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After Recording, Return To:
Hayden Homes, LLC
2464 SW Glacier Place, Suite 110
Redmond, Oregon 97756

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2007-25095

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**FIRST AMENDMENT TO THE DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VILLAGE AT COLD SPRINGS**

THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR VILLAGE AT COLD SPRINGS ("Amendment"), is made as of this 23 day of April, 2007, by Hayden Homes, LLC, an Oregon limited liability company ("Declarant").

WHEREAS, the Declaration of Protective Covenants, Conditions and Restrictions for Village at Cold Springs, ("Declaration") was recorded December 7, 2006, as Document number 2006-80014, in the records of Deschutes County, Oregon; and

WHEREAS, pursuant to Section 12.3 of the Declaration, Declarant is authorized to amend the Declaration, at Declarant's sole discretion and without the consent of any third party, at any time prior to the closing of the first sale of a Lot by Declarant to a third party.

WHEREAS, as of the effective date of this Amendment, Declarant is the sole Owner of all of the Lots in Village at Cold Springs and Declarant has not sold any of the Lots to third parties.

WHEREAS, Declarant desires to amend the Declaration as provided herein pursuant to and in accordance with Section 12.3 of the Declaration.

NOW THEREFORE, Declarant hereby declares as follows:

1. Add Article I, Sections 1.26 and 1.27, which will read as follows:

Section 1.26 "Townhome Unit"

"Townhome Unit" shall mean any attached Unit that is not a Condominium Unit.

Section 1.27 "Building Structure"

"Building Structure" shall mean a building that is comprised of one or more contiguous Townhome Units constructed and located on Lots, including without limitation, garage structures located on the Lots, whether attached or detached from the Building Structure.

FIRST AMERICAN TITLE
INSURANCE COMPANY OF OREGON
P.O. BOX 323
BEND, OR 97709

- 1 -

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2. **Add Article I, Section 1.28, which will read as follows:**

Section 1.28 "Common Unit Exteriors"

"Common Unit Exteriors" shall mean the exterior of each attached Townhome Unit at the Property. Common Unit Exteriors shall include the siding, trim, rain gutters, downspouts, roof, roof eaves, and flashing, including garage whether attached or detached to dwelling unit. Common Unit Exteriors do not include the interior landscaping within enclosed courtyards or patios, decks, fencing, or driveways, except as may be spelled out within this document. Also excluded from Common Unit Exteriors are the maintenance responsibilities that rest solely with the Owners of such detached Unit Lots as defined in this Declaration.

3. **Add Article VI, Section 6.10, which will read as follows:**

Section 6.10 "Appearance and Design of Village at Cold Springs"

Subject to Section 5.5, the Declarant shall not be prevented from changing the exterior appearance of the Common Area, including the landscaping or any other matter directly or indirectly connected with project in any manner deemed desirable by Declarant, provided that the Declarant obtain governmental consents required by law. The construction and material standards of this Declaration and/or plans and drawings notwithstanding, Declarant may change exterior and/or interior designs from initial plans and provisions in the Design Guidelines, without notice. This may include designs, colors, and type of materials, provided Declarant obtains any necessary governmental consent.

4. **Add Article VI, Section 6.11, which will read as follows:**

Section 6.11 "Construction by Declarant"

All construction by Declarant establishes the standards for the ACC and is deemed to meet any Design Guidelines of the Association and is approved by the ACC.

5. **Add Article V, Section 5.4.6, which will read as follows:**

5.4.6 The Common Home Exteriors. Maintenance of the Common Home Exteriors shall include the following: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements, including, without limitation, exterior mounted lighting fixtures (except light bulbs and excluding any recessed light fixtures), and landscaping as per Section 10.11.1. Such exterior maintenance does not include repair or replacement of doors, windows, screens, skylights, glass in light fixtures, and other glass surfaces, except to the extent of the proceeds of

the Association's insurance. The cost of such maintenance by the Association shall be a Limited Assessment paid by the Owners of Townhome Units in accordance with Article III, Section 3.6.

6. **Delete** Article VII, Section 7.7 in its entirety and **Replace** with the following, new Section 7.7:

Section 7.7 "Maintenance Easement"

An easement is hereby reserved in favor of the Association and its successors, assigns, contractors, agents and employees over, across and under each Lot, the exterior portions of the Building Structures on each Lot, the Common Maintenance Areas, the landscaped areas, the planter strips and any other areas of the Property necessary or appropriate for the purposes of accomplishing the maintenance, repair, and replacement of Improvements.

7. **Delete** Article VIII, Section 8.5 in its entirety and **Replace** with the following Section 8.5, along with sub-sections 8.5.1 and 8.5.2 as follows:

Section 8.5 "Insurance"

8.5.1 Insurance by the Association

The Board shall obtain, and maintain in effect, those coverages and policies as provided in Article V, Section 5.2 above. Further, such policy(ies) shall provide that the coverage there under cannot be canceled or substantially modified without at least 10 days written notice to the Association. Additionally, the Association shall obtain, and maintain in effect, from such companies fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to each attached Building Structure, including electrical and plumbing installations in the exterior walls, and the Common Areas (including any insurable improvements in the Common Areas) in an amount equal to 100% of the replacement cost thereof. The casualty coverage may be obtained on a "blanket" basis. The Association may obtain such other and further policies of insurance, as it deems advisable. The named insured on the policy may read "Village at Cold Springs Homeowners' Association, Inc.". The casualty insurance to be obtained by the Association pursuant to this paragraph 8.5.1 shall include the following terms, if the Board determines they are reasonably available:

- (a) A waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner;
- (b) A waiver by the insurer of its right to repair and reconstruct instead of paying cash;
- (c) A provision that no policy may be canceled, invalidated, or suspended because of the action of an Owner;

(d) A provision that no policy may be canceled, invalidated, or suspended because of the conduct of any director, officer, or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and

(e) A provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.

The Board may, at their discretion, determine the amount of deductible for such policies, based on availability and costs. Owners shall be responsible for the deductible to the extent that it is determined they, their tenants or guests are responsible for the damage caused to Building Structures, Common Maintenance Areas or other properties that the Association insures.

8.5.2 Insurance by Lot Owners.

The insurance described in paragraph 8.5.1 above does not provide personal liability coverage for the Owners, nor fire or extended coverage casualty insurance for the Owners' personal property, the inside surfaces of the attached Building Structure, and all other improvements including, but not limited to, appliances, heaters and air conditioners, cabinets, flooring, wall and window coverings, light fixtures and personal property nor the Lot or land on which the Building Structure resides. The responsibility for obtaining insurance that covers at least these items plus any coverage for Association deductible responsibility, rests solely with the individual Owners, except as noted herein.

8. Add Article X, Section 10.11.1, which will read as follows:

10.11.1 Association Landscape Maintenance of Front & Street Facing Side Yards

The Association shall maintain irrigation and landscaping on front yards and side yards not enclosed by a fence, including any street frontage planter strips for all Lots and entry monuments (even if outside of Common Areas). In the event, however, the need for such maintenance or repair is caused by the willful or negligent act or omission of an Owner, his/her or her family, tenants, guests or invitees, and to the extent such maintenance or repair is not covered by the Association's insurance policy, the costs of such maintenance and repair may, at the discretion of the Board of Directors, be charged to the Owner in accordance with Section 3.7. The acceptance and submission of any insurance claims for Association insurance is at the sole discretion of the Board of Directors. Any plantings which are added by the Owners of said Lots, to the front yard or side yard areas will be at the sole expense of the Owner, and the Owner shall be solely responsible for their maintenance and survival. Further, the Association and their landscape maintenance contractor will bear no responsibility for the survival, maintenance, damage or replacement of Owner/Occupant installed plants.

9. Add Article X, Section 10.31, which will read as follows:

Section 10.31 "Windows, Decks, Porches and Outside Walls"

To preserve the attractive appearance and proper maintenance of the Building Structures and Property, the nature of items that may be placed in or on windows, decks, porches, and the outside walls, so as to be visible from the street or Common Areas are more specifically defined as follows: (1) Window coverings, curtains, shutters, drapes or blinds, other than those of commercially produced quality, shall not be permitted to be visible from any public or private street, pathway, Common Area or adjacent property; (2) Garments, rugs, laundry and other similar items may not be hung from windows, facades, porches, or decks; (3) Planters, pots or other solid materials that can either (a) gather moisture leading to potential material disintegration or damage, and/or (b) potentially fall and create a safety concern, are not to be displayed on porch or deck railings, porch decks or fence caps and posts. Planters on decks may be displayed if raised adequately off the deck surface to allow for airflow and moisture evaporation.

10. Add Article X, Section 10.32, which will read as follows:

Section 10.32 "Owners Maintenance Obligations"

All improvements upon any Lot, not maintained by the Association, shall at all times be maintained by the Owner in a clean and attractive condition, painted and in good repair, and in such a fashion as not to create a hazard of any kind. Units will be provided with exterior building (attached Units only) and landscape maintenance as outlined elsewhere in this Declaration. However, Owners are responsible for maintenance, replacement, painting, repair and general upkeep of all exterior doors, including the garage door, and all windows, window screens and skylights. All work on such items is subject to ACC review and approval prior to commencement of work.

In the event repair or replacement of the common foundations of an attached Building Structure or common firewall (which terms shall have the same meaning as "party walls") of an attached Building Structure should become necessary or appropriate, then the Owners of the Units within the Building Structure that required such repair or replacement shall be jointly responsible for such repair and/or replacement, and the Owners of such affected Units shall share equally in the expense of such repair and replacement. In the event an Owner of a Unit determines repair or replacement of the common foundations or common firewalls of a Building Structure is necessary or appropriate, that Owner shall notify the other Owners of the affected Units within the Building Structure of the need to perform such repair or replacement. If a majority of the Owners of the affected Units within the Building Structure agree that such repair or replacement is necessary, they shall jointly cause such work to be performed, and each Owner of an affected Unit shall pay an equal portion of the expense of such work. If an Owner of an affected Unit determines repair or replacement of the common foundations or common firewalls of a Building

Structure is necessary or appropriate and a majority of the Owners of the other Units affected or claim to be affected do not concur with such determination, then the Owners of the Units affected (or claimed to be affected) shall mutually agree upon and retain a professional engineer licensed in the State of Oregon having at least five (5) years experience in such matters to inspect the common foundations or common firewalls, and such engineer shall make a determination as to whether such repair or replacement is required. The determination of such engineer shall be binding to the affected Owners, and all expenses and fees of the engineer and of the repair or replacement work required to be performed if any, shall be borne as provided in the Section. In the event the Owners of Units so affected or claimed to be so affected cannot agree upon a professional engineer having the required qualifications within a 30-day period, then any of the affected Owners may make application to the ACC, which shall select such engineer having the requisite qualifications. The fees and expenses of the engineer shall be shared equally by the Owners of the Units affected or claimed to be affected. In the event the Owner of an affected Unit fails to contribute to the expense of the repair or replacement of the common foundation or common firewalls by thirty (30) days after written demand therefore, then the amount not paid or reimbursed, as well as interest thereon at the rate of twelve percent (12%) per annum from the date of such written demand shall become a charge and lien against the Owner of a Unit failing to make such payment or reimbursement. Each Owner of Units shall be deemed to have agreed by acceptance of a deed conveying the Unit, that any such lien shall be effective without the necessity of obtaining the joinder of such Owner in the execution of any instrument, upon the filing by another Owner of an affected Unit of a claim of lien in the Official Records of Deschutes County, Oregon.

11. Add Article XI, Section 11.1.3 (d), which will read as follows:

11.1.3 (d) Alternate Types of Lots and Building Structures

Without limitation of the meaning of the foregoing provisions of the Declaration, this Amendment and this Section, in any Declaration of Annexation, Declarant may, but shall not be obligated to, establish one or more special categories or types of Lots and have particular rights and obligations pertain to these different types of Lots, establish easements particular to these different Lots, establish assessments that pertain only to certain types of Lots and not others, establish a separate accounting system for these types of Lots, establish maintenance obligations of the Association or of Owners that vary in accordance with different types of Lots or different tracts of Common Area, establish insurance and casualty provisions that relate to certain types of Lots and not others, and establish limited common areas that benefit particular Lots to the exclusion of other Lots and provisions particular to such limited common areas.


12. Add the following paragraph of Article X, Section 10.30:

Declarant requested and received a No Further Action letter for the first phase of Village at Cold Springs from DEQ attached as Exhibit D pertaining to the soil deposits noted in this Section 10.30 at the intersection of McKinney Butte Road and Trinity Way. Owners may request and review reports regarding the actions taken at the site from the DEQ, Eastern Region Bend Office.

13. Except as expressly amended by this Amendment, the Declaration remains unamended and in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant of Village at Cold Springs has hereunder set his hand this 22 day of April, 2007, acknowledging the provisions of Article XII, Section 12.3, of the Declaration of Protective Covenants, Conditions and Restrictions for Village at Cold Springs.

Hayden Homes, LLC,
An Oregon limited liability company,

By:  _____
Title: PRESIDENT

STATE OF OREGON

County of Deschutes

)
) ss.
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This instrument was acknowledged before me on April 23, 2007, by
Dennis Murphy, the President of Hayden Homes, LLC, an
Oregon limited liability company, on behalf of the company and as Declarant of Village at
Cold Springs.



Karen I Halstead
NOTARY PUBLIC FOR OREGON
My Commission Expires: July 4 2010

EXHIBIT "D"

No Further Action Letter



Oregon

Theodore Kulongoski, Governor

Department of Environmental Quality

Eastern Region Bend Office
300 SE Reed Market Road
Bend, OR 97702
(541) 388-6146
FAX (541) 388-8283

March 13, 2007

Chad Houchin
Hayden Homes
2464 SW Glacier Place, Suite 100
Redmond, OR 97756

**Re: No Further Action
Phase 1 Village at Cold Springs Subdivision
Intersection of McKinney Butte Road and Trinity Way
ECSI # 4318**

Dear Mr. Houchin:

The Department of Environmental Quality (DEQ) and Hayden Homes have collaborated under the DEQ's Voluntary Cleanup Program (VCP) for the purpose of environmental investigation and cleanup of hazardous substances at the referenced property. This specific property was investigated and a protective remedy was proposed under DEQ oversight. The DEQ has reviewed relevant information documenting these activities, which were prepared and submitted to DEQ on your behalf by Northwest Geotech, Inc. (NGI).

Based upon this review, the DEQ has concluded that the referenced property is eligible to receive a No Further Action (NFA) determination. A **No Further Action** finding is therefore granted.

Thank you for your participation in VCP and for your pro-active response in addressing the environmental releases in affected areas within Phase 1 Cold Springs subdivision boundaries. DEQ appreciates your efforts and your collaboration with us, which has resulted in DEQ concurrence that completed remedial investigations within Phase 1 Cold Springs subdivision are protective of human health and the environment.

DEQ also acknowledges Hayden Homes, Inc.'s ongoing participation in VCP for site investigations in other areas of the Village at Cold Springs, and we look forward to working with you.

EXHIBIT "D" (cont.)

No Further Action Letter

Phase 1 Village at Cold Springs Subdivision No Further Action.
Page 2 of 2
March 14, 2007

Please contact Mr. Cliff Walkey at (541) 388-6146, ext. 224 if you have any questions related to this letter.

Sincerely,

W.C. Walkey for

Sheila Monroe
Eastern Region Cleanup Manager

Encl: Phase 1 Cold Springs Subdivision Staff Report

C: Steve L. Day, Northwest Geotech, Inc.
File/LQD/VCP/Bend

