

**FIRST AMENDEDMENT TO THE
AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
AGREEMENTS AND RESTRICTIONS AND HOMEOWNERS ASSOCIATION
BYLAWS OF MOUNTAIN VISTAS PHASES 1A, 1B, 2A, 2B & 3 CLUSTER
SUBDIVISION**

WHEREAS, the Mountain Vistas Homeowners Association, Inc. (the "Association") is a Utah non-profit corporation, which adopted that certain *Amended and Restated Declaration of Covenants, Conditions, Agreements and Restrictions and Homeowners Association Bylaws* on April 11, 2008, recorded in the Davis County Recorder's Office at Entry No. 2356278 ("Amended Declaration");

WHEREAS, the Association desires to be able to provide bulk cable communication services and private utility services to Association Owners, through which Owners shall receive such services for a reduced rate;

WHEREAS, obtaining the bulk rate for such services requires all Owners to share the costs thereof;

WHEREAS, the Association desires that the costs of such cable communication services and private utilities be divided equally among all Owners, and be part of the annual Association dues;

WHEREAS, the installation, maintenance, and repair of the cable communication services and private utilities requires access to, and use of certain portions of the Lots within the Association;

WHEREAS, the Association desires to create a non-exclusive easement on the Lots within the Association for the installation, maintenance and repair of these cable communication services and private utilities ("Private Easements");

WHEREAS, a non-exclusive easement already exists upon and across portions of each Lot within the Association for the installation, maintenance, and repair of public utilities, according to the Plat Map for the various phases of the Association ("Public Easements");

WHEREAS, the Association has determined that it is in the best interest of its Owners that the Private Easements be located in the areas already designated on the Plat Maps for the Public Easements;

WHEREAS, the creation of the Private Easements requires that the *Amended Declaration* be amended to include such;

WHEREAS, though Article VII, Section 7.3 of the *Amended Declaration* requires a vote of 75% of the Association Owners to adopt any amendments thereto, Utah Code Ann. §57-8a-104 prohibits a declaration from requiring more than a 67% vote to amend the Association's governing documents;

THEREFORE, the Association hereby makes the following amendment to its *Amended Declaration*;

AMENDMENT

Article V, Section 5.4 of the Amended Declaration shall be added to, creating subsections "r" and "s" as follows:

5.4(r). Private Easements: The Association shall have non-exclusive easements and rights of way over, under, and across those portions of each Lot and parcels of land designated on the Plat Maps as "Existing Public Utility Easement," or otherwise designated as an easement area, for the installation, construction, maintenance, reconstruction, and repair of cable communication services and private utilities to serve the Association and the Lots therein, including but not limited to: distribution cables, wiring, amplifiers, pedestals, lock boxes, equipment and appurtenant devices necessary to provide cable communication services and private utilities to the Lots and Units ("Private Utility Equipment"). If there exists a Lot within the Association where the Plat Maps do not indicate the Existing Public Utility Easement, the Association shall have the Private Utility Easement upon all such Lots, as follows: a 10-foot-wide non-exclusive private utility easement along each side of all front and rear Lot lines, and an 8-foot-wide non-exclusive private utility easement along the sides of each Lot. No Lot Owner shall permit any alteration, obstruction, or disturbance of these easements and the Equipment without the prior written consent of the Association's Board of Directors. Any Owner who allows such unauthorized alteration or disturbance of the easements and / or Equipment shall be liable for any and all costs, including reasonable attorneys' fees, incurred by the Association to restore the easement and / or Equipment. These easements shall run perpetually with the land, and shall be binding upon all Lots within the Association.

5.4(s). Obligation to Pay Private Utility Services: The costs and fees for the cable communication services and private utilities ("Service Costs") shall be divided equally among all Lot Owners within the Association, including those Owners who currently pay only one-half annual Association dues. The Service Costs shall be part of the annual Association dues, and shall be the personal obligation of each Lot Owner. If any Owner fails to pay his / her portion of the Service Costs, the Association shall have a continuing lien on that Owner's Lot for the amounts owing and may collect such past due assessments pursuant to Utah Code Ann. §57-8a-301 and Article III, Section 3.3 of the Amended Declaration.

----- END OF AMENDMENT -----

IN WITNESS WHEREOF, the Association adopted this *First Amendment to Amended and Restated Declaration of Covenants, Conditions, Agreements and Restrictions and Homeowners Association Bylaws*, with the necessary approval of the Owners as required by law, on the 26 day of March, 2021, to be recorded against all parcels and Common Area as stated in Exhibit "A" hereto.

MOUNTAIN VISTAS HOMEOWNERS ASSOCIATION, INC.

BY: Gregory A. Brown Gregory A. Brown
Signature Print

TITLE: Mountain Vistas HOA President

STATE OF UTAH)
) SS:
COUNTY OF Davis)

On the 26th day of March, 2021, Gregory A. Brown, who by me being duly sworn, did say that he/she is the HOA President of the Mountain Vistas Homeowners Association, Inc., which corporation did authorize him/her to sign on its behalf.

Candice Lee Smith
Notary Public

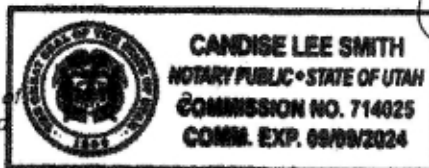


EXHIBIT "A"
Legal Description

All of Mountain Vistas Phase 1A Cluster Subdivision, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 1 and 2, Lots 4 through 26, Lots 54 through 88, and Common Areas 1-4.

Parcel No. 11-493-0001 and 11-0493-0002;

Parcel No. 11-493-0004 through 11-493-0026; and,

Parcel No. 11-493-0054 through 11-493-0092.

All of Mountain Vistas Phase 1A Cluster Subdivision Amended, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 301 and 302.

Parcel No. 11-509-0301 and 11-509-0302.

All of Mountain Vistas Phase 1A Cluster Subdivision Second Amended, as shown on the Plat recorded in the office of the Davis County Recorder.

Lot 3-A.

Parcel No. 11-789-0003.

All of Mountain Vistas Phase 1B Cluster Subdivision, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 27 through 53 and Common Areas 5-6.

Parcel No. 11-494-0027 through 11-494-0055.

All of Mountain Vistas Phase 2A Cluster Subdivision, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 89 through 133 and Common Areas 1-2.

Parcel No. 11-534-0089 through 11-534-0135.

All of Mountain Vistas Phase 2B Cluster Subdivision, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 134 through 169 and Common Area.

Parcel No 11-550-0134 through 11-550-0170.

All of Mountain Vistas Phase 3 Subdivision, as shown on the Plat recorded in the office of the Davis County Recorder.

Lots 301 through 323.

Parcel No. 08-357-0301 through 08-357-0323.