

FORTH SUPPLEMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EDGEMONT HIGHLANDS

THIS FORTH SUPPLEMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EDGEMONT HIGHLANDS (the "Supplemental Declaration") is made and entered into this 26th day of January, 2007, by HIGHLANDS DEVELOPMENT IV, LLC, a Colorado Limited Liability Company, of La Plata County, Colorado (hereinafter referred to as the "Declarant").

RECITALS

A. Phase 4, Edgemont Highlands. Declarant is the owner of that real property located in the County of La Plata, State of Colorado, more particularly described as follows (hereinafter referred to as "Phase 4"):

SEE EXHIBIT A, ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE.

B. Edgemont Highlands Governing Documents. Declarant is the successor declarant to Highlands Development I, LLC and Highlands Development II under the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded on the 11th day of May, 2004 as Reception No. 884350 (the "Amended and Restated Declaration"), First Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded November 3, 2004 as Reception No. 896541 (the "First Supplement"), Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded April 11, 2005 as Reception No. 906547 (the "Second Supplement"), First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Edgemont Highlands recorded January 10, 2006 as Reception No. 925868 (the "First Amendment") and the Third Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded January 10, 2006 as Reception No. 925870 (the "Third Supplement") and the Governing Documents of Edgemont Highlands.

C. Plats of Edgemont Highlands - Phase 1, Phase 2A Phase 2B and Phase 2C. EDGEMONT HIGHLANDS, PHASE 1, Project No. 2003-290, was platted according to the plat thereof filed January 20, 2004 as Reception No. 877022, La Plata County, Colorado ("Phase 1"). EDGEMONT HIGHLANDS, PHASE 2A, Project No. 2004-221, was platted according to the plat thereof filed November 3, 2004 as Reception No. 896542, La Plata County, Colorado ("Phase 2A"). EDGEMONT HIGHLANDS, PHASE 2B, Project No. 2004-222, was platted according to the plat thereof filed April 11, 2005 as Reception No. 906548, La Plata County, Colorado ("Phase 2B"). EDGEMONT HIGHLANDS, PHASE 2C, Project No. 2004-261, was platted according to the plat thereof filed January 10, 2006 as Reception No. 925871, La Plata County, Colorado ("Phase 2C").

D. Declaration Definitions. Except to the extent expressly defined otherwise herein, the terms used in this Supplemental Declaration shall have the same meaning as set forth in the Amended and Restated Declaration. Specifically, the Amended and Restated Declaration provides the following pertinent definitions in Article II thereof:

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, identifies phases and neighborhoods, and/or creates or imposes additional easements, restrictions and obligations on the land described in such

Highlands Dev

Linda Daley  
LaPlata County Clerk



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instrument.

E. **Expansion of Edgemont Highlands.** The Amended and Restated Declaration provides in Article 9 as follows:

**9.1 Expansion by Declarant.**

Declarant may subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

It is the desire and intention of Declarant to supplement the Amended and Restated Declaration for the purpose of subjecting Phase 4 to the provisions of the Amended and Restated Declaration and the Governing Documents of Edgemont Highlands and to provide for the division of Phase 4 into Lots according to the supplemental plat filed for record under Reception No. 950578, (the "Phase 4 Supplemental Plat") and as defined and described by the Amended and Restated Declaration and this Supplemental Declaration.

**NOW, THEREFORE,** Declarant hereby supplements the Declaration as follows:

1. **Supplemental Declaration.** Declarant hereby declares that all of Phase 4 is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the limitations, restrictions, easements, conditions and covenants of the Governing Documents, the Plat of Phase 1 of Edgemont Highlands, the Plat of Phase 2A, the Plat of Phase 2B, the Plat of Phase 2C and the Supplemental Plat, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of Phase 4 for the purpose of enhancing the value, desirability and attractiveness of Phase 4 and for the purpose of establishing a common interest planned community pursuant to the Colorado Common Interest Ownership Act (the "Act"). All provisions of this Supplemental Declaration, including without limitation the easements, uses, obligations, covenants, conditions, and restrictions hereof, are hereby imposed as equitable servitudes upon Phase 4. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all of Phase 4 and all parties having acquired any right, title or interest in Phase 4, or any part thereof, and their successive owners or assigns.

2. **Division Into Lots - Allocated Interests - Voting.** Phase 4 is hereby divided into lots (the "Lots"), each consisting of a fee simple interest in a Lot as shown on the Supplemental Plat, and the improvements and fixtures located thereon. All Units under Edgemont Highlands Phase 1, Edgemont Highlands Phase 2A, Edgemont Highlands Phase 2B, and Edgemont Highlands Phase 2C and the Lots created by this Supplemental Declaration (also defined as "Units" under the Amended and Restated Declaration) shall be assessed equally pursuant to Article 8 of the Amended and Restated Declaration. Each owner of a Unit or Lot within Phase 4 shall be a Member of the Association and shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2 of the Amended and Restated Declaration, except that there shall be only one vote per Unit. No vote shall be exercised for any property that is exempt from assessment under Section 8.8 of the Amended and Restated Declaration. All Class "A" votes shall be cast as provided in Section 6.3.3 of the Amended and Restated Declaration.

3. **Designation of Window Lake Trail Neighborhood.** Lots 293 through 305 of Phase 4 as shown on the Phase 4 Supplemental Plat are hereby identified and designated as a separate

Neighborhood as defined in the Amended and Restated Declaration to be known as the "Window Lake Trail Neighborhood".

4. **Incorporation of Provisions of the Declaration.** All provisions of the Amended and Restated Declaration and Governing Documents are incorporated herein by this reference to the extent not inconsistent herewith. It is the purpose of incorporation of the terms of the original Amended and Restated Declaration and Governing Documents to have the provisions thereof construed to apply to and govern the management and administration of the Lots created by this Supplemental Declaration as a part of a singular common interest community consisting of the combination of the Lots established by the original Amended and Restated Declaration together with the Lots created by this Supplemental Declaration and previous Supplemental Declarations, except as may be otherwise expressly set forth herein. This includes, but is not limited to, the provisions of the Amended and Restated Declaration concerning the following subjects:

- a. Assessments and Assessment procedures;
- b. HOA Reserve Payment requirements by initial Lot Owners other than Declarant
- c. Reserved Declarant Rights and Development Rights;
- d. General Easements, in addition to those expressly set forth on the Supplemental Plat or by this Supplemental Declaration;
- e. Membership in the EDGEMONT HIGHLANDS Community Association, Inc.
- f. Amendment and Enforcement procedures;
- g. Association powers;
- h. Provisions regarding Common Area

5. **Legal Description.** Every deed, lease, mortgage, will or other instrument shall legally describe a Lot created by this Supplemental Declaration by its identifying Lot letter or number on the recorded plat as follows:

Lot \_\_\_\_, of Edgemont Highlands, Phase 4, Final Plat, Project No. 2006-0340 according to the plat thereof filed for record 1-26-2007 under Reception No. 950578, County of La Plata, State of Colorado.

Every instrument of conveyance, mortgage, deed of trust, or other instrument affecting the title to a Lot which legally describes said Lot in the manner set forth in this Section shall be construed to describe the Lot, together with all fixtures and improvements therein contained, and to incorporate all the rights incident to ownership of a Lot and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Supplemental Declaration, including the owner's membership in the EDGEMONT HIGHLANDS Community Association, Inc., and the easement of enjoyment to use the Common Area.

6. **Common Area/Open Space.** Declarant shall convey the initial Common Area/Open Space shown on the Supplemental Plat to the Association prior to the conveyance of a Unit to any Person other than a Builder. Such Common Area/Open Space shall, in all respects, be subject to the same terms, conditions, provisions, restrictions and obligations as set forth in the Amended and Restated Declaration and Governing Documents with respect to Common Area/Open Space within Phase 1, Phase 2A, Phase 2B and Phase 2C.

7. **Neighborhood Architectural Guidelines and Landscaping Guidelines.** Pursuant to Section 4.1.1 and Section 9 of the Amended and Restated Declaration the Declarant may apply

Architectural Guidelines and Landscaping Guidelines to Edgemont Highlands that vary from neighborhood to neighborhood.

a. Window Lake Trail Neighborhood Supplement to Architectural Guidelines.

Declarant hereby declares that the Window Lake Trail Neighborhood is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the limitations, restrictions, and provisions of the Architectural Guidelines and the Landscaping Guidelines as set forth in the Amended and Restated Declaration and First Amendment as modified by provisions of **Exhibit B** attached hereto and incorporated herein by this reference.

8. **Effective Date.** Pursuant to Section 9.4 of the Amended and Restated Declaration, Declarant hereby declares the Effective Date of this Supplement Declaration with respect to assignment of voting rights and assessment liability shall be delayed until a date certain stated by Declarant in a supplemental instrument recorded in the real estate records of La Plata County, Colorado, which makes reference to this instrument.

9. **Incorporation of Consistent Terms of Declaration.** To the extent not inconsistent herewith, all other terms and conditions of the Declaration shall remain the same.

10. **General Provisions.**

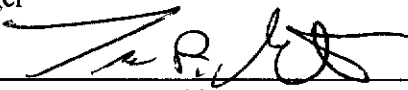
a. If any of the provisions of this Supplemental Declaration or any paragraph, sentence, clause, phrase or word, or the application therein in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Supplemental Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

b. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

c. In the event of any inconsistency between the terms of this Supplemental Declaration and the Amended and Restated Declaration, the terms and provisions of this Supplemental Declaration shall be controlling.

IN WITNESS WHEREOF, Declarant has duly executed this Supplemental Declaration this 26<sup>th</sup> day of January, 2007.

**HIGHLANDS DEVELOPMENT IV, LLC**, a  
Colorado Limited Liability Company  
By: **Tom D. Gorton, Inc.**, a Colorado corporation,  
Manager

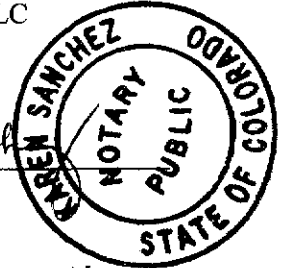
By   
Tom D. Gorton, President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LA PLATA )

**SUBSCRIBED AND SWORN** to before me this 26<sup>th</sup> day of January, 2007, by Tom D. Gorton as President of Tom D. Gorton, Inc., Manager of Highlands Development IV, LLC

WITNESS my hand and official seal. My commission expires: 8-3-09

Karen Sanchez  
Notary Public



**IN WITNESS WHEREOF**, Declarant has duly executed this Supplemental Declaration this 26<sup>th</sup> day of January, 2007.

**HIGHLANDS DEVELOPMENT II, LLC**, a Colorado Limited Liability Company

**By: Tom D. Gorton, Inc.**, a Colorado corporation, Manager

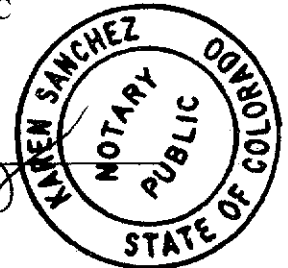
By [Signature]  
Tom D. Gorton, President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LA PLATA )

**SUBSCRIBED AND SWORN** to before me this 26<sup>th</sup> day of January, 2007, by Tom D. Gorton as President of Tom D. Gorton, Inc., Manager of Highlands Development II, LLC

WITNESS my hand and official seal. My commission expires: 8-3-09

Karen Sanchez  
Notary Public



## Exhibit A

### EDGEMONT HIGHLANDS - PHASE 4

#### LEGAL DESCRIPTION:

A tract of land located in Section 7, Township 35 North, Range 8 West, New Mexico Principal Meridian and Section 12, Township 35 North, Range 9 West, New Mexico Principal Meridian in La Plata County, Colorado, being more particularly described as follows:

Beginning at a point on the centerline of County Road 240 whence the Southeast 1/16 Corner of said Section 12 bears S 00°15'21" W, 64.72 feet;

Thence N 00°15'21" E, 1111.97 feet along the westerly line of the E1/2SE1/4 of said Section 12;

Thence N 89°52'14" E, 836.70 feet;

Thence S 62°58'01" E, 199.55 feet;

Thence S 55°22'34" E, 187.47 feet;

Thence S 60°52'52" E, 93.06 feet;

Thence S 62°16'50" E, 138.58 feet;

Thence S 46°32'52" E, 108.57 feet;

Thence N 53°43'28" E, 10.03 feet;

Thence along the arc of a tangent curve to the left with a delta angle of 3°10'22" and a radius of 95.00 feet for a distance of 5.26 feet, the long chord bears N 52°08'17" E, 5.26 feet;

Thence N 39°13'21" E, 76.06 feet;

Thence along the arc of a non-tangent curve to the right with a delta angle of 43°15'14" and a radius of 287.50 feet for a distance of 217.04 feet, the long chord bears S 37°22'04" E, 211.92 feet;

Thence S 15°44'27" E, 179.17 feet;

Thence along the arc of a tangent curve to the left with a delta angle of 39°21'19" and a radius of 362.50 feet for a distance of 248.99 feet, the long chord bears S 35°25'06" E, 244.13 feet;

Thence S 55°05'46" E, 110.03 feet;

Thence along the arc of a non-tangent curve to the right with a delta angle of 59°51'34" and a radius of 280.00 feet for a distance of 292.53 feet, the long chord bears S 31°42'04" E, 279.40 feet;

Thence S 01°46'17" E, 33.05 feet;

Thence along the arc of a tangent curve to the left with a delta angle of 13°57'43" and a radius of 370.00 feet for a distance of 90.16 feet, the long chord bears S 08°45'09" E, 89.94 feet;

Thence S 15°44'00" E, 130.56 feet to the north right of way line of County Road 240;

Thence S 74°22'03" W, 853.52 feet along the north right of way line of County Road 240;

Thence along the arc of a tangent curve to the right with a delta angle of 24°47'01" and a radius of 455.56 feet for a distance of 197.10 feet, the long chord bears S 86°45'33" W, 195.57 feet along the north right of way of County Road 240;

Thence N 80°50'57" W, 124.95 feet along the north right of way of County Road 240;

Thence S 09°09'03" W, 45.00 feet to the centerline of County Road 240;

Thence N 80°50'57" W, 70.21 feet along the centerline of County Road 240;

Thence along the arc of a tangent curve to the right with a delta angle of 22°27'00" and a radius of 604.66 feet for a distance of 236.92 feet, the long chord bears N 69°37'27" W, 235.41 feet along the centerline of County Road 240;

Thence along the arc of a tangent curve to the right with a delta angle of 5°43'00" and a radius of 4165.94 feet for a distance of 415.65 feet, the long chord bears N 55°32'27" W, 415.48 feet along the centerline of County Road 240;

Thence N 52°40'57" W, 97.16 feet along the centerline of County Road 240;

Thence along the arc of a tangent curve to the left with a delta angle of 10°26'26" and a radius of 1719.80 feet for a distance of 313.39 feet, the long chord bears N 57°54'10" W, 312.96 feet along the centerline of County Road 240 to the point of beginning.

Contains 58.808 acres, more or less.

## **Exhibit B**

### **Window Lake Trail Neighborhood Supplement to the Architectural Guidelines**

The Architectural Guidelines and Landscaping Guidelines as set forth in the Amended and Restated Declaration are hereby adopted for the Window Lake Trail Neighborhood with the following exceptions:

Item 4f is hereby modified as follows:

**Garage and Garage Orientation:** For the Window Lake Trail Neighborhood each home will incorporate, at a minimum, a two car garage. One objective of the Edgemont Highlands design guidelines is to discourage garages from facing the street. Therefore, owners in the Window Lake Trail Neighborhood are strongly encouraged to orient their garage doors in such a way that they do not face the street. Garages may be detached as long as the garage matches the architectural style of the house. In any event, a three-car garage is the maximum size allowed. If the garage faces the street and is to be a two-car garage, it is preferable that it be composed of two one-car doors with a maximum width of ten feet per door, with an overall maximum width of twenty-six feet and a maximum door height of nine feet. The street face of the garage is encouraged to be recessed from the front facade of the house. If the garage is within ten feet of the front setback it must have single width doors and be no wider than 26 feet. Longer driveways are encouraged to be narrower. There is not predetermined limitation to the depth of a garage as long as the architectural element is proportional.

If the garage faces the street and is to be a three-car garage (i) it may be composed of one two-car door and a one-car door or three one-car doors, and (ii) at least one door is required to be set back a minimum of six feet from the other door(s), and (iii) the maximum width of the garage is 35 feet, and (iv) the front facade of the house should be at least eight feet wider than the non-recessed garage element and (v) the maximum door height is nine feet. The ARC will thoroughly examine three-car garage submittals for colors and quality of proposed materials, amount of additional paving and architectural interest.

Item 5c is hereby modified as follows:

Lots within the Window Lake Trail Neighborhood of Edgemont Highlands shall have a minimum of 1,600 square feet of heated livable space and no more than 3,600 square feet of heated livable space. An applicant may apply for a variance on the maximum square footage of up to 20% of the maximum by demonstrating that the additional space is created without adding bulk to the exterior. An example of this would be including an upstairs bedroom within the roof structure by use of dormers. Approval is at the sole discretion of ARC.