement shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members.

10.4 Declarant reserves the right to alter his construction and development plans and designs as he deems appropriate, subject to applicable governmental approvals. The rights of Declarant under this Declaration may be assigned to any successor or successors to all or part of said entity's respective interests in the Real Property, by an express assignment incorporated in a recorded deed, option or lease, as the case may be, transferring such interest to such successor. This Declaration shall not limit the right of Declarant at any time prior to acquisition of title by a purchaser from Declarant to establish on any Lot additional licenses, reservations and rights-of-way to himself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Real Property

10.5 This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the remodeling of, or additions to, improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with diligence and conforms to usual construction practices in the area. If construction upon any Lot does not conform to usual practices in the area as determined by the ACC in its sole good faith judgment, the ACC will have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is an excessive accumulation of debris of any kind that is offensive or detrimental to the Property or any portion thereof, then the ACC may contract for or cause such debris to be removed, and the Lot Owner will be liable for all expenses incurred in connection therewith.

10.6 Notwithstanding any other provision herein, Declarant and its successors and assigns, will be entitled to conduct on the Property all activities normally associated with and convenient to



the development of the Property and the construction and sale of single-family dwelling units on the Property. Notwithstanding any provision in this Declaration, including Rules and Regulations to the contrary, Declarant and Builders may construct and maintain upon portions of the Common Area and other property owned by Declarant or the Builder such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things shall include, without limitation, business offices, signs, flags (whether hung from flag poles or attached to a structure), model Lots, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant and Builders may park vehicles in areas other than garages or driveways, including on streets. Declarant and Builders shall have easements for access to and use of such facilities at no charge. Builder's rights under this Section are subject to Declarant's approval.

10.7 Consent of Declarant to Amendments. Until Declarant shall sell all of the Lots in the Project, no amendment to this Declaration shall be effective to curtail or eliminate Declarant's development rights set forth herein without Declarant's consent.

## **ARTICLE XI RIGHTS OF MORTGAGEES**

11.1 Mortgages Permitted. Any Owner may encumber his Lot with Mortgages.

11.2 Subordination. Any lien created or claimed under the provisions of Oregon law or of this Declaration is expressly made subject and subordinate to the rights of any First Mortgage that encumbers any Lot or other portion of the Project, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such First Mortgage unless the First Mortgagee expressly subordinates his interest, in writing, to such lien.

11.3 Effect of Breach. No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

11.4 Non-Curable Breach. No Mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

11.5 Right to Appear at Meetings. Any Mortgagee may appear at meetings of the Members and the Board.

11.6 Right to Furnish Information. Any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

11.7 Right to Examine Books and Records, Etc. The Association shall make available to Owners, prospective purchasers and First Mortgagees, current copies of the Project Documents

and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

11.8 Owners' Right to Ingress and Egress. There shall be no restriction upon any Owners' right of ingress and egress to his Lot, which right shall be perpetual and appurtenant to his Lot Ownership.

11.9 First Mortgagee Assessment Liability. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for such Lot's unpaid Assessments or Individual Charges which accrue prior to the acquisition of title to such Lot by the Mortgagee.

11.10 Distribution; Insurance and Condemnation Proceeds. No provision of the Property Documents shall give a Lot Owner, or any other party, priority over any rights of the First Mortgagee of the Lot pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of the Lot and/or Common Area.

## **ARTICLE XII LIMITATION ON DECLARANT'S LIABILITY**

Notwithstanding anything to the contrary in this Declaration, each Owner, by accepting title to any portion of the Property and becoming an Owner, and each other Person acquiring an interest in the Property including, but not limited to Mortgagees, acknowledges and agrees that neither Declarant (including, but not limited to, any assignee of the interest of Declarant hereunder) nor any related entity (or any partner, shareholder, trustee, officer, director, principal or similar Person holding an interest or position in any such assignee of the interest of Declarant) shall have any personal liability to the Association, or any Owner, Member, or Mortgagee or other Person, arising under, in connection with, or resulting from (including, but not limited to, resulting from action or failure to act with respect to) this Declaration, the Association or the ACC except to the extent of such Person's interest in the Property; and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor.

## **ARTICLE XIII AMENDMENTS**

13.1 Procedure. Except as otherwise herein expressly provided, until the two (2) class voting structure of the Association is converted to one (1) class voting, this Declaration may be amended by an instrument in writing signed and acknowledged by the President and Secretary of the Association, certifying that such amendment has been approved by members representing at least seventy-five percent (75%) of the total voting power of each class of membership of the Association. At such time as the two (2) class voting structure has been converted to one (1) class voting pursuant to the provisions hereof, any such amendment shall be approved by seventy-five percent (75%) of the total voting power of the Association and seventy-five percent

(75%) of the votes of members other than the Declarant. Provided that, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed to take action under said clause or provision. Provided further that, the Declarant shall have the power and authority to amend this Declaration when required by a governmental agency as a condition to obtaining a permit.

13.2 Effect of Amendment. It is specifically covenanted and agreed that any amendment to this Declaration properly adopted will be completely effective to amend any and all provisions of this Declaration which may be affected and any or all clauses of this Declaration, unless otherwise specifically provided in the Section being amended or the amendment itself.

#### **ARTICLE XIV AGRICULTURAL BUFFER ZONE REQUIREMENTS**

14.1 Portions of the development are located within two hundred feet (200') of designated agricultural land. Residences may be subjected to noise, dust, odor, spray residue, and other types of pollution incidental to common, customary, and accepted farm practices. Accordingly, the Owners of property within Bella Vista Heights PUD agree to hold Declarant harmless as a result of any of the foregoing.

#### **14.2 Buffer Zone Requirements.**

14.2.1 An agricultural buffer zone, fifty feet (50') in width, is located along the southerly boundary of the Property and is depicted on Exhibit "A" (hereinafter the "Buffer Zone"):

14.2.2 The Property abuts or lies within close proximity to agricultural land. Owners may be subjected to noise, dust, odor, spray residue or other types of pollution incidental to common, customary and accepted farm practices.

14.2.3 Removal or damage to the southerly boundary line fences is prohibited.

14.2.4 Construction of cross fences in the most southerly 25 feet of the Buffer Zone is prohibited unless gates are included in the fences in order to allow the neighboring property owner to exercise the easement rights granted to such owner.

14.2.5 Any Owner of a Lot, who plans to spray any chemicals within 100 feet of the neighboring orchard property, must notify the Orchard prior to doing so.

14.2.6 No structures shall be erected, placed altered or permitted to remain on any of the Buffer Zone except in accordance with the provisions of this Section and applicable land-use and planting requirements. No habitable structures or improvements of any type or nature, except landscape plantings, utilities, fencing, and irrigation systems shall be erected, placed, altered, or permitted to remain on or within said Buffer. Notwithstanding the foregoing, garages and other non-habitable structures may be constructed in the northerly 25-feet of the Buffer Zone, provided the doors and other openings to any such building face north. No uncovered or unenclosed garages or open-air parking areas may be constructed in the Buffer Zone.

14.2.7 Maintenance of the landscape and irrigation in the Buffer Zone shall be the responsibility of Association.

14.3 Owner's of Buffer Zone Lots (Lots 66 - 69, 71, 85 - 95).

14.3.1 By accepting a deed to the Lot, Owners of Lots adjacent to the Buffer Zone or with open space located in the Buffer Zone agree as follows:

- (a) No trees or other landscaping planted by the Declarant in the Buffer Zone shall be removed.
- (b) No road, access, wall, drainage facility, or any other feature of the Buffer Zone may be altered.

Items (a) and (b) above do not prohibit the removal of dead, dying, or diseased trees provided the authority to remove them is granted by the ACC and such tree(s) is immediately replaced by a variety approved by the ACC.

14.4 In case, suit or action is instituted to enforce any of the foregoing restrictions, covenants, or agreements, the prevailing party in such case, suit or action shall be entitled to recover from the losing party such sum as the court may adjudge reasonable as attorney's fees in such case, suit or action or in any appeal therefrom.

**ARTICLE XV  
GENERAL PROVISIONS**

15.1 Notices. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, such notice or document shall be deemed to have been delivered and received five (5) calendar days after a copy thereof has been deposited in the United States postal service, postage prepaid, addressed as follows:

(a) If to the Association, to the address designated by the Association as its principal office address in the Articles of Incorporation.

(b) If to an Owner, to the address of any Lot owned, in whole or in part, by him or to any other address last furnished by an Owner to the Association:

- (c) If to Declarant:  
Bella Vista Heights, LLC  
725 North 5th, Suite 200  
Jacksonville, OR 97530

Provided, however, that any such address may be changed at any time by the party concerned by delivering a written notice of change of address to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

15.2 Captions and Exhibits: Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions hereof. Any exhibits referred to herein are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as hereinabove set forth.

15.3 Severability. If any provision of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines shall be construed as if such invalid part were never included therein.

15.4 Mortgage of Lots and Parcels. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his respective Lot. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Lot.

15.5 Power of Attorney. Unless otherwise specifically restricted by the provisions of this Declaration, in any instance in which the Association is empowered to take any action or do any act including, but not limited to, action or acts in connection with the Common Areas or sale thereof, which may at any time be deemed to require the act of an Owner or Member, the Owners and Members and each of them hereby constitute and appoint the Association (acting through the Board) as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts including, but not limited to, executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest and by becoming an Owner or a Member of the Association or by the acceptance of a deed for a Lot or by signing a contract for purchase of a Lot or by succeeding in any other manner to the ownership of a Lot, or any interest therein, or a Membership in the Association, each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

5.6 Gender. Masculine, feminine and neuter references herein each shall include the others as the context requires.

15.7 Interpretation. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the provisions hereof.

15.8 References to Declaration in Deeds. Deeds to and instruments affecting any Lot or any part of the Property may contain the provisions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, all of the



provisions hereof shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns as though set forth at length in such instrument.

15.9 Oregon Law. This Declaration, the Articles, Bylaws, Association Rules and Design Guidelines shall be subject to, and construed in accordance with, Oregon law.

15.10 Conflicts. In the event of conflict between the terms of this Declaration and the Bylaws, Rules, Regulations, or Articles of Incorporation of the Association, this Declaration will control.

15.11 Right to Use Common Area for Special Events. As long as Declarant owns any Lots in the Property, Declarant shall have the right to use all Common Areas, including recreational facilities, to sponsor special events for charitable, philanthropic, and social purposes as determined by Declarant in its sole discretion. Any such event shall be subject to the following conditions:

15.11.1 The availability of the facilities for the period of time requested of the Association by the Declarant, provided that the request is not submitted more than six (6) months prior the actual special event.

15.11.2 Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event (as per the insurance requirements for such events set forth herein) other than customary use charges that shall be waived; and

15.11.3 Declarant shall return the facilities and personal property owned by the Association and used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

15.12 Enforcement. Each Lot Owner shall comply strictly with the covenants, conditions, restrictions, and easements set forth in this Declaration. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Declarant, the ACC, the Association, or any Lot Owner, jointly or severally, shall have the right to proceed at law or in equity for the recovery of damages, reasonable monetary fines and other sanctions for violations of this Declaration or any Supplemental Declaration hereto, for injunctive or other equitable relief, or all of the foregoing. If any Owner or the Association is the prevailing party in any litigation involving this Declaration, including on appeal thereof, then that party also has a right to recover all costs and expenses incurred (including reasonable attorney's fees and paralegal fees together with any applicable sales or use tax thereon.) Failure by the Declarant, the ACC, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter.

15.12.1 In addition to the above rights, the Association and the ACC shall have a Right of Abatement if the Owner fails to take reasonable steps to remedy any violation or breach within 30 days after written notice sent by certified mail. A Right of Abatement, as used in this Section means the right of the Association or ACC, through its agents and employees, to enter at all

reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation, breach, or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions; provided such entry and such actions are carried out in accordance with the provisions of this Article. The cost thereof including the costs of collection and reasonable attorneys' fees shall be a binding personal obligation of such Owner, enforceable at law, and shall be a lien on such Owner's Lot enforceable as provided herein.

15.13 Term; Termination. Unless terminated as provided in this Section, this Declaration shall have perpetual duration. If Oregon law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each, unless terminated as provided herein.

15.14 Declarant's Disclaimer of Representations. Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

#### **ARTICLE XVI DISPUTE RESOLUTION AND LIMITATION ON LITIGATION**

16.1 Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and ACC members, all Persons subject to this Declaration, any Builder, and any person or persons not otherwise subject to this Declaration who agree to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly each Bound Party covenants and agrees that those claims, grievances or disputes described below shall use the procedures set forth in Section 16.3 in a good-faith effort to resolve such claims.

16.2 Claims. Unless specifically exempted below, all claims, grievances a disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties, shall be subject to the provisions of this Article.

16.3 Mandatory Procedures.

16.3.1 Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (a) the nature of the Claim, including the Persons involved and Respondent's role in the Claim.
- (b) the legal basis of the Claim (i.e., the specific authority upon which the Claim arises);
- (c) Claimant's proposed remedy; and
- (d) that Claimant will meet with Respondent to discuss, in good faith, ways to resolve the Claim.

16.4 Negotiation and Mediation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good-faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

16.5 Unresolved Claims. If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations") Claimant shall have thirty (30) additional days to submit the Claim to mediation with an independent agency providing dispute resolution services in the Medford area or to appeal the matter to the Board for a final decision.

16.6 If Claimant does not submit the Claim to the Board or to mediation within thirty (30) days after Termination of Negotiations or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

16.7 Any settlement of the Claim through mediation shall be documented in writing by the mediator and executed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit on the claim.

16.8 Allocation of Costs of Resolving Claims. Each Party shall bear its own costs of mediation, including any attorneys' fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

16.9 Enforcement of Resolution. After resolution of any Claim through negotiation or mediation, if any Party fails to abide by the terms of any agreement, then any other Party may file suit to enforce such agreement. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award,

including, without limitation, attorneys' fees and court costs, including any fees and costs on appeal.

IN WITNESS WHEREOF, Declarant has caused this instrument to be duly executed and effective on May 25, 2006.

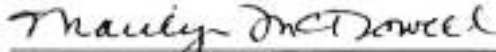
BELLA VISTA HEIGHTS, LLC

By:   
Jeffrey L. Chamberlain, Managing Member

STATE OF OREGON            )  
  ) ss.  
County of Jackson         )

On this day of 19TH, FEB. 2007, personally appeared, the undersigned, Jeffrey L. Chamberlain, who being duly sworn, did say that he is a Managing Member of BELLA VISTA HEIGHTS, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company by authority of its board of directors, and he acknowledged said instrument to be its voluntary act and deed.

Before me:

  
Notary Public for Oregon  
My Commission Expires: 03/24/07



\*\*\* DECLARATION \*\*\*

KNOW ALL MEN BY THESE PRESENTS THAT BELLA VISTA HEIGHTS, LLC, AN OREGON LIMITED LIABILITY COMPANY, IS THE OWNER IN THE SIMPLE OF THE LANDS HEREON DESCRIBED AND HAS SUBDIVIDED INTO LOTS, TRACTS AND PUBLIC AND PRIVATE STREETS AS SHOWN HEREON, AND THE NUMBER OF EACH LOT AND TRACT AND THE COURSE AND LENGTH OF ALL LINES ARE FULLY SET FORTH, AND THAT THIS PLAN IS A CORRECT REPRESENTATION OF THE SUBDIVISION WE HEREBY DEDICATE TO THE PUBLIC FOR PUBLIC USE THE PUBLIC STREET RIGHTS-OF-WAY SHOWN HEREON TOGETHER WITH THOSE EASEMENTS LAMPED AS PUBLIC UTILITY EASEMENTS, WE HEREBY GRANT TO THE CITY OF MEDFORD IN THE SIMPLE THOSE AREAS PORTRAYED AND DESIGNATED AS 1-FOOT STREET PLUGS BY ITS ACCORDANCE OF THIS PLAN. THE CITY OF MEDFORD DECLARES THAT UPON DEDICATION OF THE EXTENSION OF THE AFFECTED STREETS, IT HEREBY DEDICATES THE STREET PLUGS FOR PUBLIC STREET RIGHTS-OF-WAY PURPOSES. WE HEREBY GRANT TO THE CITY OF MEDFORD TEMPORARY EASEMENTS FOR EMERGENCY VEHICULAR TURNAROUND OVER THE GREAT SHOWN HEREON BY ACCEPTANCE OF THESE EASEMENTS. THE CITY OF MEDFORD DECLARES SAID EASEMENTS, UNLESS OTHERWISE QUERIED, SHALL AUTOMATICALLY TERMINATE AND REVERT TO THE CITY OF MEDFORD UPON THE AFFECTED STREETS HAS BEEN DEDICATED, IMPROVED AND ACCEPTED BY THE CITY. OR (B) ACCEPTANCE OF THE AFFECTED STREETS HAS BEEN PROVIDED WE HEREBY GRANT TO THE CITY OF MEDFORD AN EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF AND ACCESS TO PUBLIC SANITARY SEWER FACILITIES OVER AND ACROSS LOTS 4, 5, 8, 9, 42, 53, 61 AND TRACTS A, B, C, D, E, F AND G. WE HEREBY GRANT TO THE CITY OF MEDFORD AN EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF AND ACCESS TO STORM DRAIN FACILITIES OVER AND ACROSS ALL OF TRACT D. WE HEREBY GRANT TO THE CITY OF MEDFORD SLOPE EASEMENTS FOR THE PURPOSE OF EXCAVATING OR PLACING FILL AS REQUIRED TO MAKE A SUFFICIENT SLOPE FOR THE TRANSITION FROM THE GRADE OF THE ADJACENT PUBLIC STREET TO THE GRADE OF THE GRANTEE'S PROPERTY OVER LOTS 80, 81, 80-82 AND 88-102. WE HEREBY GRANT FOR THE OWNERS, THEIR HEIRS AND ASSIGNS OF LOTS 2, 3, 5-8, 25-27, 28-33, 35-38, 40-45, 88, 103-107, AND TRACTS A, E AND G, PRIVATE STORM DRAIN EASEMENTS OVER AND ACROSS LOTS 4, 5, 8, 9, 24-26, 28-34, 55-59, 61-64, 45, 52, 60, 63-94, 96, 98, 105, 106 AND TRACTS A, B, C, F AND G. WE HEREBY GRANT FOR THE OWNERS, THEIR HEIRS AND ASSIGNS OF LOTS 7, 41, 44-48, 71 AND 72, PRIVATE SANITARY SEWER EASEMENTS OVER AND ACROSS LOTS 5, 42, 43, 51 AND 70. WE HEREBY GRANT FOR THE OWNERS, THEIR HEIRS AND ASSIGNS OF LOTS 1-107, A PRIVATE PEDESTRIAN ACCESS EASEMENT OVER AND ACROSS LOT 24. WE HEREBY DESIGNATE SAID SUBDIVISION AS BELLA VISTA HEIGHTS, PHASES 1 AND 2.

BELLA VISTA HEIGHTS, LLC

STATE OF OREGON )  
COUNTY OF JACKSON ) SS

*Jeffery L. Chamberlain*  
JEFFERY L. CHAMBERLAIN, MANAGER

ON THIS THE 14<sup>th</sup> DAY OF January, 2007, PERSONALLY APPEARED JEFFERY L. CHAMBERLAIN AND ACKNOWLEDGED THE FOREGOING INSTRUMENT BY BEHALF OF BELLA VISTA HEIGHTS, LLC, AN OREGON LIMITED LIABILITY COMPANY.

WITNESSE MY HAND AND OFFICIAL SEAL  
*[Signature]*  
NOTARY



- CONSENTS  
AFFIDAVIT OF CONSENT RECORDED AS DOC. NO. 2007-00827, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON FOR TRUST DEED BENEFITING BANK OF THE CASCADIA RECORDED AS DOC. NO. 2008-031151, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON.
- AFFIDAVIT OF CONSENT RECORDED AS DOC. NO. 2007-00828, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON FOR TRUST DEED BENEFITING PACIFIC INTERNATIONAL ENTERPRISES RECORDED AS DOC. NO. 2008-008478, MODIFIED BY DOC. NO. 2008-240858, SUBORDINATED BY DOCS. NO. 2006-031151 AND 2006-031152 AND MODIFIED BY DOC. NO. 2006-032354, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON.
- AFFIDAVIT OF CONSENT RECORDED AS DOC. NO. 2007-00876, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON FOR TRUST DEED BENEFITING EXELSION DEVELOPMENT COMPANY RECORDED AS DOC. NO. 2008-022719 AND SUBORDINATED BY DOCS. NO. 2008-031151 AND 2008-031154, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON.
- AFFIDAVIT OF CONSENT RECORDED AS DOC. NO. 2007-007368, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON FOR TRUST DEED BENEFITING PACIFIC INTERNATIONAL ENTERPRISES RECORDED AS DOC. NO. 2006-008989, OFFICIAL RECORDS OF JACKSON COUNTY, OREGON.

\*\*\* APPROVALS \*\*\*

MEDFORD CITY PLANNING  
EXAMINED AND APPROVED THIS 7 DAY OF February, 2007  
*[Signature]*  
PLANNING DIRECTOR

EXAMINED AND APPROVED THIS 24<sup>th</sup> DAY OF January, 2007  
*[Signature]*  
CITY ENGINEER  
*[Signature]*  
CITY SURVEYOR

EXAMINED AND APPROVED AS REQUIRED BY O.R.S. 93.100 THIS 8<sup>th</sup> DAY OF FEBRUARY, 2007.  
*[Signature]*  
ASSESSOR, DEPARTMENT OF ASSESSMENT

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS REQUIRED BY O.R.S. 93.005 HAVE BEEN PAID AS OF THIS 5<sup>th</sup> DAY OF February, 2007.  
*[Signature]*  
TAX COLLECTOR

571431A  
TL 210, 207, 1001, 1002 & 1003  
331422, 404



**LLA VISTA HEIGHTS  
PHASES 1 AND 2**

Located in:

Northeast 1/4 of Section 21,  
Northwest 1/4 of Section 22,  
37 South, Range 1 West, W.M.,  
of Medford, Jackson County, Oregon

INDEX OF SHEETS	
SHEET 1 OF 7	DECLARATION, SIGNATURES, CONSENTS, APPROVALS, SURVEYOR'S CERTIFICATE
SHEET 2 OF 7	SUBDIVISION MAP
SHEET 3 OF 7	SUBDIVISION MAP
SHEET 4 OF 7	CURVE TABLE
SHEET 5 OF 7	PRIVATE & PUBLIC UTILITIES
SHEET 6 OF 7	PRIVATE & PUBLIC UTILITIES
SHEET 7 OF 7	PRIVATE & PUBLIC UTILITIES

\*\*\* SURVEYOR'S CERTIFICATE \*\*\*

STATE OF OREGON  
COUNTY OF JACKSON 355

I, DAVID M. MANNEC, A duly registered professional land surveyor of the State of Oregon, do hereby certify that I have correctly surveyed and marked with the proper monuments as provided the tract of land hereinafter shown and the plat is a correct representation of the same, and the following is an accurate description of the boundary lines:

**TRACT 1 - (PHASE 1 - SOUTHWEST OF MCARDREWS ROAD)**

BEGINNING AT THE EAST SOUTHWEST CORNER OF DONATION LAND CLAIM NO. 83 IN TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN IN JACKSON COUNTY, OREGON, THENCE NORTH 00°12'52" EAST, ALONG THE EAST LINE OF SAID CLAIM, 288.07 FEET; THENCE, LEAVING SAID EAST LINE, BEARING NORTH 89°30'58" WEST 148.61 FEET; THENCE NORTH 20°00'00" EAST 85.50 FEET; THENCE NORTH 05°00'00" WEST 38.00 FEET; THENCE NORTH TO 28°00' WEST 70.48 FEET; THENCE NORTH 58°51'00" WEST 86.84 FEET; THENCE NORTH 11°11'00" WEST 47.03 FEET; THENCE NORTH 20°00'00" EAST 53.05 FEET TO THE SOUTHERLY LINE OF THAT TRACT DESCRIBED IN DOCUMENT NO. 99-48184, OFFICIAL RECORDS OF SAID JACKSON COUNTY; THENCE, ALONG THE BOUNDARY OF SAID TRACT AS FOLLOWS: NORTH 89°32'10" WEST 18.78 FEET; THENCE NORTH 40°58'30" EAST 127.76 FEET; THENCE NORTH 28°12'52" EAST 81.61 FEET; THENCE NORTH 41°21'08" WEST 120.55 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF MCARDREWS ROAD; THENCE, ALONG SAID SOUTHERLY LINE AS FOLLOWS: NORTH 80°34'40" EAST 222.00 FEET; THENCE NORTH 63°18'32" EAST 205.84 FEET; THENCE, ALONG THE ARC OF A 437.48 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS NORTH 48°15'24" EAST 45.00 FEET); AN ARC DISTANCE OF 45.02 FEET; THENCE SOUTH 20°47'41" EAST 2.90 FEET; THENCE, ALONG THE ARC OF A 435.46 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS NORTH 80°36'19" EAST 172.15 FEET); AN ARC DISTANCE OF 172.29 FEET; THENCE SOUTH 24°28'18" EAST 29.05 FEET; THENCE SOUTH 81°23'40" EAST 80.42 FEET; THENCE NORTH 21°40'58" EAST 29.05 FEET; THENCE, ALONG THE ARC OF A 435.46 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS SOUTH 20°31'08" EAST 84.94 FEET); AN ARC DISTANCE OF 84.90 FEET; THENCE SOUTH 50°31'42" EAST 118.75 FEET; THENCE NORTH 27°40'28" EAST 2.00 FEET; THENCE NORTH 10°14'32" EAST 413.18 FEET; THENCE, ALONG THE ARC OF A 474.20 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS SOUTH 01°12'52" EAST 342.58 FEET); AN ARC DISTANCE OF 348.34 FEET; THENCE SOUTH 83°08'19" WEST 2.00 FEET; THENCE, ALONG THE ARC OF A 374.20 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS SOUTH 58°57'00" EAST 6.55 FEET); AN ARC DISTANCE OF 6.55 FEET; THENCE SOUTH 58°30'23" EAST 188.04 FEET; THENCE SOUTH 08°58'37" WEST 38.28 FEET; THENCE SOUTH 38°20'23" EAST 80.00 FEET; THENCE SOUTH 81°20'23" EAST 38.28 FEET; THENCE SOUTH 81°20'23" EAST 161.16 FEET; THENCE, ALONG THE ARC OF A 519.48 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS SOUTH 30°22'18" EAST 35.82 FEET); AN ARC DISTANCE OF 35.83 FEET; THENCE NORTH 47°20'54" EAST 3.00 FEET; THENCE, ALONG THE ARC OF A 517.48 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS SOUTH 80°10'45" EAST 433.73 FEET); AN ARC DISTANCE OF 443.55 FEET; THENCE SOUTH 87°52'24" EAST 87.52 FEET TO THE EASTERLY LINE OF THAT TRACT DESCRIBED IN VOLUME 390, PAGE 369 OF THE DEED RECORDS OF SAID JACKSON COUNTY; THENCE, ALONG SAID EASTERLY LINE, NORTH 00°11'48" WEST (RECORDED SOUTH 0°08' WEST) 48.08 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE, ALONG THE SOUTHWEST LINE OF SAID TRACT, NORTH 89°40'40" WEST (RECORDED 89°35'20" WEST), 566.88 FEET TO THE SOUTHWEST CORNER THEREOF, SAID POINT BEING THE SOUTHWEST CORNER OF THAT TRACT DESCRIBED IN DOCUMENT NO. 89-29457, SAID OFFICIAL RECORDS; THENCE, ALONG THE SOUTHERLY LINE OF SAID TRACT, NORTH 89°50'40" WEST 504.01 FEET (RECORDED 89°35'20" WEST 504.97 FEET); THENCE SOUTH 00°11'48" WEST (RECORDED SOUTH 0°08' WEST) 10.00 FEET; THENCE NORTH 89°56'37" WEST 895.56 FEET (RECORDED NORTH 89°35'20" WEST 897.19 FEET) TO THE POINT OF BEGINNING.

**TRACT 2 - (PHASE 2 - NORTHERLY OF MCARDREWS ROAD)**

COMMENCING AT THE NORTHEAST CORNER OF DONATION LAND CLAIM NO. 83 IN TOWNSHIP 27 SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN IN JACKSON COUNTY, OREGON, THENCE SOUTH 00°12'52" WEST, ALONG THE EAST LINE OF SAID CLAIM, 305.24 FEET TO THE NORTHEAST CORNER OF THAT TRACT DESCRIBED IN DOCUMENT NO. 99-48184, OFFICIAL RECORDS OF SAID JACKSON COUNTY; THENCE CONTINUE ALONG SAID EAST LINE, SOUTH 00°12'52" WEST 138.43 FEET TO THE NORTHWEST CORNER OF THAT TRACT DESCRIBED IN DOCUMENT NO. 89-29457, OFFICIAL RECORDS OF SAID JACKSON COUNTY; THENCE, ALONG THE NORTHERLY LINE OF SAID TRACT, SOUTH 89°36'31" EAST (RECORDED SOUTH 89°35'20" EAST) 85.00 FEET FOR THE INITIAL POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°36'31" EAST (RECORDED SOUTH 89°35'20" EAST) 864.68 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF MCARDREWS ROAD; THENCE, ALONG SAID NORTHERLY LINE AS FOLLOWS: NORTH 81°20'23" WEST 18.86 FEET; THENCE NORTH 81°20'23" WEST 188.04 FEET; THENCE, ALONG THE ARC OF A 283.20 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS NORTH 34°37'05" WEST 7.42 FEET); AN ARC DISTANCE OF 7.42 FEET; THENCE SOUTH 53°06'15" WEST 2.00 FEET; THENCE, ALONG THE ARC OF A 181.20 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS NORTH 51°24'00" WEST 385.82 FEET); AN ARC DISTANCE OF 385.87 FEET; THENCE NORTH 66°14'32" WEST 112.18 FEET; THENCE NORTH 23°45'28" EAST 2.00 FEET; THENCE NORTH 81°14'32" WEST 118.75 FEET; THENCE, ALONG THE ARC OF A 524.46 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS NORTH 30°49'01" WEST 83.86 FEET); AN ARC DISTANCE OF 83.75 FEET; THENCE NORTH 38°58'52" WEST 34.11 FEET; THENCE NORTH 81°27'08" WEST 80.52 FEET; THENCE SOUTH 54°48'00" WEST 33.24 FEET; THENCE, ALONG THE ARC OF A 524.46 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS SOUTH 80°54'24" WEST 212.74 FEET); AN ARC DISTANCE OF 214.22 FEET; THENCE SOUTH 20°47'41" EAST 2.00 FEET; THENCE, ALONG THE ARC OF A 522.46 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS SOUTH 66°15'25" WEST 53.74 FEET); AN ARC DISTANCE OF 53.77 FEET; THENCE SOUTH 83°18'32" WEST 3.81 FEET; THENCE, LEAVING SAID NORTHERLY LINE, ALONG THE ARC OF A 30.00 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS NORTH 74°30'23" WEST 38.88 FEET); AN ARC DISTANCE OF 38.45 FEET; THENCE, ALONG THE ARC OF A 127.50 FOOT RADIUS CURVE TO THE LEFT (THE LONG CHORD TO WHICH BEARS NORTH 40°57'32" WEST 38.28 FEET); AN ARC DISTANCE OF 38.44 FEET; THENCE, ALONG THE ARC OF A 172.50 FOOT RADIUS CURVE TO THE RIGHT (THE LONG CHORD TO WHICH BEARS NORTH 24°41'25" WEST 61.06 FEET); AN ARC DISTANCE OF 63.03 FEET; THENCE NORTH 00°12'52" EAST 0.95 FEET TO THE POINT OF BEGINNING.

I certify this plat to be an exact  
photocopy of the original.  
David M. Mannecc  
SURVEYOR

David M. Mannecc  
SURVEYOR

APPROVAL FOR RECORDING  
[Signature]  
COUNTY COMMISSIONER/ADMINISTRATOR

2/2/07  
DATE

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
David M. Mannecc  
OREGON  
JULY 26, 1996  
DAVID M. MANNECC  
2548  
EXPIRES 12/31/08

FILED FOR RECORD THIS 08 DAY OF FEBRUARY, 2007 AT 11:53 O'CLOCK A M AND RETURNED  
IN VOLUME 33 OF PLATS AT PAGE 10 OF RECORDS OF JACKSON COUNTY, OREGON

KATHLEEN S. BECKETT  
COUNTY CLERK

CHERYL HYGERIS  
DEPUTY

(0603151.DWG)  
SHEET 1 OF 7

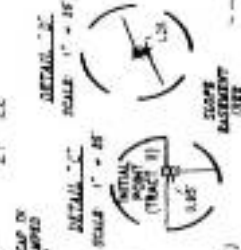
# BELLA VISTA HEIGHTS PHASES 1 AND 2

Located in:

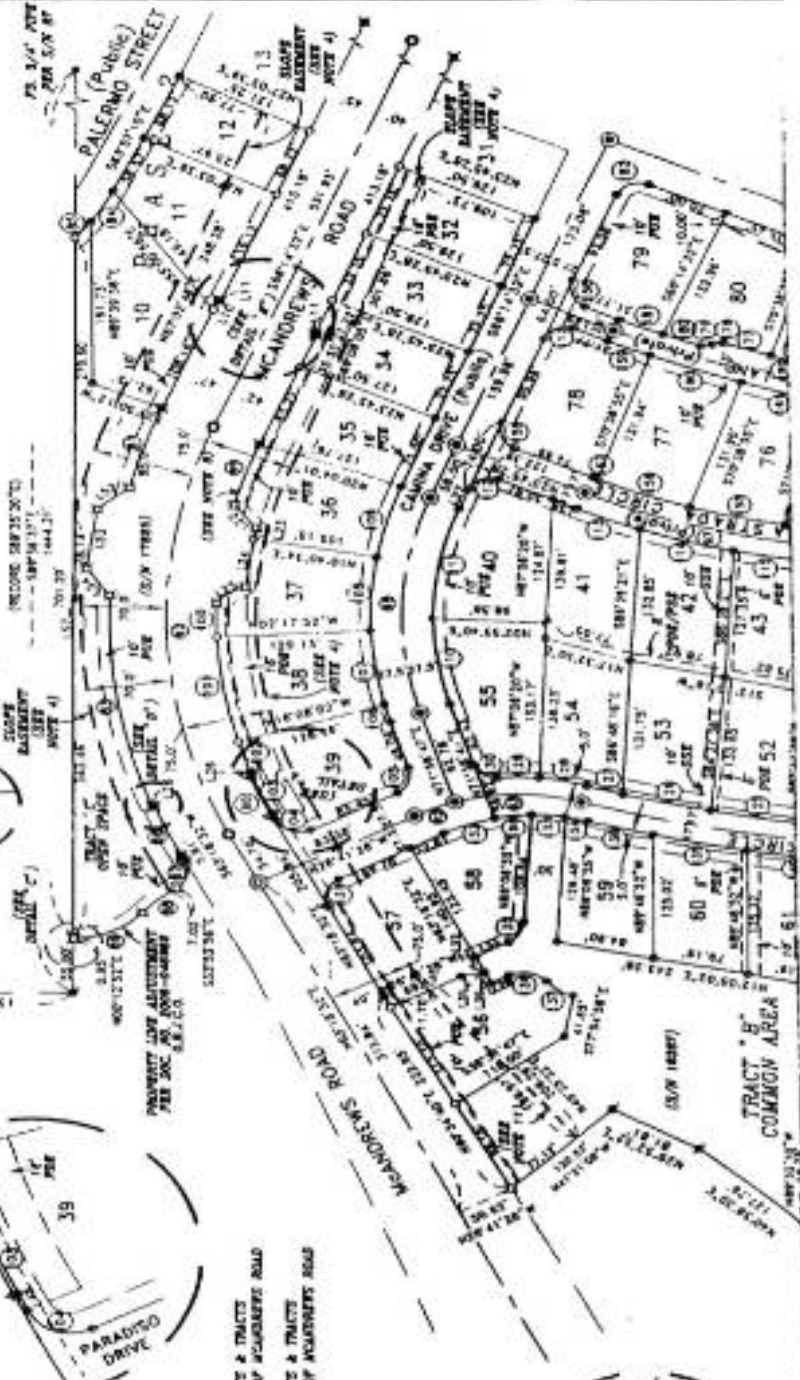
the Northeast 1/4 of Section 21  
& the Northwest 1/4 of Section 22,  
Township 37 South, Range 1 West, W.M.,  
in the City of Medford, Jackson County, Oregon

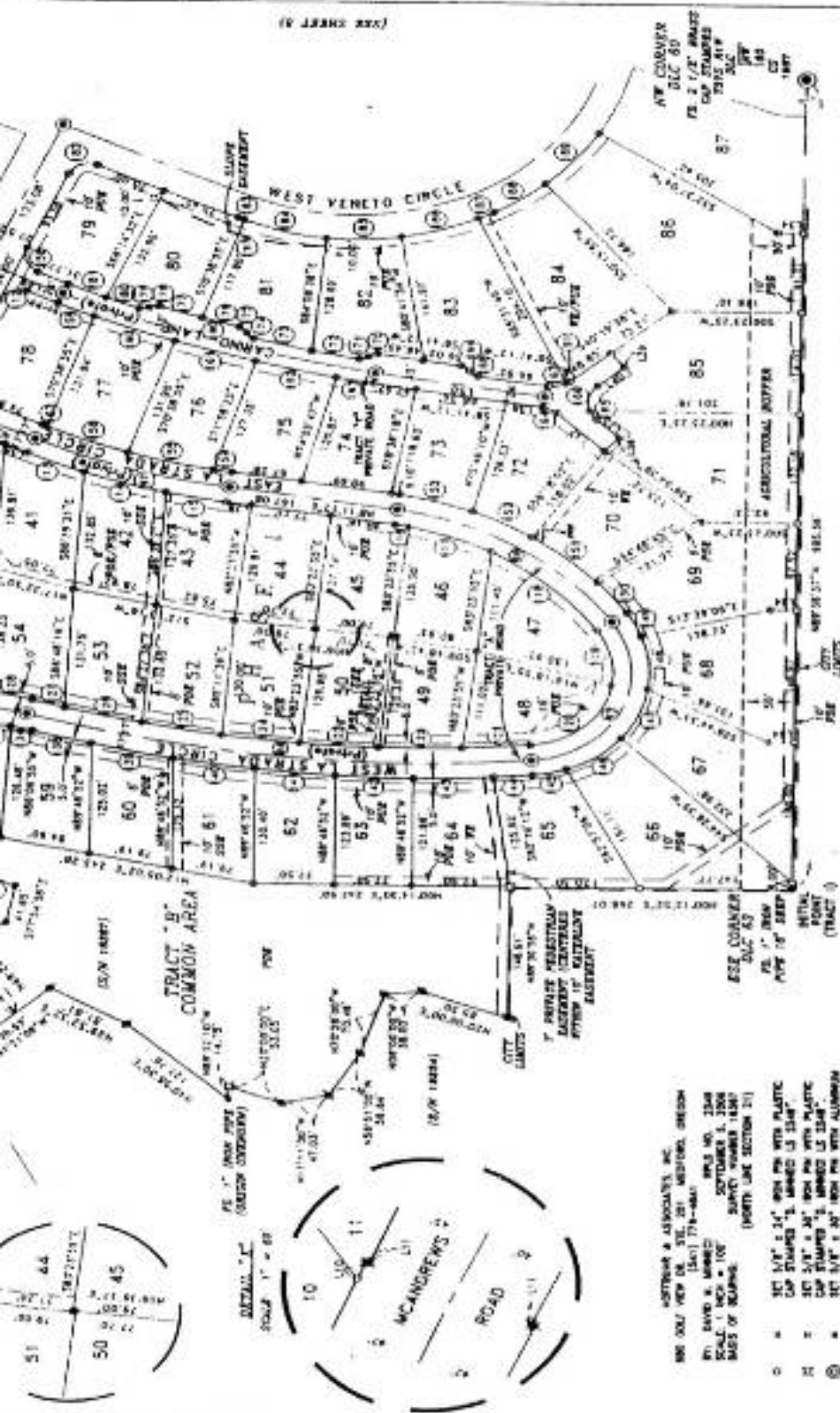
NOTES: THIS PLAN AND THE MAPS TO BE FILED HEREWITH ARE SUBJECT TO THE APPROVAL OF THE CITY ENGINEER AND THE CITY PLANNING COMMISSION. THE ENGINEER'S APPROVAL IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION THEREON. THE CITY PLANNING COMMISSION'S APPROVAL IS LIMITED TO THE POLICY ASPECTS OF THE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION THEREON. THE CITY ENGINEER AND THE CITY PLANNING COMMISSION ARE NOT RESPONSIBLE FOR THE DESIGN OF THE STRUCTURES TO BE CONSTRUCTED ON THE LOTS SHOWN ON THIS PLAN. THE DESIGNER OF SUCH STRUCTURES SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE CITY ENGINEER AND THE CITY PLANNING COMMISSION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE STATE ENGINEER AND THE STATE PLANNING COMMISSION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE FEDERAL BUREAU OF SURVEY AND THE NATIONAL BUREAU OF SURVEYING. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE UNITED STATES GEOLOGICAL SURVEY. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE AND THE UNITED STATES FOREST SERVICE. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF COMMERCE AND THE UNITED STATES COAST AND GEODETIC SURVEY. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF JUSTICE AND THE UNITED STATES ATTORNEY GENERAL. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF LABOR AND THE UNITED STATES BUREAU OF LABOR RELATIONS. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE UNITED STATES FOOD AND DRUG ADMINISTRATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF EDUCATION AND THE UNITED STATES BUREAU OF EDUCATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF ENERGY AND THE UNITED STATES BUREAU OF ENERGY RESEARCH. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND THE UNITED STATES FEDERAL AVIATION ADMINISTRATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF DEFENSE AND THE UNITED STATES ARMY. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE UNITED STATES FEDERAL HOUSING ADMINISTRATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF JUSTICE AND THE UNITED STATES ATTORNEY GENERAL. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF LABOR AND THE UNITED STATES BUREAU OF LABOR RELATIONS. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE UNITED STATES FOOD AND DRUG ADMINISTRATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF EDUCATION AND THE UNITED STATES BUREAU OF EDUCATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF ENERGY AND THE UNITED STATES BUREAU OF ENERGY RESEARCH. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND THE UNITED STATES FEDERAL AVIATION ADMINISTRATION. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF DEFENSE AND THE UNITED STATES ARMY. THE DESIGNER SHALL ALSO BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMITS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE UNITED STATES FEDERAL HOUSING ADMINISTRATION.

(SEE SHEETS 5, 6 & 7 FOR  
ADDITIONAL BASEMENT DETAILS)



PHASE 1 = ALL LOTS & TRACTS  
SOUTH OF MCANORNEY ROAD  
PHASE 2 = ALL LOTS & TRACTS  
NORTH OF MCANORNEY ROAD





WESTPHAL & ASSOCIATES, INC.  
 300 OLD NEW OR. BLD. 201 MEDFORD, OREGON  
 503 734-4841 FAX NO. 503 734-4840  
 BY: DAVID A. MARRIS  
 SCALE: 1"=100'  
 SURVEY NUMBER: 11407  
 DATE OF SURVEY: (NORTH LINE SECTION 21)

- 1. 30' 3/4" x 14" W/8 P/W WITH PLASTIC CAP STAMPS, 1/2" MARKED U.S. 2144"
- 2. 30' 3/4" x 14" W/8 P/W WITH PLASTIC CAP STAMPS, 1/2" MARKED U.S. 2144"
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- 83. 30' 3/4" x 14" W/8 P/W WITH ALUMINUM CAP STAMPS, 1/2" MARKED U.S. 2144"
- 84. 30' 3/4" x 14" W/8 P/W WITH ALUMINUM CAP STAMPS, 1/2" MARKED U.S. 2144"
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- 86. 30' 3/4" x 14" W/8 P/W WITH ALUMINUM CAP STAMPS, 1/2" MARKED U.S. 2144"

ALL DISTURBED MONUMENTS WILL BE SET NO LATER THAN  
 JULY 15, 2007  
 Donald W. Marriss  
 Surveyor

ALL DISTURBED MONUMENTS ARE NOW SET. SEE DOCUMENT NO. \_\_\_\_\_ OF OFFICIAL RECORDS HAS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.  
 APPROVED: \_\_\_\_\_ DEWEE COUNTY SURVEYOR

LOT NO.	ACRES	BEARING	DISTANCE	AREA
44	1.12	N89°42'13"W	13.58	
45	1.11	S27°42'28"E	2.00	
46	1.11	S71°45'58"E	13.85	
47	1.11	S21°32'45"E	11.83	
48	1.11	S81°33'47"W	48.32	
49	1.11	S54°29'18"W	39.75	
50	1.11	S28°17'43"W	4.39	
51	1.11	S88°11'31"E	21.90	
52	1.11	S58°41'28"E	24.17	
53	1.11	S51°38'19"W	19.25	
54	1.11	S65°18'25"W	12.30	
55	1.11	S17°01'45"E	20.82	
56	1.11	S83°18'22"W	17.30	
57	1.11	S38°41'08"E	31.37	
58	1.11	S85°33'35"W	23.00	
59	1.11	S44°13'05"W	16.80	
60	1.11	S48°43'58"W	22.00	
61	1.11	S81°32'52"W	18.84	
62	1.11	S68°11'13"E	14.50	
63	1.11	S47°42'11"E	12.19	
64	1.11	S47°33'38"E	13.19	
65	1.11	S33°52'51"E	14.16	
66	1.11	S18°52'35"E	11.19	
67	1.11	S18°46'33"E	11.19	
68	1.11	S18°46'33"E	11.19	
69	1.11	S18°46'33"E	11.19	
70	1.11	S18°46'33"E	11.19	
71	1.11	S18°46'33"E	11.19	
72	1.11	S18°46'33"E	11.19	
73	1.11	S18°46'33"E	11.19	
74	1.11	S18°46'33"E	11.19	
75	1.11	S18°46'33"E	11.19	
76	1.11	S18°46'33"E	11.19	
77	1.11	S18°46'33"E	11.19	
78	1.11	S18°46'33"E	11.19	
79	1.11	S18°46'33"E	11.19	
80	1.11	S18°46'33"E	11.19	
81	1.11	S18°46'33"E	11.19	
82	1.11	S18°46'33"E	11.19	
83	1.11	S18°46'33"E	11.19	
84	1.11	S18°46'33"E	11.19	
85	1.11	S18°46'33"E	11.19	
86	1.11	S18°46'33"E	11.19	

OPTIONAL RECORDS OF JACKSON COUNTY, OREGON  
 LAYOUT FOR PUBLIC UTILITIES, STORM DRAINAGE, GAS,  
 TELEPHONE, WATER, ELECTRIC, CABLE TELEVISION AND  
 SANITARY SEWER CONSTRUCTION AND MAINTENANCE.  
 ACCORD TO MEDFORD WATER COMMISSION PER DEC. NO.  
 2004-031915. OFFICIAL RECORDS OF JACKSON COUNTY,  
 OREGON.  
 PRIVATE SURVEYOR DONALD W. MARRISS  
 PRIVATE STORM DRAIN EASTMENT  
 PUBLIC SANITARY SEWER EASTMENT

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
 Donald W. Marriss  
 OREGON  
 SURV. # 11407  
 EXPIRES 12/31/08

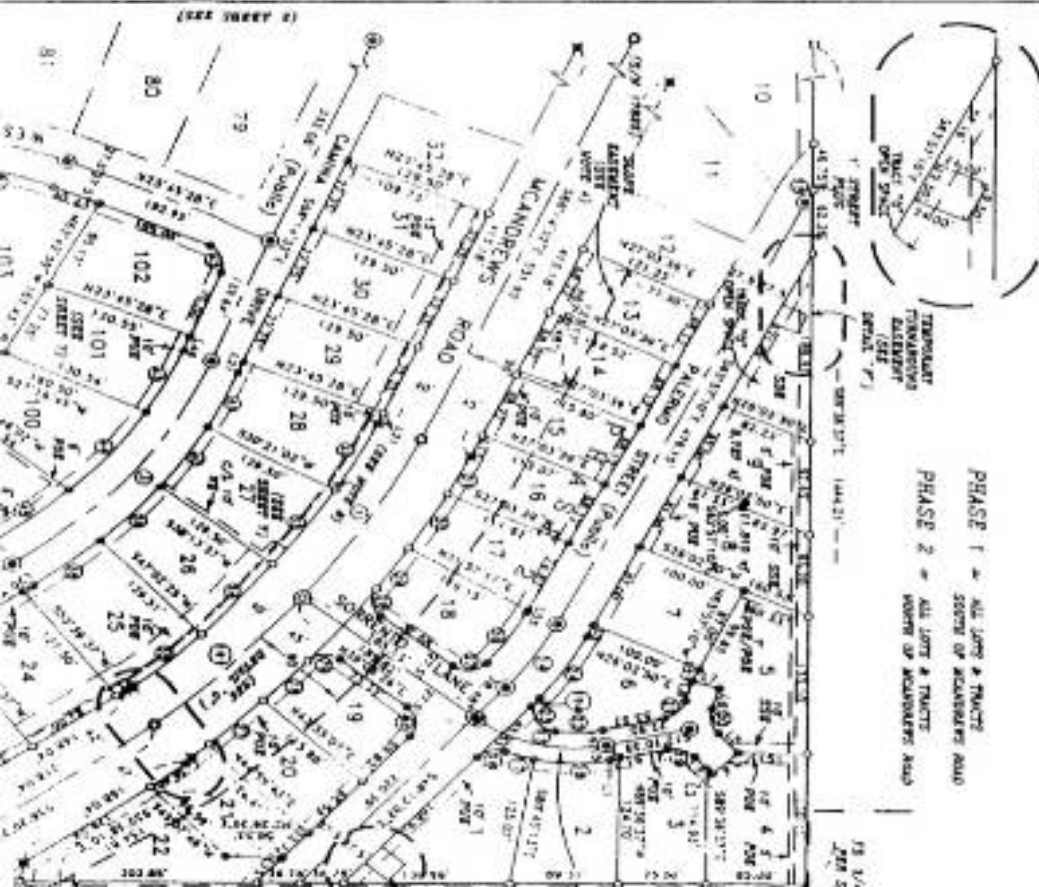
ALL DISTURBED MONUMENTS WILL BE SET NO LATER THAN JULY 15, 2007.  
 APPROVED: \_\_\_\_\_ DEWEE COUNTY SURVEYOR

(SEE SHEETS 5, 6 & 7 FOR  
ADDITIONAL EASEMENT DETAILS)

# BELLA VISTA HEIGHTS PHASES 1 AND 2

Located in:

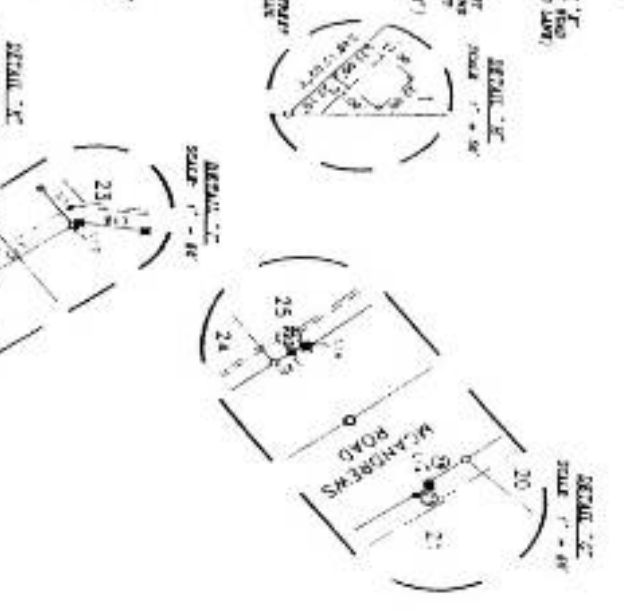
the Northeast 1/4 of Section 21  
& the Northwest 1/4 of Section 22,  
Township 37 South, Range 1 West, W.M.,  
in the City of Medford, Jackson County, Oregon



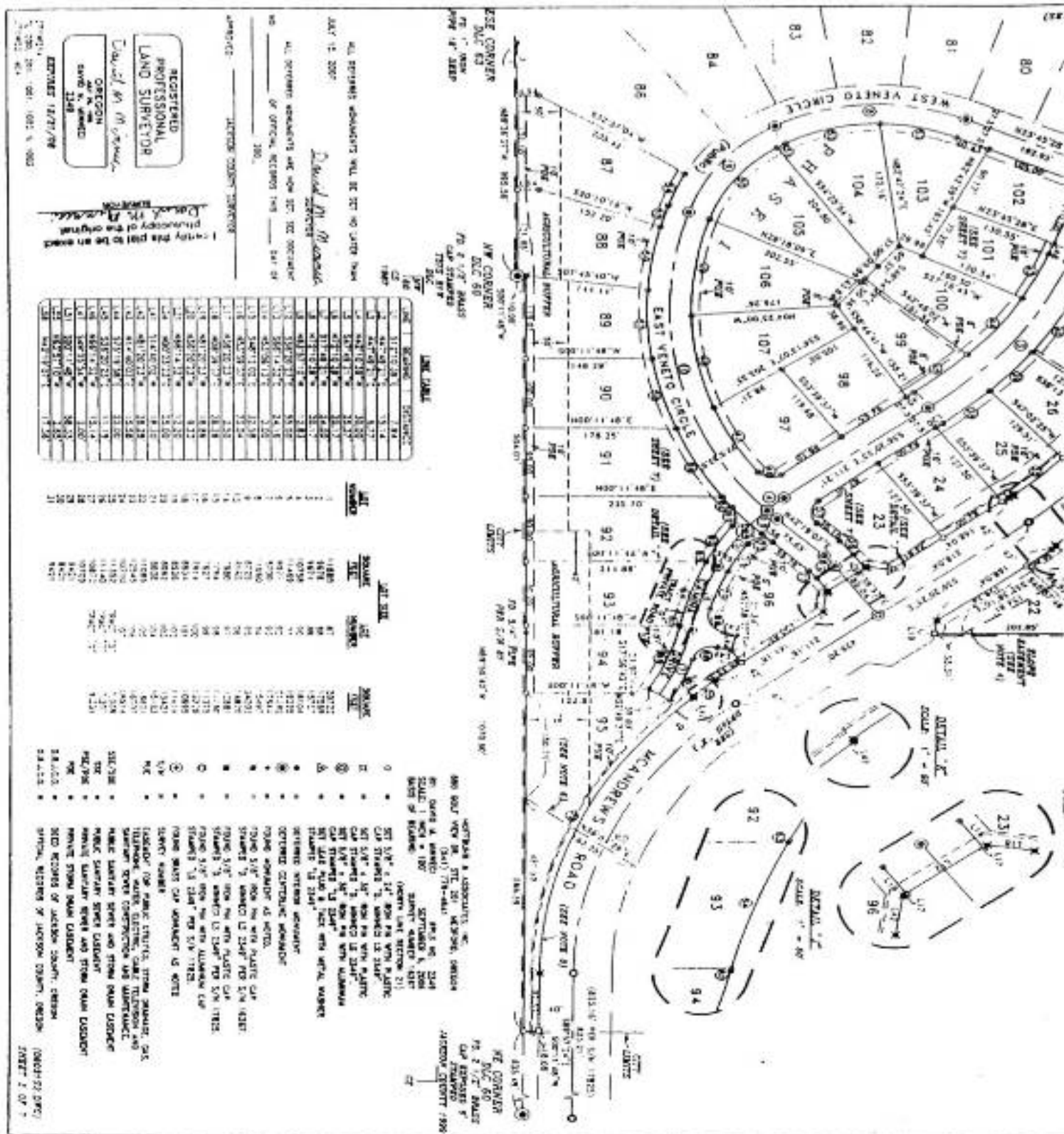
PHASE 1 - ALL LOTS & TRACTS  
SOUTH OF McANDREWS ROAD  
PHASE 2 - ALL LOTS & TRACTS  
NORTH OF McANDREWS ROAD

**NOTES:**

- 1) BOUNDARIES SHOWN ARE SEPARATED FROM TRAIL-HEADS & PRIVATE ROADS (SEE SHEET 5) BY A 10' WIDE BUFFER ZONE.
- 2) ALL EASEMENTS ARE TO BE MAINTAINED AND NOT TO BE ABANDONED.
- 3) EASEMENTS FOR ROAD TRAVELING SHOWN IN DASHED LINES PER THE CITY OF MEDFORD (ORDINANCE 1987-11).
- 4) ALL EASEMENTS ARE TO BE MAINTAINED AND NOT TO BE ABANDONED.
- 5) EASEMENTS FOR ROAD TRAVELING SHOWN IN DASHED LINES PER THE CITY OF MEDFORD (ORDINANCE 1987-11).
- 6) EASEMENTS FOR ROAD TRAVELING SHOWN IN DASHED LINES PER THE CITY OF MEDFORD (ORDINANCE 1987-11).
- 7) EASEMENTS FOR ROAD TRAVELING SHOWN IN DASHED LINES PER THE CITY OF MEDFORD (ORDINANCE 1987-11).
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- 37) EASEMENTS FOR ROAD TRAVELING SHOWN IN DASHED LINES PER THE CITY OF MEDFORD (ORDINANCE 1987-11).







RECORDED  
 PROFESSIONAL  
 LAND SURVEYOR  
 David M. Mendenhall  
 Oregon  
 State No. 1348  
 EXPIRES 12/31/78

ALL RIGHTS RESERVED WILL BE SET UP UNDER THIS  
 JULY 12, 2007  
 David M. Mendenhall  
 ALL OTHERS' RIGHTS ARE NOW SET UP TO OCCUR  
 OR OFFICIAL RECORD THIS DATE OF  
 2007

APPROXIMATE  
 APPROXIMATE  
 APPROXIMATE

INT. LABEL

LOT	ACRES	SQ. FT.	AREA	AREA
80	0.12	8280	0.12	8280
81	0.12	8280	0.12	8280
82	0.12	8280	0.12	8280
83	0.12	8280	0.12	8280
84	0.12	8280	0.12	8280
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103	0.12	8280	0.12	8280
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105	0.12	8280	0.12	8280
106	0.12	8280	0.12	8280
107	0.12	8280	0.12	8280

- 0 • SEE MAP FOR FULL DESCRIPTION
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WESTERN & ASSOCIATES, INC.  
 1000 1/2 ST. SW, SUITE 200, DENVER, COLORADO 80202  
 PHONE: 303.733.8800  
 FAX: 303.733.8801  
 WWW.WAASURV.COM

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# BELLA VISTA HEIGHTS PHASES 1 & 2

Located In:

the Northeast 1/4 of Section 21  
& the Northwest 1/4 of Section 22,  
Township 37 South, Range 1 West, W.M.,  
in the City of Medford, Jackson County, Oregon

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD	LONG CHORD
1	185°35'	714.53	183.87	183.25	589.2387*
2	57°27'00"	477.48	144.80	143.08	592.7815*
3	27°14'00"	519.23	278.87	287.76	607.1727*
4	53°21'00"	275.00	78.32	78.88	529.0217*
5	50°24'00"	274.00	98.27	98.24	587.1137*
6	17°42'00"	480.00	88.33	88.30	548.3181*
7	17°41'00"	330.00	88.38	88.32	548.2130*
8	101°15'00"	317.35	317.34	316.80	687.2138*
9	47°52'00"	221.30	184.81	184.21	644.4123*
10	87°19'00"	480.00	453.14	452.76	577.8300*
11	72°10'00"	480.00	314.18	313.62	642.5187*
12	110°20'00"	300.00	143.19	143.11	642.8734*
13	57°11'00"	222.00	113.88	113.88	612.2124*
14	19°43'00"	271.50	74.92	74.89	608.7438*
15	42°12'00"	271.50	134.88	134.88	608.7438*
16	17°42'00"	30.00	28.18	28.18	517.1487*
17	19°42'00"	140.00	24.83	24.80	618.2127*
18	25°41'00"	140.00	43.18	43.24	589.2452*
19	60°20'00"	57.00	28.18	28.20	517.1487*
20	60°20'00"	57.00	28.18	28.20	617.6117*
21	60°20'00"	57.00	28.18	28.20	647.1528*
22	20°17'00"	110.00	28.28	28.28	607.5127*
23	12°42'00"	20.00	42.15	42.87	607.2817*
24	12°42'00"	1.5000	71.88	71.83	517.0947*
25	47°14'00"	519.48	284.82	284.82	587.1137*
26	14°00'15"	103.00	38.81	38.78	587.5137*
27	60°17'00"	30.00	31.28	31.28	607.5127*
28	60°17'00"	30.00	31.28	31.28	607.5127*
29	27°28'00"	71.20	48.84	48.84	647.1528*
30	27°28'00"	71.20	48.84	48.84	647.1528*
31	27°28'00"	71.20	48.84	48.84	647.1528*
32	7°18'00"	618.00	71.21	71.17	647.1528*
33	7°18'00"	618.00	71.21	71.17	647.1528*
34	6°42'00"	618.00	84.38	84.34	647.1528*
35	6°42'00"	618.00	84.38	84.34	647.1528*
36	13°02'00"	152.88	28.24	28.23	547.8723*
37	13°02'00"	152.88	28.24	28.23	547.8723*
38	13°02'00"	152.88	28.24	28.23	547.8723*
39	13°02'00"	152.88	28.24	28.23	547.8723*
40	13°02'00"	152.88	28.24	28.23	547.8723*
41	13°02'00"	152.88	28.24	28.23	547.8723*
42	13°02'00"	152.88	28.24	28.23	547.8723*
43	13°02'00"	152.88	28.24	28.23	547.8723*
44	13°02'00"	152.88	28.24	28.23	547.8723*
45	13°02'00"	152.88	28.24	28.23	547.8723*

CURVE TABLE

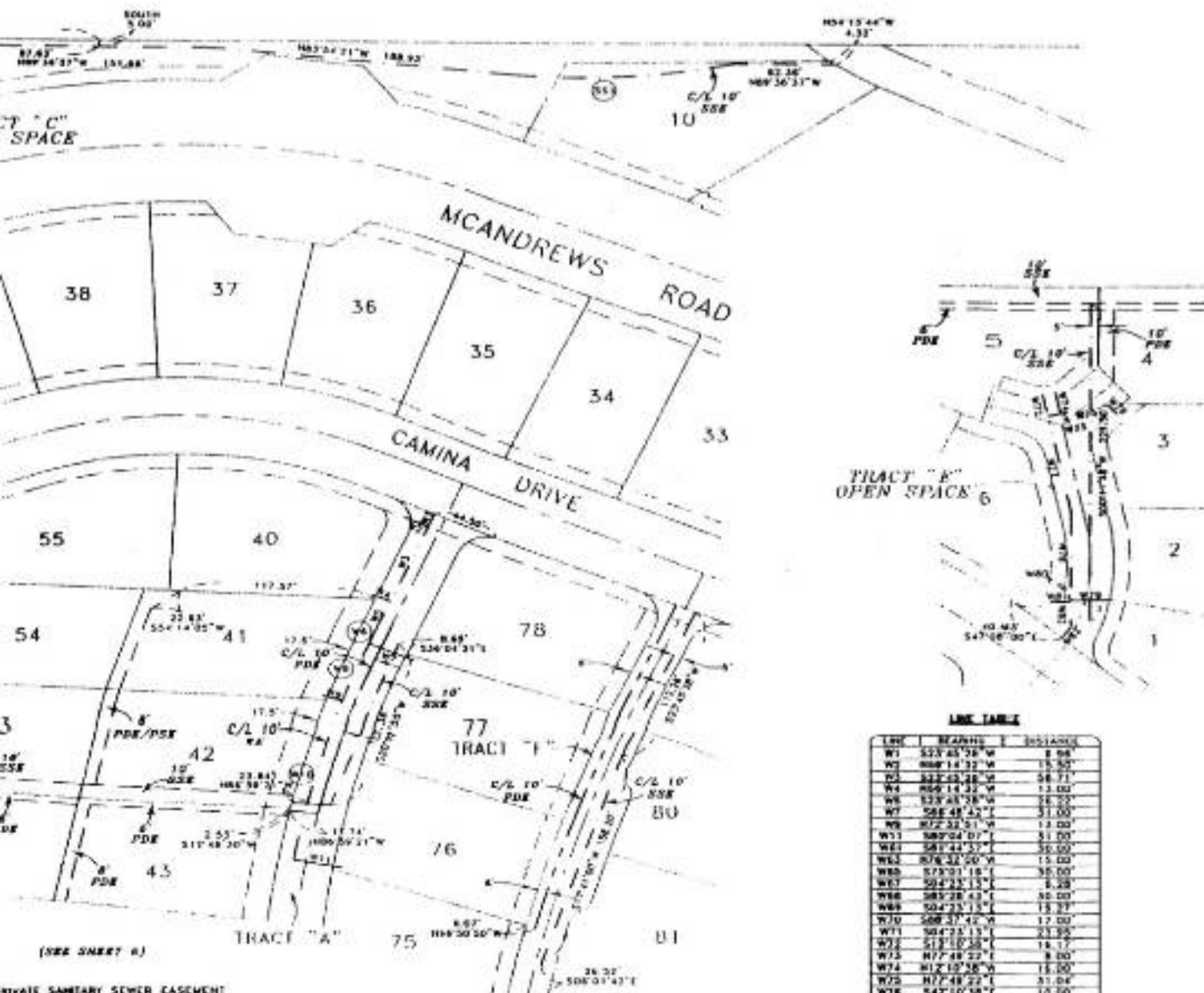
CURVE	DELTA	RADIUS	LENGTH	CHORD	LONG CHORD
46	42°58'00"	198.00	130.81	133.73	647.1528*
47	42°58'00"	198.00	130.81	133.73	647.1528*
48	42°58'00"	198.00	130.81	133.73	647.1528*
49	42°58'00"	198.00	130.81	133.73	647.1528*
50	12°50'00"	425.48	185.12	184.81	587.1137*
51	12°50'00"	425.48	185.12	184.81	587.1137*
52	42°58'00"	425.48	24.88	24.87	587.1137*
53	42°58'00"	425.48	24.88	24.87	587.1137*
54	42°58'00"	425.48	24.88	24.87	587.1137*
55	42°58'00"	425.48	24.88	24.87	587.1137*
56	42°58'00"	425.48	24.88	24.87	587.1137*
57	42°58'00"	425.48	24.88	24.87	587.1137*
58	42°58'00"	425.48	24.88	24.87	587.1137*
59	42°58'00"	425.48	24.88	24.87	587.1137*
60	42°58'00"	425.48	24.88	24.87	587.1137*
61	42°58'00"	425.48	24.88	24.87	587.1137*
62	42°58'00"	425.48	24.88	24.87	587.1137*
63	42°58'00"	425.48	24.88	24.87	587.1137*
64	42°58'00"	425.48	24.88	24.87	587.1137*
65	42°58'00"	425.48	24.88	24.87	587.1137*
66	42°58'00"	425.48	24.88	24.87	587.1137*
67	42°58'00"	425.48	24.88	24.87	587.1137*
68	42°58'00"	425.48	24.88	24.87	587.1137*
69	42°58'00"	425.48	24.88	24.87	587.1137*
70	42°58'00"	425.48	24.88	24.87	587.1137*
71	42°58'00"	425.48	24.88	24.87	587.1137*
72	42°58'00"	425.48	24.88	24.87	587.1137*
73	42°58'00"	425.48	24.88	24.87	587.1137*
74	42°58'00"	425.48	24.88	24.87	587.1137*
75	42°58'00"	425.48	24.88	24.87	587.1137*
76	42°58'00"	425.48	24.88	24.87	587.1137*
77	42°58'00"	425.48	24.88	24.87	587.1137*
78	42°58'00"	425.48	24.88	24.87	587.1137*
79	42°58'00"	425.48	24.88	24.87	587.1137*
80	42°58'00"	425.48	24.88	24.87	587.1137*
81	42°58'00"	425.48	24.88	24.87	587.1137*
82	42°58'00"	425.48	24.88	24.87	587.1137*
83	42°58'00"	425.48	24.88	24.87	587.1137*
84	42°58'00"	425.48	24.88	24.87	587.1137*
85	42°58'00"	425.48	24.88	24.87	587.1137*
86	42°58'00"	425.48	24.88	24.87	587.1137*
87	42°58'00"	425.48	24.88	24.87	587.1137*
88	42°58'00"	425.48	24.88	24.87	587.1137*
89	42°58'00"	425.48	24.88	24.87	587.1137*
90	42°58'00"	425.48	24.88	24.87	587.1137*
91	42°58'00"	425.48	24.88	24.87	587.1137*
92	42°58'00"	425.48	24.88	24.87	587.1137*
93	42°58'00"	425.48	24.88	24.87	587.1137*
94	42°58'00"	425.48	24.88	24.87	587.1137*
95	42°58'00"	425.48	24.88	24.87	587.1137*
96	42°58'00"	425.48	24.88	24.87	587.1137*
97	42°58'00"	425.48	24.88	24.87	587.1137*
98	42°58'00"	425.48	24.88	24.87	587.1137*
99	42°58'00"	425.48	24.88	24.87	587.1137*
100	42°58'00"	425.48	24.88	24.87	587.1137*



# BELLA VISTA HEIGHTS PHASES 1 & 2

Located in:

the Northeast 1/4 of Section 21  
the Northwest 1/4 of Section 22,  
Township 37 South, Range 1 West, W.M.,  
City of Medford, Jackson County, Oregon



TRACT "F"  
OPEN SPACE

**LINE TABLE**

LINE	BEARINGS	DISTANCES
W1	S23°45'28"W	8.98
W2	S68°14'32"W	15.35
W3	S22°42'28"W	58.71
W4	S65°14'32"W	13.00
W5	S33°45'28"W	28.22
W7	S88°48'42"E	31.00
W8	N72°32'51"W	14.00
W11	S89°04'07"E	31.00
W12	S87°42'37"E	30.00
W13	N76°42'50"W	15.00
W14	S73°51'18"E	35.00
W17	S64°23'15"E	8.28
W18	S85°28'43"E	30.00
W19	S04°23'15"E	18.37
W20	S68°37'42"W	17.00
W21	S04°23'15"E	23.35
W22	S13°10'38"E	14.17
W23	N77°48'22"E	8.00
W24	N12°10'58"W	15.00
W25	N77°48'22"E	31.04
W26	S42°10'58"E	10.50
W27	S12°10'58"E	20.78
W28	S88°11'38"W	85.31
W29	S82°10'24"E	27.50
W30	S08°11'38"W	0.70
W31	S62°48'24"W	13.00
W32	S87°11'38"W	16.80
W33	S28°34'30"E	10.48

PRIVATE SANITARY SEWER EASEMENT  
PRIVATE STORM DRAIN EASEMENT  
PUBLIC SANITARY SEWER EASEMENT  
EASEMENT TO MEDFORD WATER COMMISSION PER DOC. NO.  
005-032147, OFFICIAL RECORDS OF JACKSON COUNTY.

BELL  
P

the North  
& the North  
Township 37  
in the City of

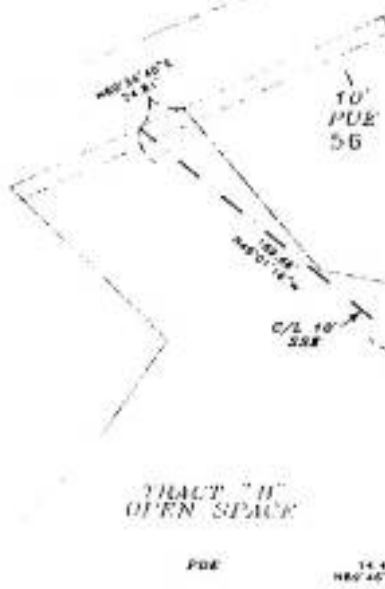


C/L 10' SANITARY SEWER  
EASEMENT PER DOC  
8005-074884, O.R.J.C.O.

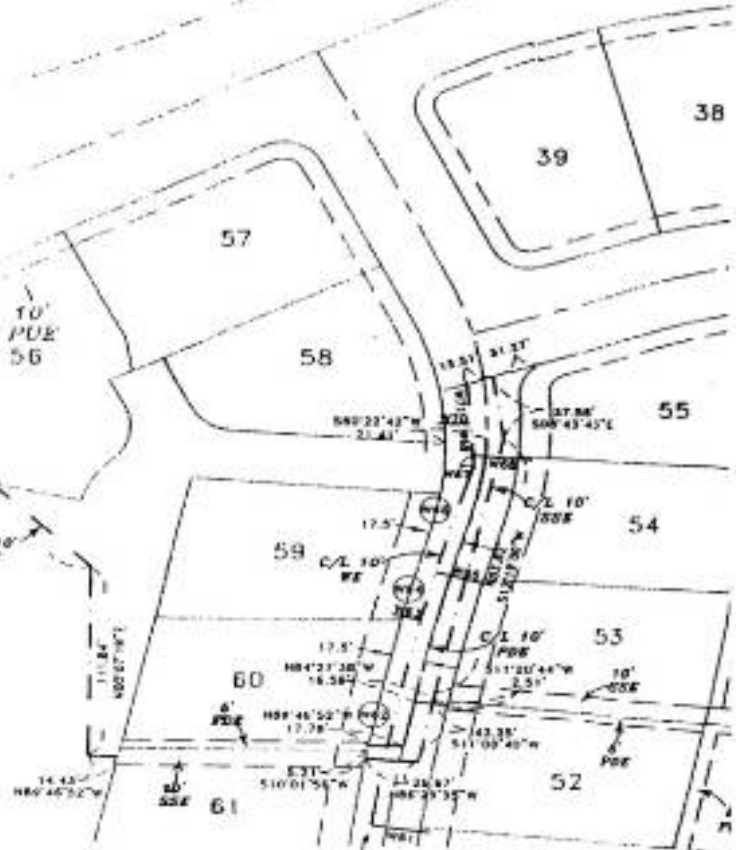


TRACT "C"  
OPEN SPACE

SCALE 1" = 60'



TRACT "B"  
OPEN SPACE



TRACT "A"

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
  
David M. Morrison  
OREGON  
DAVID M. MORRISON  
2258

I certify this plot to be an exact  
photocopy of the original.  
David M. Morrison  
SURVEYOR

(SEE SHEET)  
PSE = PRIVATE SANITARY  
POC = PRIVATE STORM IN  
SSE = PUBLIC SANITARY  
WE = EASEMENT TO SHEET  
7005-082187, OR

271N214  
U. 201, 201, 1001, 1022 & 1003  
571N22, 424

(PRIVATE AND PUBLIC  
UTILITIES AND EASEMENTS)

BELLA  
PH

the North  
& the North  
Township 37 S  
in the City of Med

CURVE TABLE

CURVE	DETA	SACRS	LENGTH	CHORD	BEARNG
W12	01°44'43"	707.50	21.58	21.58	S08°01'53"W
W20	03°18'38"	282.50	12.01	12.01	S08°51'11"W
W22	13°50'47"	282.50	80.98	80.94	S18°28'34"W
W24	04°41'50"	282.50	23.95	23.94	S28°22'41"W
W28	01°17'48"	282.50	8.42	8.42	S32°23'32"W
W33	12°55'22"	282.50	85.27	85.23	S38°48'56"W
W49	02°41'58"	1307.50	83.89	83.88	S04°28'45"E
W51	01°28'33"	1307.50	28.58	28.58	S03°50'28"E
W53	01°55'38"	1307.50	43.58	43.58	S03°57'18"E
W55	02°13'08"	1307.50	5.00	5.00	S03°04'30"W
W58	04°40'08"	1307.50	108.54	108.51	S02°33'32"E
W58	01°57'53"	1307.50	44.71	44.71	S03°51'48"W
W60	01°23'50"	1307.50	31.78	31.78	S02°32'18"W
W84	04°08'43"	427.50	31.05	31.04	N46°53'18"E
S53	14°04'50"	280.50	21.02	21.22	S03°00'48"W
S01	05°42'22"	888.50	57.88	57.84	S10°32'53"E
S02	29°40'57"	40.50	18.15	18.50	S58°07'30"W
S03	10°15'47"	798.50	248.86	248.83	S02°14'30"E



TRACT "A"  
OPEN SPACE



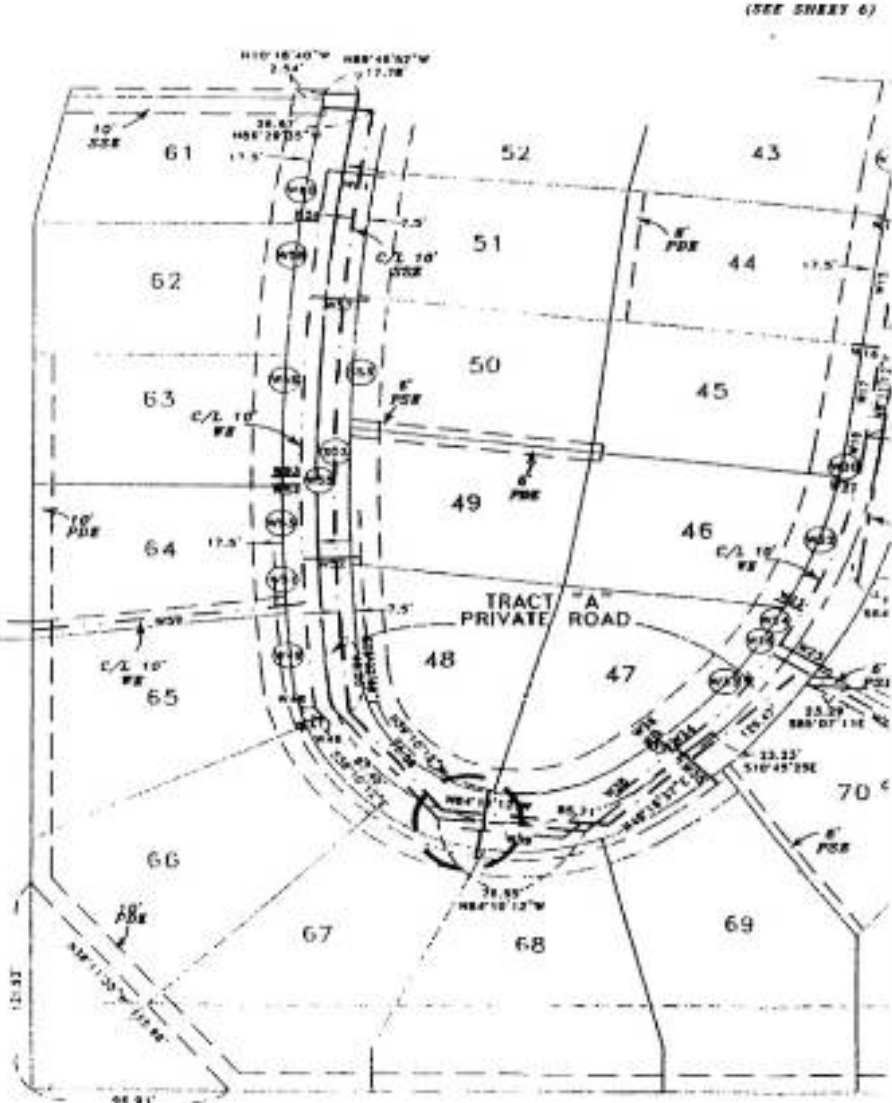
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

David M. Murrell

OREGON  
027-04-0000  
DAVE M. MURRELL  
2348

EXPIRES 12/31/08

574611A  
71, 200, 201, 1001, 1002 & 1003  
574612, 494

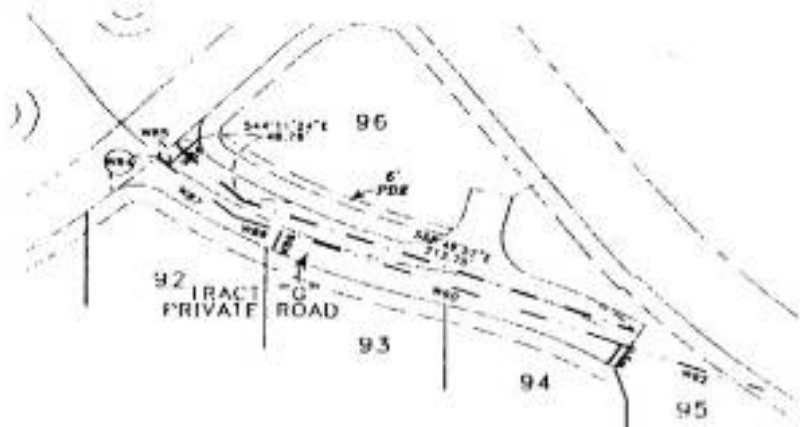




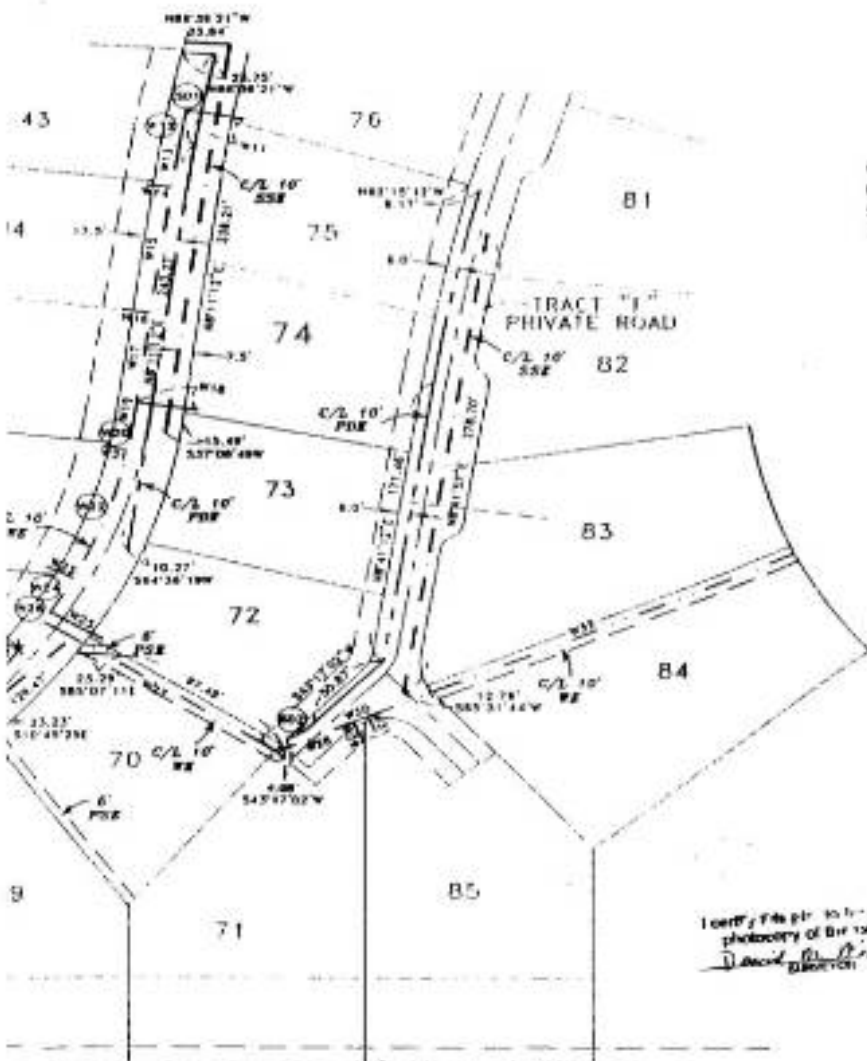
# BELLA VISTA HEIGHTS PHASES 1 & 2

Located In:

the Northeast 1/4 of Section 21,  
the Northwest 1/4 of Section 22,  
T12N, R12E, S37, Range 1 West, W.M.,  
City of Medford, Jackson County, Oregon



(SEE SHEET 4)



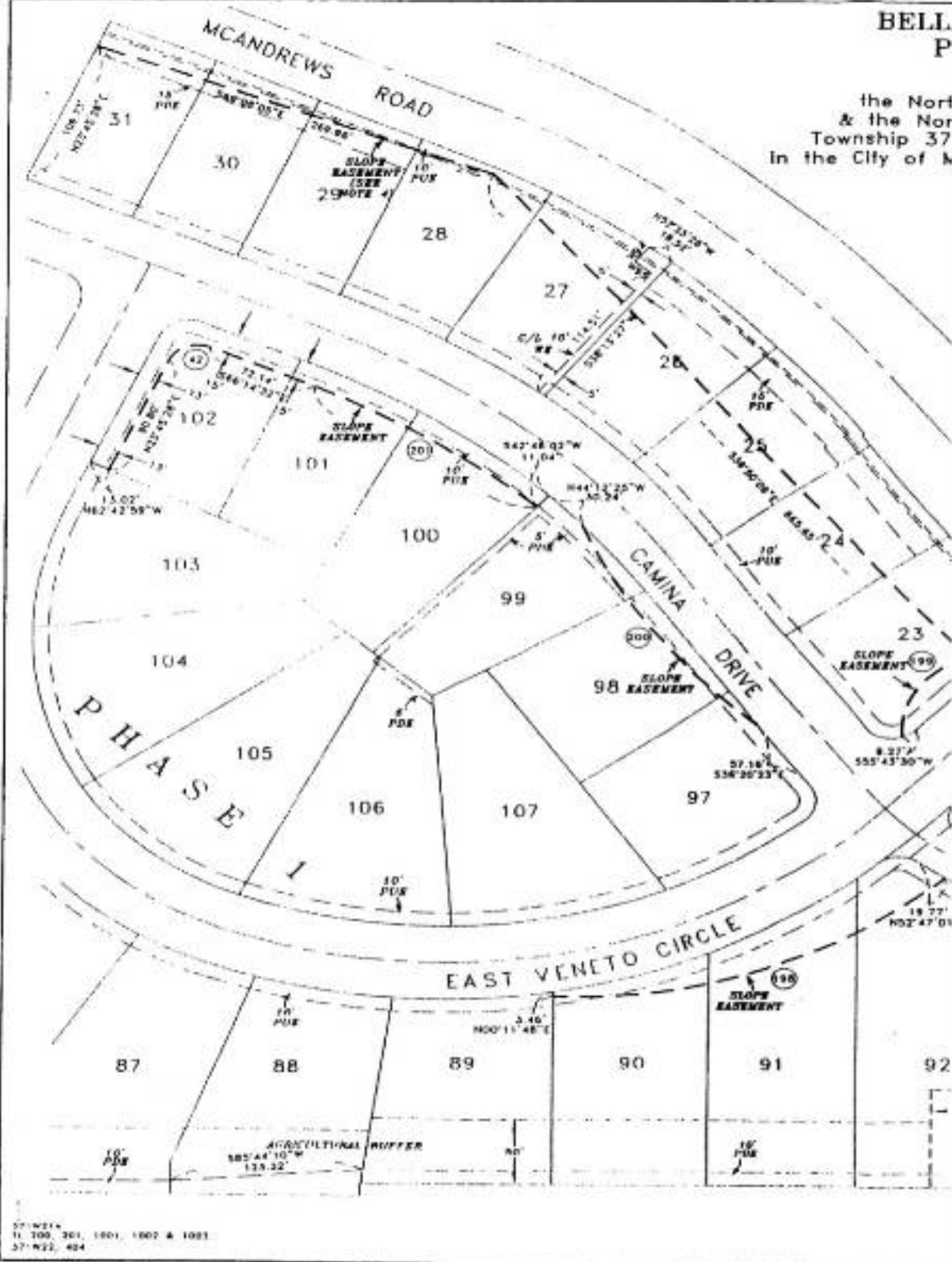
- PSE = PRIVATE SANITARY SEWER EASEMENT
- PDC = PRIVATE STORM DRAIN EASEMENT
- SSC = PUBLIC SANITARY SEWER EASEMENT
- WE = EASEMENT TO MEDFORD WATER COMMISSION PER DOC. NO. 2008-032187, OFFICIAL RECORDS OF JACKSON COUNTY.

LINE TABLE

LINE	BEARING	DISTANCE
W11	S87°04'07"E	51.897
W12	S28°11'12"W	28.757
W14	N81°28'48"W	13.067
W15	S28°11'12"W	25.237
W16	N81°48'48"E	31.267
W17	S28°11'12"W	53.887
W18	N81°48'48"E	31.267
W19	S28°11'12"W	11.357
W21	N72°28'50"W	15.007
W23	N82°48'03"W	18.847
W25	S57°28'33"E	31.267
W27	S58°14'25"E	143.207
W28	N89°31'48"E	43.157
W29	S12°28'15"E	14.007
W30	S52°31'45"E	7.837
W31	S14°28'15"E	10.007
W32	N82°31'48"E	238.077
W34	S48°18'37"W	8.807
W35	S12°43'22"E	30.007
W36	S48°18'38"W	2.817
W37	S14°43'22"E	18.007
W38	S48°18'38"W	74.687
W39	N84°18'12"E	41.287
W40	N85°08'48"E	17.887
W41	N12°38'25"E	7.147
W42	N82°10'12"W	1.297
W43	S00°49'48"W	7.197
W44	S11°48'32"W	10.507
W45	N84°10'12"W	8.697
W46	S59°10'12"E	5.797
W47	S11°45'48"W	15.487
W48	S58°18'12"E	6.817
W50	S82°39'12"W	134.857
W52	N88°04'06"E	30.007
W54	S89°58'42"W	14.507
W57	N81°08'36"E	30.007
W58	N83°02'38"E	13.007
W61	N81°44'37"E	30.007
W62	S48°55'12"E	7.287
W66	N43°04'48"E	23.007
W67	S48°55'12"E	43.757
W68	S48°49'57"E	25.887
W69	S28°49'57"E	12.147
W70	S82°49'57"E	188.247
W81	S17°04'14"W	13.847
W82	S88°49'57"E	31.377
W83	N89°41'07"W	14.507

I certify this plan to be a correct  
photocopy of the original  
David R. Rios  
Surveyor

(0803138.DWG)  
SHEET 6 OF 7



27-10214  
11, 100, 201, 1001, 1002 & 1003  
27-1022, 404

# BELLA VISTA HEIGHTS PHASES 1 & 2

Located In:

the Northeast 1/4 of Section 21,  
the Northwest 1/4 of Section 22,  
T19N, R37S, Range 1 West, W.M.,  
City of Medford, Jackson County, Oregon

(PRIVATE AND PUBLIC  
UTILITIES AND EASEMENTS)

### NOTES

- 4.) SLOPE EASEMENTS IN FAVOR OF THE CITY OF MEDFORD PER CIRCUIT COURT CASE NO. 00131E-E-2 RECORDED AS DOC. NO. 2004-08437, O.R.J.C.B. (SHOWN ON SHEETS 1, 2 & 7)  
10.) SLOPE EASEMENT GRANTED THE CITY OF MEDFORD PER DOC. NO. 2004-07288, O.R.J.C.B. (SHOWN ON SHEET 7)

SCALE: 1" = 80'

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	CHORD	LONG CHORD
198	44°44'28"	350.00	273.51	256.43	S70°11'37"W
199	103°38'59"	60.00	107.32	81.58	S48°28'10"W
200	28°58'14"	300.00	192.14	185.10	S37°10'48"E
201	17°38'05"	350.00	188.44	188.77	S57°24'59"E
42	90°00'00"	20.00	31.42	28.78	S88°48'28"W

LINE TABLE

LINE	BEARING	DISTANCE
W94	S40°18'35"W	14.37'
W95	S49°01'25"E	14.00'

- PEE = PRIVATE STORM DRAIN EASEMENT  
WE = EASEMENT TO MEDFORD WATER COMMISSION PER DOC. NO. 2006-031197, OFFICIAL RECORDS OF JACKSON COUNTY.

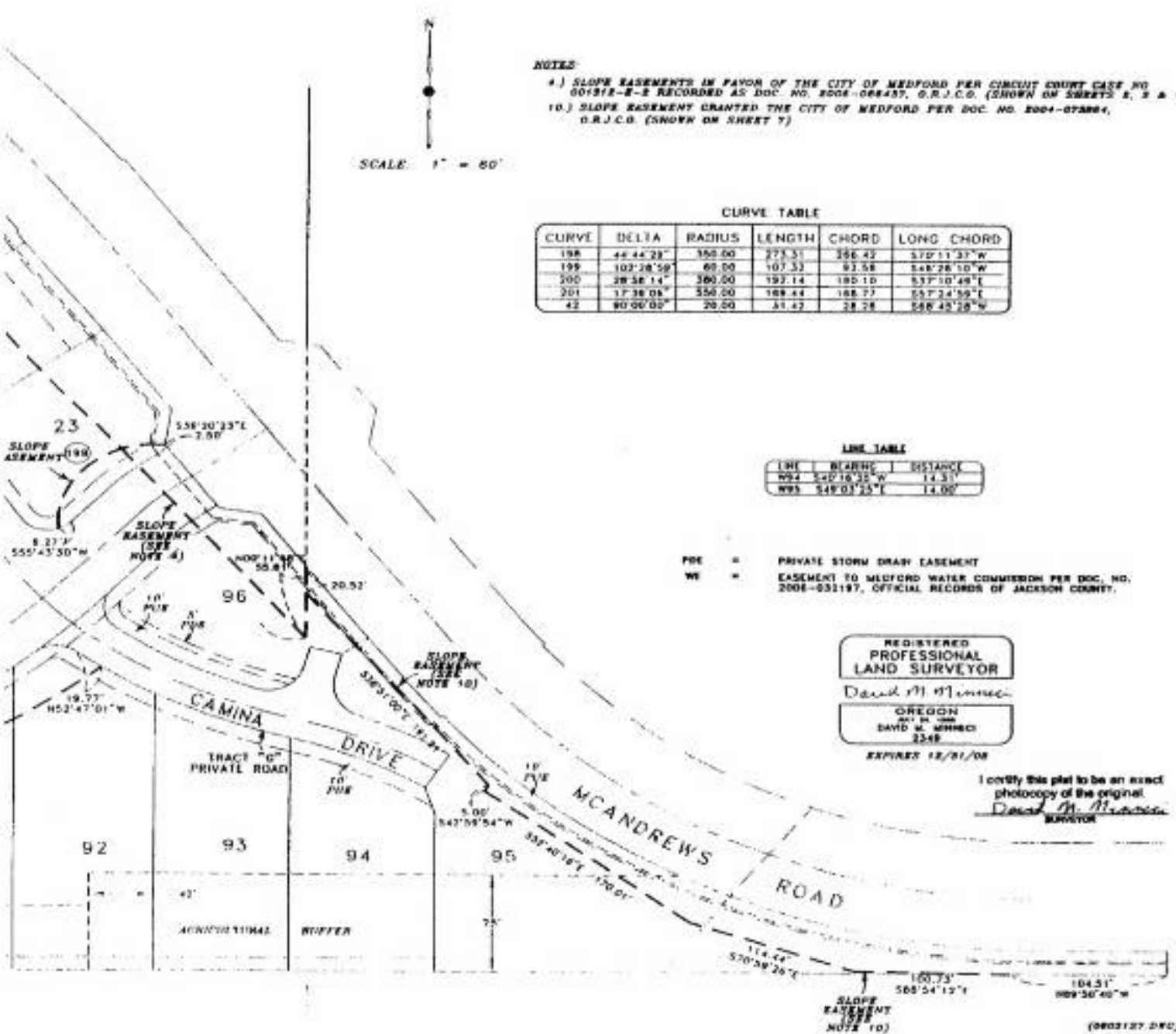
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

David M. Minner

OREGON  
JULY 24, 1988  
DAVID M. MINNER  
2248

EXPIRES 12/31/08

I certify this plat to be an exact  
photocopy of the original.  
David M. Minner  
SURVEYOR



(0803127.DWG)  
SHEET 7 OF 7

**BYLAWS**  
**OF**  
**BELLA VISTA HOMES HOMEOWNER'S ASSOCIATION**  
**AN OREGON NONPROFIT CORPORATION**

Article I  
Name, Principal Office, and Definitions

1.1. Name. The name of the Association shall be Bella Vista Homes Homeowner's Association ("Association").

1.2. Principal Office. The principal office of the Association shall be located in Jackson County, Oregon. The Association may have such other offices, either within or outside the State of Oregon, as the Board may determine or as the affairs of the Association shall require.

1.3. Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for the Association filed in the Office Of The County Clerk ("Declaration"), unless the context indicates otherwise.

Article II  
Association; Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board either within the Properties or as convenient thereto as possible and practical.

2.3. Annual Meetings. The first meeting of the Members of the Association, whether a regular or special meeting, shall be held within 45 days after the conveyance of 51% of the Lots in the Properties to Retail Owners, but not later than six months after the first conveyance of a Lot to a Retail Owner. Subsequent regular annual meetings shall be set by the Board so as to occur at least 30 days but not more than 120 days before the close of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 10% of the Members of the Association. The Association shall call special meetings as required by ORS 94.604 and ORS 94.616. If the Board or Declarant fails to call the meeting, the Transitional Advisory Committee, if any, or any Owner may call the meeting in accordance with ORS 94.609.

2.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member, as the case may be, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of time and place for reconvening the meeting shall be given in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes present.



2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Voting of the Members at a meeting may be by voice or ballot.

2.9. Proxies. Any Member who is entitled to cast the vote(s) for his or her own Lot(s) pursuant to Section 4.4.3 of the Declaration may cast such vote in person or by proxy. No proxy shall be valid unless it meets the requirement of ORS 94.660 and is signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to any meeting for which it is to be effective. No proxy shall be valid after one year from its date of execution unless otherwise specified in the proxy.

2.10. Majority. As used in these Bylaws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than 50% of the total eligible number.

2.11. Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence of the Members representing a majority of the total votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting by written ballots as provided in ORS 65.222. Such ballots shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at a meeting.

### Article III

#### Board of Directors; Number, Powers, Meetings

##### A. Composition and Selection.

3.1. Initial Board of Directors. During the period of Declarant control, the initial Board of Directors shall consist of three (3) members, who shall be Jeffrey Chamberlain, Gregory Schuler and David Boals, who shall serve until their successors are elected and qualified, as hereinafter specified.

3.2. Election of Directors and Terms of Office. Notwithstanding anything herein to the contrary, the initial Board of Directors shall serve as the Board of Directors and govern all affairs of the Association until such time as seventy-five percent (75%) of all lots have been sold and

until the turnover meeting as provided in Article IV hereof. At turnover, the Board of Directors shall consist of five (5) members. Each Director shall be elected to a term of three years except that for the initial election the terms shall be as follows: two (2) Directors shall serve until the first annual meeting following their election; two (2) Directors shall serve until the second annual meeting following their election; one (1) Director shall serve until the third annual meeting following his/her election. At the expiration of the term of each Director at the respective annual meetings, the lot owners shall elect a successor (which may be the Director whose term is expiring) to serve until the third annual meeting following his/her election, or until a successor is elected and qualified. All elected officers must be Owners.

3.3. Removal of Directors and Vacancies. Any director elected by the Owners may be removed, with or without cause, by the vote of Owners holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called and noticed for that purpose. A director who was elected at large solely by the votes of Owners representing Class "A" Members (other than the Declarant), may be removed from office prior to the expiration of his or her term only by the votes of Owners representing a majority of the Class "A" Members (other than the Declarant). Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term..

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term. Any director appointed by the Board shall be selected from among Members within the Voting Group represented by the director who vacated the position.

Notwithstanding the above, only the Declarant may remove any director, with or without cause, who was appointed or elected to the Board by the Declarant.

#### B. Meetings.

3.4. Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.5. Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter. Notice of the time and place of the meeting shall be posted in a prominent place within the Property and communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

3.6. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone facsimile communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall be posted in a prominent place within the Properties. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

3.7. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.8. Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.9. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A"

votes in the Association, other than the Declarant, at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

3.10. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of meetings of the Board, recording all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings.

3.11. Open Meetings. Subject to the provisions of Section 3.12, all meetings of the Board shall be open to all Members, but a Member other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.12. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. Written consent or consents shall be filed with the minutes of the proceedings of the board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Association within three days after all written consents have been obtained. The explanation shall be given in the same manner as provided in the Bylaws for the giving of notice of regular meetings of the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

#### C. Powers and Duties

3.13. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things as are by the Declaration, Articles, these Bylaws, or Oregon law directed to be done and exercised exclusively by the Members or the membership generally.

3.14. Duties. The Duties of the Board shall include, without limitation:

(a) preparation and adoption of annual budgets and establishing each Owner's share of the Common Expenses;

(b) levying and collecting assessments from the Owners to fund the Common Expenses;

(c) providing for the operation, care, upkeep, and maintenance of the Common Area;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these Bylaws;

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying property and liability insurance, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the



Declaration, the Articles of Incorporation, the Bylaws, rules and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is allowed by Oregon law, the Articles of Incorporation and the Declaration; and

(p) assisting in the resolution of disputes between Owners and other without litigation, as set forth in the Declaration.

3.15. Right of Class "B" Member to Disapprove Actions. Until 75% of the Lots are owned by Retail Owners, the Declarant shall have a right to disapprove any action, policy or programs of the Association, the Board and any committee which, in the judgment of the Declarant, would tend to impair rights of the Declarant or Builders under the Declaration or these Bylaws, or interfere with development, construction of any portion of the Properties, or diminish the level of services being provided by the Association.

No such action, policy or program shall become effective or be implemented until and unless:

(a) The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Association, the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies, as to the Board meetings, with Section 3.5, 3.6, and 3.7 of these Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Declarant, its successors, assigns, representatives, or agents at any time within 10 days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level

of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

(c) This Section may not be amended without the express written consent of the Declarant until 75% of the Lots have been conveyed to Retail Owners.

3.16. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy making authority or those duties set forth in Sections 3.14(a) and 3.14(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control period unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 30 days written notice.

3.17. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accounting and controls should conform to generally accepted accounting principles;

(b) cash accounts of the Association shall not be commingled with any other accounts;

(c) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(d) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(e) the following financial and related information shall be regularly prepared and distributed by the Board to all Members of the Association:

(i) The Board shall cause an "Annual Budget" for the Association to be prepared for each fiscal year of the Association. A summary of the adopted Annual Budget shall be distributed to each Member within 30 days after adoption. If the Board fails to adopt a budget, the last adopted annual budget shall continue in effect. In calculating the Annual Budget, the Board shall account for the following:

(A) the estimated revenue and expenses of the Association on for the forthcoming fiscal year;

(B) the amount of the total cash reserves of the Association currently available for the replacement or major repair of the Common Area and for contingencies;

(C) an estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray future repair, replacement or additions to, those major components of the Common Area; and

(D) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the future repair, replacement or additions to major components of the Common Area.

(ii) Within 90 days after the end of the fiscal year, the Board shall cause an annual report consisting of a balance sheet and income and expense statement ("Financial Statement") to be prepared and distributed to each Member of the Association. A copy of the Financial Statement shall be distributed personally or by mail or other manner reasonably designed to provide delivery to each of the Members of the Association.

(iii) The Board shall do the following not less frequently than quarterly:

(A) cause a current reconciliation of the Association's operating accounts to be made and review the same;

(B) cause a current reconciliation of the Association's reserve accounts to be made and review the same;

(C) review the current year's actual reserve revenues and expenses compared to the current year's Budget;

(D) review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts;

(E) review an income and expense statement for the Association's operating and reserve accounts; and

(F) review the delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent. (Any assessment or installment thereof shall be considered to be delinquent on the 11th day following the due date unless otherwise determined by the Board.)

(iv) A statement of the Association's policies and practices in enforcing its remedies against Members for default in the payment of assessments, including the recording and foreclosing of liens against Lots, shall be distributed to Members of the Association within 60 days before the beginning of each fiscal year.

3.18. Borrowing. No loan shall be contracted on behalf of the Association, and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors and approved by the affirmative vote of the owners of seventy five percent (75%) of the Property. Such authority may be general or confined to specific instances.

3.19. Rights of the Association. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, cooperatives, or other owners or residents associations, both within and outside the Properties. Such agreements shall require the consent of a majority of the total number of directors of the Association.

3.20. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable fines. A fine, other than a penalty for nonpayment of assessments, shall constitute a lien upon the Lot of the violating Owner pursuant to Section 5.15 of the Declaration. The Board shall also have the power to suspend an Owner's right to vote for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to suspend an Owner's right to vote due to nonpayment of assessments. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Lot violates the Declaration, Bylaws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator written notice stating (i) the violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 15 days within which the alleged violator may present a written request for a hearing to the Board and; (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 15 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10-day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The decision of the Board is Final.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws, or the rules of the Association by self-help (specifically including but not limited to, the towing of vehicles that are in violation of parking rules and regulation however, only in accordance with any applicable ordinances(s) of the County of Jackson, if applicable) or, following compliance with the procedures set forth in the Declaration, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

3.20. Prohibited Acts. The Board shall not take any of the following actions except with the written consent or vote of the Members representing at least a majority of the Members other than the Declarant:

(a) to incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5% of the budgeted Common Expenses of the Association for that fiscal year;

(b) to sell during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted Common Expenses of the Association for that fiscal year;



(c) to pay compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association;

(d) to enter into a contract with a third Person wherein the third Person will furnish goods or services for the Area of Common Responsibility or the Association for a term longer than one year with the following exceptions:

(i) a management contract, the terms of which have been approved by the U.S. Department of Veterans Affairs ("VA") or the U.S. Department of Housing and Urban Development ("HUD") if either agency is guaranteeing or insuring a mortgage in the Properties;

(ii) a contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(iii) prepaid casualty and/or liability insurance policies not to exceed three years duration, provided that the policy permits short rate cancellation by the insured;

(iv) agreements for cable television services and equipment or satellite television services and equipment not to exceed five years duration, provided that the supplier is not an entity in which Declarant has a direct or indirect interest of 10% or more; and

(v) agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services thereof, not to exceed five years duration, provided that the supplier is not an entity in which Declarant has direct or indirect interest of 10% or more.

(e) no contract with the Association negotiated by Declarant shall exceed a term of one year except as may otherwise be provided in paragraph (d) of this Section, and all contracts entered into prior to the turnover meeting provided for in ORS 94.609 are subject to the requirements of ORS 94.700.

#### Article IV Officers

4.1. Officers. The officers of the Association shall be a President, a Secretary and a Treasurer. The President, Secretary and Treasurer shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant

Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the Members, as set forth in Article II.

4.3. Removal and Vacancies. Any officer may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association (other than for the withdrawal of reserve funds) shall be executed by at least two officers or by such other person or persons as may be designated by resolution of the Board. The Board shall require signatures for the withdrawal of reserve funds of either two members of the Board or a member of the Board and officer of the Association who is not also a member of the Board. For purposes of this , "reserve funds" means monies the Board has identified in the Budget for use to defray the future repair or replacement of, or additions, to those major Common Areas which the Association is obligated to maintain.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.9 hereof.

#### Article V Committees

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution.

Each committee shall operate in accordance with the terms of such resolution.

5.2. Transitional Advisory Committee. In addition to any other committees appointed as provided above, the Board shall establish pursuant to ORS 94.604, a Transitional Advisory Committee when more than 50% of the Maximum Lots are owned by Retail Owners and Class "B" membership has not yet terminated.

Article VI  
Miscellaneous

6.1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board. In the absence of a resolution, the fiscal year shall be the calendar year.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Oregon law, the Articles of Incorporation, the Declaration, or these Bylaws.

6.3. Conflicts. If there are conflicts between the provisions of Oregon law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Oregon law, the Declaration, the Articles of incorporation, and the Bylaws (in that order) shall prevail.

6.4. Books and Records

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, Bylaws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, the most recent Financial Statement, the current Budget, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made;
- (iii) payment of the cost of reproducing copies of documents requested.

and

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) By Declarant Member. Prior to the conveyance of the first Lot to a Retail Owner, Declarant may unilaterally amend these Bylaws. After the conveyance of any Lot to a Retail Owner, the Declarant may unilaterally amend these Bylaws at any time if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots; or (iv) otherwise necessary to satisfy the requirements of any governmental agency for approval of these Bylaws. However, any such amendment shall not adversely affect the title to any Lot unless the affected Owner shall consent thereto in writing and such amendment is approved by the Commissioner if applicable. The Commissioner's approval is required if the amendment constitutes a material change and a Lot has been conveyed pursuant to a Permit.

(b) By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of each class of Members.

(c) Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon recordation in the Office Of the County Clerk unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly

adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

If an Owner consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

**ADOPTION OF BYLAWS**

The undersigned hereby adopt the foregoing on behalf of the Association as the Bylaws of the Bella Vista Homes Homeowner's Association effective the 25<sup>th</sup> day of May, 2006.

**Bella Vista Homes Homeowner's Association**

By: \_\_\_\_\_  
Gregory Schuler, President

By: \_\_\_\_\_  
David Boals, Secretary