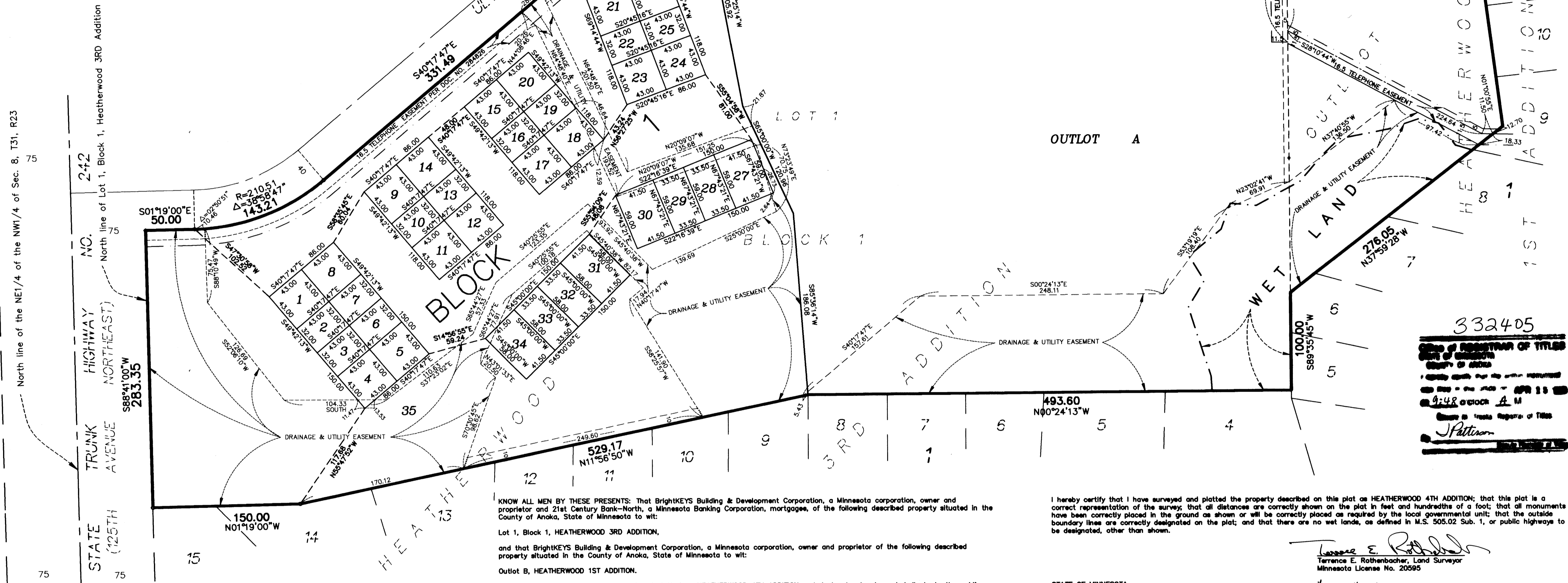
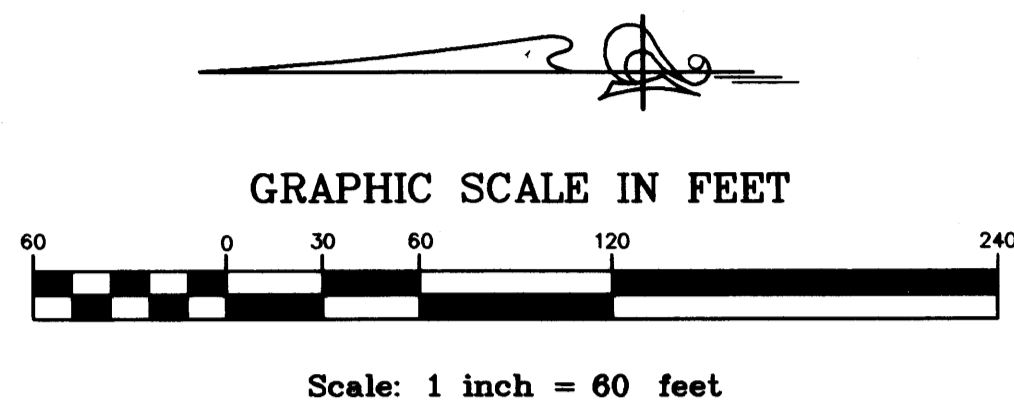


# HEATHERWOOD 4TH ADDITION

TORRENS BOOK 16 PAGE 11  
CITY OF BLAINE  
COUNTY OF ANOKA

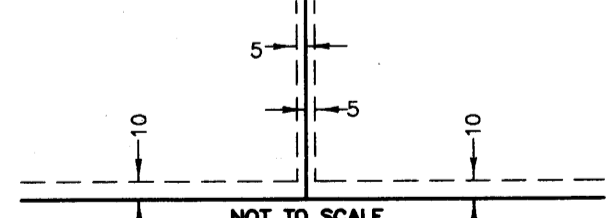


All monuments required by Minnesota Statute, and not shown on this plat, will be set within one year of the recording date of this plat, and shall be evidenced by a 1/2 inch by 14 inch iron pipe marked by RLS 20595.

- Denotes found iron monument.
- Denotes 1/2 inch by 14 inch iron monument set and marked by license no. 20595

For the purposes of this plat, the north line of Lot 1, Block 1, HEATHERWOOD 3RD ADDITION, is assumed to have a bearing of S88°41'00"W.

### DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



being 5 feet in width, and adjoining lot lines, and 10 feet in width and adjoining street lines unless otherwise shown on the plat.

KNOW ALL MEN BY THESE PRESENTS: That BrightKEYS Building & Development Corporation, a Minnesota corporation, owner and proprietor and 21st Century Bank-North, a Minnesota Banking Corporation, mortgagee, of the following described property situated in the County of Anoka, State of Minnesota to wit:

Lot 1, Block 1, HEATHERWOOD 3RD ADDITION,

and that BrightKEYS Building & Development Corporation, a Minnesota corporation, owner and proprietor of the following described property situated in the County of Anoka, State of Minnesota to wit:

Outlot B, HEATHERWOOD 1ST ADDITION.

Have caused the same to be surveyed and platted as HEATHERWOOD 4TH ADDITION and do hereby donate and dedicate to the public for public use forever the easements for drainage and utility purposes only. In witness whereof said BrightKEYS Building & Development Corporation, a Minnesota Corporation, has caused these presents to be signed by its proper officer this 27th day of March, 1999 and in witness whereof said, 21st Century Bank-North, a Minnesota Corporation, has caused these presents to be signed by its proper officers this 27th day of March, 1999.

BrightKEYS Building & Development Corporation

*C.R. Hackworthy*  
C.R. Hackworthy, President

21st Century Bank-North

*James N. Linkage* as Senior Vice President  
*Mary A. Decker* as Vice President

STATE OF MINNESOTA

COUNTY OF ANOKA

The foregoing instrument was acknowledged before me this 27th day of March, 1999, by C.R. Hackworthy, as President of BrightKEYS Building & Development Corporation, a Minnesota Corporation, on behalf of the corporation.

*Lisa C. Lecloux*  
LISA C. LECLOUX  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2000

STATE OF MINNESOTA

COUNTY OF ANOKA

The foregoing instrument was acknowledged before me this 27th day of March, 1999, by James N. Linkage, Senior Vice President and Mary A. Decker, as Vice President of 21st Century Bank-North, a Minnesota Banking Corporation, on behalf of the corporation.

*Connie L. Bauer*  
CONNIE L. BAUER  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2000

I hereby certify that I have surveyed and platted the property described on this plat as HEATHERWOOD 4TH ADDITION; that this plat is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredths of a foot; that all monuments have been correctly placed in the ground as shown or will be correctly placed as required by the local governmental unit; that the outside boundary lines are correctly designated on the plat; and that there are no wet lands, as defined in M.S. 505.02 Sub. 1, or public highways to be designated, other than shown.

*Terrence E. Rothenbacher*  
Terrence E. Rothenbacher, Land Surveyor  
Minnesota License No. 20595

STATE OF MINNESOTA

COUNTY OF ANOKA

The foregoing Surveyor's Certificate was acknowledged before me this 27th day of March, 1999, by Terrence E. Rothenbacher, Land Surveyor, Minnesota License No. 20595.

*Michelle L. Howland*  
MICHELLE L. HOWLAND  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2000

*Michelle L. Howland*  
Michelle L. Howland  
Notary Public, Anoka County, Minnesota  
My Commission Expires January 31, 2000

BLAINE, MINNESOTA

The plat of HEATHERWOOD 4TH ADDITION was approved and accepted by the City Council of the City of Blaine, Minnesota, at a regular meeting thereof held this 27th day of March, 1999. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes 505.03, Subd. 2.

By: *Tom Ryan* Mayor

By: *Joyce Tunnell* Clerk

Checked and approved this 27th day of March, 1999

By: *James D. Linkage*  
Anoka County Surveyor

RECEIVED  
CITY OF BLAINE, ANOKA CO., MN  
APR 15 1999  
*J. Culver*

Receipt no. 1999046036 #1179.50

**PIONEER engineering**  
LAND SURVEYORS • CIVIL ENGINEERS  
LAND PLANNERS • LANDSCAPE ARCHITECTS

2422 Enterprise Drive  
Mendota Heights, MN 55120  
(612) 681-1914 FAX: 681-9488

625 Highway 10, N.E.  
Blaine, MN 55434  
(612) 783-1880 FAX: 783-1883

# 332405

THIS DOCUMENT NUMBER REPRESENTS A PLAT

ALL PLATS ARE MAINTAINED ON A SEPARATE MICROFICHE IN A SEPARATE SECTION RESERVED FOR PLATS. FULL SIZE COPIES OF PLATS ARE STILL AVAILABLE FOR VIEWING.

MUNICIPALITY: Blaine CERTIFIED BY: De ON 4-15-99

MAP # 2155 PLAT BOOK: 16 OF TORRENS PAGE 11

DOC. DATE: 3-26-99 NO. OF PAGES: 1 TRACT BOOK: 12 PAGE 284

PLAT SHORT NAME: Heatherwood 4th Add.

LONG NAME: Heatherwood 4th Addition

A/T	PARENT PINS	KEY	RES?	GRANTORS (Fees, C/Ps, Mortgagees)	Marital Status
T	08-31-23-21-0010	1252272	N	Bright Keys Building +	(fee)
T	08-31-23-24-0026	1169568	N	Development Corporation	
				21st Century BANK - North	(mortgagee)

FILED BY: Jim Stuart PHONE: 349-9528

TAXPAYER NAME: Brightkey

ADDRESS: 1809 Northwestern Ave.

CITY: Stillwater STATE: Tn. ZIP: 55082

### NEW PARCELS

LOT	BLOCK	LOT	BLOCK	LOT	BLOCK
1-35	1				
A	OK				

DELT & CURRENT TAXES ARE PAID:

INITIALS: AH DATE: 4/15/99

DIV. NO.: \_\_\_\_\_

DIV. FEE: \$1120.

36

**TORRENS**

Receipt # <u>46036/1179.50</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>4/15/99 9:48</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>1</u> of <u>1</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Recordability: <u>GR</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Filing Fees: <u>1120<sup>00</sup> + 59.50</u>	<input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC
Well Certificate Received this Date: _____	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Refund Rec't # _____	<input type="checkbox"/> Other <input type="checkbox"/> No Change
From <u>See below</u> # of _____	Notes: _____
Cert. # _____ Tract _____	Comp. Entry _____
Typed _____ Updated: _____ / _____	Comp. Complete _____

BK 266 PG 85193 NO 85193  
266 85636 85636

DOCUMENT NO. 332405.0 TORRENS

**ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE  
 FOR RECORD ON APR 15 1999  
 AT 9:48 AM AND WAS DULY RECORDED.  
 FEES AND TAXES IN THE AMOUNT OF \$1179.50 PAID.

RECEIPT NO. 1999046036

EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES  
 KHJ

BY \_\_\_\_\_  
 DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

332405.0 TORRENS  
 METRO LEGAL SERVICES INC  
 THE TOWLE BLDG STE 150  
 330 2ND AVE S  
 MPLS, MN 55401

334709

DECLARATION FOR NEW CIC

THIS PAGE IS NOT PART OF THE ORIGINAL DOCUMENT PRESENTED FOR RECORDING

Added by Anoka County Recorder for posting only.

MUNICIPALITY: Blaine CHECKED BY: A ON 5/24/99

MAP # 2180 PLAT BOOK TYPE: \_\_\_\_\_

DOC. DATE: 5/24/99 NO. OF PAGES: \_\_\_\_\_ TRACT BOOK: 12 PAGE 284

CIC SHORT NAME: CIC NO 53 Heatherwood 4th Add.

LONG NAME: BY DECLARATION

AT	PARENT PINS	THRU
	<u>coming from lots 1-35</u>	
	<u>4th Add. (not set up)</u>	
	<u>Parent Pins are:</u>	
	<u>T 08-31-23-21-0010</u>	
	<u>T 08-31-23-24-0026</u>	

AT	PARENT PINS	THRU
	<u>See Heatherwood</u>	
	<u>split</u>	

DELINQUENT TAXES ARE PAID: INITIALS: EC DATE: 6-08-99

DIV. NO.: \_\_\_\_\_

334709

Common Interest Community No. 53  
A Planned Community  
BrightKEYS of Heatherwood  
DECLARATION

THIS DECLARATION is made this 21<sup>ST</sup> day of APRIL, 1999, by BrightKEYS Building and Development Corporation, a Minnesota corporation (hereinafter referred to as the "Declarant"), pursuant to the provisions of the Minnesota Common Interest Ownership Act, Minnesota Statutes Sections 515B.1-101 to 515B.4-118 (hereinafter referred to as the "Act"), as amended.

WHEREAS, the Declarant is the fee simple owner of that certain real estate situated in Anoka County, Minnesota, legally described as:

Lots 1 through 35, Block 1, Heatherwood 4th Addition

(hereinafter referred to as the "Property"); and

NOW, THEREFORE, in order to establish the Property as a Planned Community pursuant to the Act, Declarant hereby declares that the Property is subject to the covenants, restrictions, terms and conditions hereinafter set forth in this Declaration, which shall constitute covenants running with the Property and shall be binding on Declarant, its successors and assigns, and on all subsequent holders of any right, title or interest in or to all or any part of the Property, their grantees, successors, heirs, personal representatives, devisees and assigns.

1. General. The common interest community created hereby pursuant to the Act is a planned community, and it is not currently subject to a master association. The name and number of the common interest community, the County in which the common interest community is situated, and the legal description of the Property included in the common interest community are as hereinabove set forth. The Association (as hereinafter defined) has been incorporated under Chapter 317A of Minnesota Statutes.

2. Units, Membership, Voting Rights, Common Expenses and Assessments.

A. There are 34 Units as shown on the common interest community plat for Common Interest Community No. 53, BrightKEYS of Heatherwood (hereinafter referred to as the "CIC Plat") pursuant to the requirements of Section 515B.2-110(d) of the Act, and satisfying the requirements of Minn. Stat. Chapter 505, 508 or 508A as applicable, which CIC Plat is a part hereof. The unit identifier, location and front, rear and side boundaries of each of the 34 Units established hereby are set forth in Exhibit A attached hereto and/or in the CIC Plat. The Units shall have an no lower or upper boundaries. None of the Units owned by Declarant may be subdivided or converted under Section 515B.2-112 of the Act. Each of the 34 Units is hereby allocated one vote in the Association. Every Unit Owner of a Unit which is subject to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment by the Association. The percentages of the Common Expenses of the Association are hereby equally allocated to the Units. The percentages of the Common Expenses of the Association allocated to each Unit on such basis is the Common Expense Percentage set forth opposite each such Unit in Exhibit A attached hereto.

B. Declarant's Alternative Assessment Program. The Declarant hereby establishes an alternative assessment program of the type described in Section 515B.3-115(a)(1) of the Act. Specifically, the Declarant covenants to pay during the Guaranty Period (defined below) in lieu of all Common Expense assessments otherwise payable on Declarant's Units during such period, all Common Expenses, if any, in excess of the assessments payable during the Guaranty Period with respect to any Unit owned by a Unit

Owner other than Declarant, which assessments are guaranteed not to exceed, during the Guaranty Period, the amounts set forth on Exhibit A, subject to the following conditions:

(1) The Guaranty Period will commence at the time the first common expense assessment is levied, which shall be no later than 30 days after the first conveyance of a Unit to an owner other than Declarant. Prior to that time, Declarant will pay all accrued common expenses.

(2) The Guaranty Period will extend for a minimum of twelve calendar months and a maximum of sixty calendar months.

(3) The Declarant may not commence or recommence this alternative assessment program at any time other than at the time the first common expense assessment is levied.

(4) This alternative assessment program will have no effect on the level of services for items set forth in the Association's budget.

(5) The Declarant shall give owners at least 60 days prior notice of the termination of the Guaranty Period, which, however, shall not terminate during its first twelve months.

(6) This alternative assessment plan will have no effect on Declarant's obligations to fund the reserves disclosed in the Association's budget included in the disclosure statement or otherwise approved by the Association.

C. Procedures Prior to Third Annual Meeting Following Termination of Period of Declarant Control. Until the first annual meeting following the termination of the period of Declarant control referred to in paragraph 13.G. below, the maximum assessment shall be \$1,080.00 per Unit, which amount shall include an amount equal to the member's share of the annual premium for insurance coverage required by paragraph 8 of this Declaration. From and after the first annual meeting following termination of the period of Declarant control, the maximum annual assessment (exclusive of the premium for any insurance carried by the Association pursuant to paragraph 8 of this Declaration) may be increased by the greater of (i) twenty-five percent (25%) of the maximum assessment for the previous year; or (ii) the percentage increase, if any, over the twelve-month period preceding the year for which such assessment is levied in the Consumer Price Index, all items, published by the United States Department of Commerce, Bureau of Labor Statistics, for the region including Shakopee, Minnesota. The maximum annual assessment may be increased above the amount of the maximum annual assessment established hereunder only by a vote of members of the Association holding two-thirds (2/3) of the votes of membership other than Declarant who are voting in person or proxy, at a meeting duly called for that purpose; otherwise, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

D. Procedures After the Third Annual Meeting Following Termination of Period of Declarant Control. After the third annual meeting following termination of the period of Declarant Control, the Board of Directors shall have the authority to fix the annual assessment and to fix an increase to the annual assessment in an amount no greater than 25% of the annual assessment for the previous year (exclusive of the premium for any insurance carried by the Association pursuant to Article 8 below). Any increase greater than the stated 25% increase shall require approval by a vote of members of the Association holding two-thirds (2/3) of the votes of membership other than Declarant who are voting in person or proxy, at a meeting duly called for that purpose.

3. Common Elements, Limited Common Elements and Appurtenant Easements. All portions of the Property other than the Units are Common Elements. The Common Elements are legally described as Lot 35, Block

1, Heatherwood 4th Addition. Certain portions of the Common Elements designed to serve a single Unit are, by operation of Section 515B.2-102(d) and (f) of the Act, Limited Common Elements allocated for the exclusive use by the respective Unit served thereby to the exclusion of other Units.

An allocation of Limited Common Elements established pursuant to this Declaration may be changed by an amendment to this Declaration executed by the Owners between or among whose Units the reallocation is made and the Association. The amendment shall be approved by the Board of Directors of the Association as to form and compliance with this Declaration and the Act. The Association, through its Board of Directors, shall have the right to establish fair and reasonable procedures and timeframes for the submission and processing of the reallocations, and shall maintain records thereof. If approved, the Association shall cause the amendment to be promptly recorded. The Association may require the Unit Owners requesting the reallocation to pay all fees and costs for reviewing, preparing, and recording the Amendment and any amended CIC Plat.

A. Easements in Favor of All Owners. Subject to the provisions hereinafter contained, there shall exist the following easements in favor of each Unit Owner and appurtenant to such Unit Owner's Unit:

(1) A non-exclusive easement for ingress and egress to and from such Unit over and across designated pedestrian or vehicular passageways or access areas in the Common Elements and to and from dedicated or public streets, highways, or rights of way;

(2) A non-exclusive easement to construct, maintain, install, repair, and replace sanitary and storm sewer, water, gas, electric, telephone, cable television and other utility lines which may or may hereafter serve such Unit in the location the same shall be initially constructed or installed by the Declarant, in locations designated by Declarant, or such other location as may be later approved by the Board of Directors of the Association;

(3) An exclusive easement in favor of each Unit over, across and upon the Common Elements and other Units to maintain any encroachment by fireplaces, roof overhangs, air conditioning equipment, flower boxes, decks, balconies or other appurtenances which are a part of the original construction of any improvements on any Unit which are designed for use as a single-family dwelling unit (hereinafter referred to as a "Improvement") or which are altered or added pursuant to the provisions of paragraph 7 hereof; and,

(4) A non-exclusive easement for the use and enjoyment of those portions of the Common Elements developed for open space, recreational or vehicular parking purposes.

B. Extent of Members' Easements. The right and easement in favor of the Units and the Unit Owners created hereby and the title of the Association to all Common Elements, shall be subject to the following and as further provided herein:

(1) The right of the Association, as provided in its Articles and Bylaws, to borrow monies for the purpose of improving, repairing, and maintaining the Common Elements, or any improvements thereon, and in aid thereof to mortgage said properties, provided that the rights of such mortgagee in said properties shall be subordinate to the rights of the Unit Owners hereunder, and provided, further, that any requisite consent shall have been first obtained, including the consent of Unit Owners entitled to cast at least 67 percent of the votes of membership other than Declarant;

(2) The right of the Association to take such steps as are reasonably necessary to protect the Common Elements against foreclosure;

(3) The right of the Association, as provided in its Bylaws, to suspend the voting and enjoyment rights of any Unit Owner for any period during which any assessment remains unpaid; provided, however, that nothing contained in this paragraph 3.B.(3) shall be deemed to deny a Unit Owner access to and from his or her Unit;

(4) The right of the Association, as provided in its Bylaws, and from time to time, to adopt reasonable regulations regarding the use and enjoyment of the Common Elements;

(5) The right of the Association so long as construction on, and initial sales of, Units shall continue, to create easements upon, across, over and under the Common Elements for ingress, egress, installation, replacing, repairing, maintaining cable television antenna systems security and similar systems, walkways and all utilities, including but not limited to, water, sewer, telephone, gas and electricity. The Board of Directors shall, upon written request of the Declarant, grant such easements as may be reasonably necessary for the development of any part of the Property;

(6) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility (including, without limitation, utilities furnishing gas, electricity, water, telephone or cable television) or to grant permits, licenses and easements over such Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property, provided that, except as otherwise provided herein, no dedication or transfer of any portion of the Common Elements, nor any easements, license, or permit over or with respect to any portion thereof of more than 180 days duration, shall be effective unless an instrument signed by Unit Owners entitled to cast at least 67 percent of the votes of membership, including 67 percent of the votes allocated to Units not owned by Declarant, has been recorded agreeing to such dedication, transfer, grant, permit, license or easement, and unless written notice of the proposed agreement and action thereunder is sent to every Unit Owner at least ninety (90) days in advance of any action taken. The consent requirements of paragraph 9, if applicable, must also be satisfied with respect to any transaction of the nature therein described; and,

(7) Notwithstanding any provisions contained herein to the contrary, so long as construction and initial sale of Units and Improvements shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Elements or upon any Unit owned by Declarant such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of such residences or Units, including, without limitations, vehicular ingress and egress, vehicular parking, material storage, and the maintenance of business offices, signs, model units, and sales offices, and Declarant shall have an easement for access to such facilities; provided, however, that Declarant shall promptly restore any damage to the Common Elements by reason of any construction incident to the foregoing. This paragraph may not be amended without the express written consent of the Declarant.



Nothing herein contained shall be construed as a dedication of any part of the Common Elements to the public or to public use.

C. Delegation of Use. Any Unit Owner may delegate such Unit Owner's property rights in the Common Elements to his or her family and his or her tenants who reside on the Property, subject to all the provisions herein contained.

D. Taxes and Municipal Special Assessments on Common Elements. Taxes and special assessments that would normally be levied against the Common Elements shall be divided and levied in equal amounts against the individual Units, or in such amounts as the governmental taxing authorities shall determine, which levies shall be a lien against said individual Units.

4. Use of the Planned Community. The Planned Community and each of the Units shall be used and occupied in accordance with the following provisions:

A. Residential Use Only. Subject to the provisions of paragraph 4.B. below, the Planned Community and each of the Units are intended for residential purposes only. No use may be made of any Unit except that of a residence for the Unit Owners thereof, their families, tenants and social guests and no business or commercial use shall be permitted on the Property except as specifically provided in this Declaration and except that the Association may maintain an office on or in any part of the Property for management purposes.

B. Use for Sales Purposes. So long as Declarant owns any Unit, Declarant may maintain advertising signs on any part of the Common Elements and sales offices, management offices and model Units within any Unit or Units or in or on any part of the Common Elements and such sales offices, management offices and model Units may be relocated by Declarant from time to time.

C. Time shares; Rental of Units. Time shares (as defined in the Act) are not permitted. With the exception of a lender in possession of the Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease such Owner's Unit for transient or hotel purposes, which shall be defined as (a) rental for any period less than 7 days; or (b) any rental if the occupants of the Unit are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen and bellboy service. The Unit Owners of the respective Units shall not lease less than the entire Unit. Any lease arrangement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association and to any rules and regulations established by the Board of Directors, shall contain the agreement of the tenant to be bound by the terms of such documents and shall provide that any failure by the tenant to comply with the terms of such documents or rules shall be a default under the lease or rental agreement. All leases shall be required to be in writing and any Unit Owner leasing or renting a Unit shall, prior to the commencement of the lease or rental term, deliver to the Secretary of the Association a complete copy of the lease or rental agreement. Other than the foregoing, the Unit Owners of the respective Units shall have the absolute right to lease the same.

D. No Discrimination in Sale, Lease, etc., of Improvement. Neither the Declarant nor any Unit Owner shall discriminate in the sale, lease, rental or in the use or occupancy of an Improvement because of religion, race, color, creed, national origin, sex, marital status, or status with respect to public assistance or disability or, in furtherance of such covenant, in contravention of the provisions of Minnesota Statutes, Section 181.59 and of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and regulations thereunder, which relate to civil rights and discrimination.

E. Easements for Encroachments. If, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the planned community, any portion of the Common Elements encroaches upon a Unit or Units or any portion of a Unit encroaches upon the Common Elements or upon an adjoining Unit or Units, or if any chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other such structure, component or fixture lies partially within and partially outside the designated boundaries of a Unit, the boundaries of the Common Elements, or the boundaries of an easement described or provided for herein or shown upon the plat of the Property, which serves or affects the function of more than one Unit, or any portion of the Common Elements, and encroaches upon another Unit, the Common Elements, or an easement, as the result of the construction, reconstruction, repair, shifting, settlement or movement of any improvement upon the Property, or any part thereof, a valid easement for the encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for the purposes of marketability of title. In the event the Property is partially or totally destroyed, and then rebuilt, the Unit Owners shall permit minor encroachment of parts of the Common Elements, and of other Units, due to reconstruction, and a valid easement for said encroachments and the maintenance thereof shall exist.

F. Rules. Each Unit Owner, occupant, tenant or guest shall use the Units and the Common Elements only in compliance with the provisions of the Act, this Declaration, the Articles and the Bylaws of the Association, all as lawfully amended from time to time, and with all decisions, resolutions and rules promulgated by the Board of Directors. Failure to comply with any such provisions, rules, decisions or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief, or both. Additionally, in the event of any such failure to comply, the Association may levy and collect reasonable fines in accordance with the provisions of the Act.

G. Prohibited Activities. No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall in the judgment of the Board of Directors cause unreasonable noise or disturbance to others. No residents or visitors may park in areas not specifically designated for parking on the CIC Plat or in this Declaration.

H. Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, and/or one sign of not more than five square feet advertising the property for sale or rent; provided, however, that Declarant shall be permitted to erect and maintain upon the Property such signs as it deems appropriate to advertising the Property until the Declarant conveys the last Unit.

I. Animals. No animals, birds or reptiles of any kind shall be raised, bred or kept in any portion of the Property except as allowed herein.

(1) Each Unit may be occupied by no more than a total of two (2) animals - one dog and one declawed cat. No such dog or cat shall be kept, bred or maintained for any commercial purpose.

(2) The owner of any animal shall indemnify the Association and hold the Association harmless against any loss or liability of any kind or character whatsoever arising from or related to any animal kept in the Unit.

(3) Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property at the expense of the animal's owner upon ten (10) days' written notice from the Association.

(4) No pet shall be allowed out of the Unit unless it is on a leash.

(5) Damage caused by any pet to any part of the Property shall be the full responsibility of the owner of the pet and that owner shall promptly pay all costs involved in restoring such damaged portion of the Property to the condition it was in prior to the time that such damage occurred. Any damage caused by cleaning, chemicals or other such materials used in the attempt to remedy said damage shall be the full responsibility of the owner of the pet and said owner shall pay the full cost of removal and replacement of such damaged items.

(6) Each pet owner shall be financially responsible for any personal injury or property damage caused by his or her pet.

(7) Each pet owner shall be responsible for cleaning up after his or her pet at all places on the Property.

(8) Each pet owner shall comply with all applicable provisions of any state, municipal or local law or ordinance regulating the ownership and maintenance of pets.

J. Trash. Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in the rules and regulations promulgated by the Board of Directors. At its option, the Association may contract with a single provider for the removal and disposal of garbage, trash and other solid waste from all Units in accordance with this Declaration. Each Unit Owner shall be obligated to purchase such services from the provider designated by the Association upon the terms, conditions and rates negotiated by the Association. Any charges imposed by the provider designated by the Association shall be paid by the Association and shall be a Common Expense. In the event that any Unit Owner requests any services not included within the basic/general charges of the provider, the Association may assess all costs incurred for such additional services against that Unit Owner's Unit.

K. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Units which rules and regulations shall be consistent with the rights and duties established in this Declaration.

L. Parking. The Association may from time to time establish rules and regulations concerning the use of parking spaces on the Common Elements and may cause to be towed improperly parked vehicles at the Owner's expense.

M. Exterior Storage. Exterior storage including but not limited to storage of boats, trailers, and recreational vehicles, shall be prohibited.

5. Maintenance and Repair: Rights and Obligations of Unit Owners and Association.

A. In addition to maintenance of the Common Elements, the Association, subject to the rights of the Unit Owners set forth in this Declaration, shall be responsible for the maintenance and repair of roofs and exterior surfaces of all buildings on the Property, including, without limitation, the Improvements located on the Units and including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, and the maintenance and repair of roofs, overhangs, gutters and downspouts (but excluding any repair or replacement, other than painting, of glass, storm windows, screens, doors, decks and garage doors constituting a part

of the Improvement located on a Unit) and for the maintenance and repair of any portion of any Improvement damaged as a result of the roof or exterior surfaces thereof being in a state of disrepair. The Association shall maintain and repair the driveways and walkways, including any portion thereof located on any Unit. The Association shall be responsible for the maintenance and repair of the water supply system up to the inlet side of the water meter in each Improvement, the underground sprinkler lines, and the sanitary sewer system up to the foundation wall of each Improvement on each Unit which is subject to assessment under this Declaration. The Association shall be responsible for snow removal from driveways and parking areas located on the Units. The Association shall not be responsible for the removal of snow from walkways, Improvement steps or patios located on the Units. No Unit Owner shall repair or redecorate the exterior of the Improvement or the exterior of any other improvements located on his Unit except according to plans and specifications approved in writing by the Board of Directors of the Association, so that the exterior of all buildings on the Property shall always be maintained according to a harmonious plan. If any item of maintenance or repair to be performed by the Association is required because of the willful or negligent act or omission of a Unit Owner, his family, guests or tenants, the cost of such maintenance or repair, in excess of net insurance proceeds received by the Association in connection therewith, shall be added to and become a part of the Unit Owner's assessment and any amount so added shall not be taken into account in determining whether the maximum monthly assessment described in paragraph 2 has been exceeded.

B. Lawn and Planting Maintenance. The Association shall mow, rake, water and maintain, all to the extent the Board deems necessary or desirable, all lawns and exterior plantings on the Units. In the event an Owner's actions causes any sod or plantings to die, the Association shall have the right to replace any sod or plantings that have died, and the cost thereof shall be added to and become part of the Owner's assessment.

C. Maintenance of Interior. Maintenance and repair of the interior of any Improvement located on a Unit and all other portions thereof, structural or non-structural, not required hereunder to be maintained and repaired by the Association, shall be performed by each Unit Owner and such interior and other portions shall be maintained in a good, clean, attractive and sanitary condition, order and repair commensurate with first class, residential property.

D. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may arrange with others to furnish water, trash collection, snow removal, sewer service and other common services to each Unit. Any agreement entered into by the Association for the management of all or a portion of the affairs of the Association or any other agreement providing for services by Declarant shall be of a duration which does not exceed one year, shall be terminable by the Association or the other party thereto without cause and without payment of a termination fee upon not more than 90 days written notice.

E. Association's Easement. The Association shall have an easement over each Unit, including the right of access and entry into any Improvement, for maintenance of the exterior of all improvements, for the maintenance, repair and replacement of water, sewer and other utility pipes, ducts, and wires and for the purpose of performing any emergency repairs or other duty of the Association. The Association's use of this easement is subject to reasonable notice to affected Unit Owners and performance of work at reasonable hours. Notice is hereby waived from the Association in the event of emergency repairs being required. If work performed

by the Association shall damage real or personal property of a Unit Owner, such loss or damage shall be repaired or replaced by the Association as a common expense.

6. Party Walls.

A. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Unit Owners who make use of the wall in proportion to such use.

C. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Unit Owner who has used the wall may restore it, and if the other Unit Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Unit Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

D. Weatherproofing. Notwithstanding any other provision of this paragraph, a Unit Owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

E. Right to Contribute Runs with Land. The right of any Unit Owner to contribution from any other Unit Owner under this paragraph shall be appurtenant to the land and shall pass to such Unit Owner's successors in title, in an amount mutually agreed to or determined by arbitration pursuant to paragraph 6.F., and upon docketing of judgment pursuant to the arbitrator's decision, judgment may be enforced in the same manner as provided in Chapter 514, Minnesota Statutes 1971 as the same may be amended.

F. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this paragraph, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator. The decision shall be by a majority of all the arbitrators and shall be final and conclusive of the questions involved. The Unit Owners shall share equally the cost of the arbitrators. If any Unit Owner fails to appoint his or her arbitrator within ten (10) days after appointment of the last arbitrator to be appointed, the Unit Owner or Unit Owners who have appointed their arbitrators may appoint an arbitrator for each Unit Owner who has so failed.

G. Reciprocal Easements. The title of the Unit Owner of each Unit shall be subject to an exclusive easement, which shall be appurtenant to and which shall run in favor of each adjoining Unit to which this Article shall apply, for the continuing existence, use and repair of the party wall or walls which are wholly or partially on such Unit Owner's Unit and which are part of the original construction of the improvement upon each such adjoining Unit or which are added pursuant to the provisions of paragraph 7 hereof.

7. Architectural Control. From and after the completion of construction on and sale of any Unit, no building, fence, wall or other structure shall be commenced, erected or maintained upon any Unit, nor shall any exterior addition or change or alteration be made to any Improvement until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to quality of workmanship and materials, harmony of external design and location in relation to surrounding structures, finish grade elevation, and topography by the Board of Directors of the Association, or by an

architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required and this Article will be deemed to have been fully complied with. The prevailing party in an action brought by the Association to enforce this Article shall be entitled to recover from the other reasonable attorneys fees together with all necessary costs and disbursements incurred in connection therewith. Notwithstanding any review or approval by the Board or its designated committee, any such addition, change or alteration on a Unit shall comply with all applicable laws, codes, ordinances, rules and regulations of all governmental authorities having jurisdiction.

8. Required Insurance. Commencing not later than the time of the first conveyance of a Unit to a Unit Owner other than Declarant, and in addition to the requirements of the Act, the Association shall maintain, to the extent reasonably available, the following insurance: (a) fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage, debris removal, cost of demolition, malicious mischief, windstorm, water damage and all other perils which are customarily covered with respect to projects similar to the Property in construction, location and use, including all other perils normally covered by the standard "all risk" endorsement, if such is available). Such insurance shall insure all personal property belonging to the Association and all structures, fixtures, buildings and other improvements included in the Property subject to this Declaration (including all building service equipment and all of the Units and the fixtures installed therein as of the date hereof, and specifically including, without limiting the generality of the foregoing, interior walls, interior doors, built-in cabinets and counters and electrical and plumbing conduits, pipes and fixtures installed therein as of the date hereof, but not including carpeting, drapes, wallcoverings, furniture, furnishings, or personal property belonging to the Unit Owners and not including improvements, fixtures and other property supplied or installed by Unit Owners). Such insurance shall cover the interest of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors; (b) worker's compensation insurance and insurance covering legal liability arising out of lawsuits related to employment contracts of the Association; (c) comprehensive public liability insurance in such amounts (but not less than \$1,000,000 for any one occurrence) and with such coverage as the Board of Directors shall from time to time determine, but at least covering events occurring anywhere on the Common Elements or arising out of or in connection with the existence, use, ownership, management, or maintenance of the Common Elements, and insuring each officer and member of the Board of Directors, the Association, the managing agent, and their respective employees, agents, and all persons acting as agents, and each Unit Owner and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner, or claims of one or more insured parties against other insured parties, and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an insured party, including a Unit Owner, for the negligent act of another insured party, including a Unit Owner, occupant or the Association (the Unit Owners shall be included as additional insureds only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements); (d) director's and officer's liability insurance in such amounts as the Board of Directors shall, from time to time, reasonably determine; and (e) such other insurance as the Board of Directors may determine. If reasonably available, the policy or policies of fire and extended coverage shall contain a stipulated amount clause, or determinable cash adjustment clause, or similar clause to permit a cash settlement covering specified value in the event of destruction and a decision not to rebuild and an inflation guard endorsement. The Board of Directors may from time to time designate an insurance trustee to receive proceeds.

The Association may, in the case of a claim for damage to a Unit or Units, (i) pay the deductible amount as a common expense, (ii) assess the deductible amount against the Units affected in any reasonable manner it may determine, or (iii) require the Unit Owners of the Units affected to pay the deductible amount directly.

If the insurance described in paragraph 8.(a) hereof is not reasonably available, the Association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

Insurance policies carried pursuant to paragraphs 8.(a) and 8.(c) hereof shall provide that: (i) each Unit Owner and secured party is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against any Unit Owner or members of the Unit Owner's household and against the

Association and members of the Board of Directors; (iii) no act or omission by any Unit Owner or secured party, unless acting within the scope of authority on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and (iv) if at the time of a loss under the policy there is other insurance in the name of a Unit Owner covering the same property covered by the policy, the Association's policy is primary insurance.

Any loss covered by the property policy under paragraph 8.(a) hereof shall be adjusted by and with the Association. The insurance proceeds for that loss shall be payable to the Association, or to an insurance trustee designated by the Association for that purpose. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and their mortgagees as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements and Units, including Improvements located within the boundaries of the easements described or provided for herein. Unit Owners and mortgagees are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Planned Community is terminated.

An insurer that has issued an insurance policy pursuant to this paragraph 8 shall issue certificates or memoranda of insurance, upon request, to any Unit Owner or mortgagee. The insurance may not be canceled until 30 days after notice of the proposed cancellation has been mailed to the Association, each Unit Owner and each mortgagee to whom certificates of insurance have been issued.

Each Unit Owner may maintain such insurance as such Owner shall desire for such Owner's own benefit insuring such Owner's personal liability, and such Owner's carpeting, drapes, wallcovering, fixtures, furniture, furnishings, personal property and improvements, fixtures and other property supplied or installed by such Owner or a previous Unit Owner or tenant; provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

In addition to the foregoing powers, and not in limitation thereof, the Board of Directors shall have the authority at all times without action by the Unit Owners to obtain and maintain in force any other coverages or endorsements which are required under the Act or which the Board of Directors deems necessary or desirable.

Insurance premiums for any blanket property insurance coverage and the other insurance coverages purchased by the Association shall be Common Expenses to be paid by assessments levied by the Association, and such assessments shall be held in an account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

9. Rights of First Mortgagees. The following provisions shall take precedence over all other provisions of this Declaration, and in the event of any inconsistency or contradiction, the following provisions shall control:

A. Notices of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage which is a first lien on any Unit (hereinafter referred to as a "first mortgage" or "First Mortgage") and the number or address of the Unit or Improvement mortgaged (a holder of such first mortgage who has requested such notice is referred to herein as an Eligible Holder) any such Eligible Holder shall be entitled to the timely notice of:

(1) Any condemnation loss or casualty loss which affects a material portion of the Property, or any Improvement on which there is a first mortgage held by such Eligible Holder;

(2) Any delinquency in the payment of assessments or charges owed by the Unit Owner of an Improvement subject to a first mortgage held by such Eligible Holder which remains uncured for a period of sixty (60) days;

(3) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(4) Any proposed action which would require the consent of a specified percentage of first mortgagees as specified in this paragraph or elsewhere in this Declaration.

B. Certain Amendments. In addition to any other requirements for the amendment of this Declaration, unless the approval of Eligible Holders representing 51% of the Improvements subject to first mortgages held by Eligible Holders (based on one vote for each first mortgage held), and at least sixty-seven percent (67%) (or such higher percentage as is required by law or this Declaration) of the Unit Owners of Improvements (and, until the termination of the period of Declarant control referred to in paragraph 13.G. below, the Declarant), have given their proper written approval, the Association shall not be entitled to:

(1) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Common Elements owned, directly or indirectly, by the Association for the benefit of the Units (provided, however, that the granting of easements for public utilities and for other public purposes consistent with the intended use of the Common Elements shall not be deemed such a transfer);

(2) Use hazard insurance proceeds for losses to any Common Elements for other than the repair, replacement or reconstruction of such improvements;

(3) Add or amend any material provisions of this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association which establish, provide for, govern or regulate any of the following:

(a) Voting;

(b) Assessments, assessment liens, or subordination of such liens;

(c) Reserves for maintenance, repair, and replacement of the Common Elements (or Improvements, if applicable);

(d) Insurance or Fidelity Bonds;

(e) Rights to use of the Common Elements;

(f) Responsibility for maintenance and repair of Improvements;

(g) Except for annexation of additional properties by Declarant as provided herein, expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from Property;

(h) Leasing of Improvements;



(i) Imposition of any right of first refusal or similar restriction of the right of an Owner to sell, transfer, or otherwise convey his or her Improvement; or

(j) Any provisions which are for the express benefit of mortgage holders, mortgage insurers or mortgage guarantors.

C. Discontinuance of Professional Management. Where professional management has been previously required by any Eligible Holder, whether such entity became an Eligible Holder at that time or later, any decision to establish self-management by the Association shall require the prior consent of all Unit Owners of Improvements to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible Holders or Guarantors holding mortgages on Improvements which have at least fifty-one percent (51%) of the votes of Improvements subject to mortgages held by Eligible Holders.

D. Examination of Association Books and Records; Financial Statements. The Association shall make available to the Unit Owners, and to any holder, insurer, or guarantor of any first mortgage, a current copy of this Declaration, the Bylaws, any other rules or regulations governing the Property and, upon payment of the costs of copying, 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.

E. Right to Pay Association Obligations. First mortgagees may, jointly and singly, pay any charges which are in default and which may or have become a charge against the Common Elements and may pay overdue premiums on hazard insurance coverage on the lapse of a policy for such property and first mortgagees making such payments shall be owed immediate reimbursement from the Association. The Board of Directors of the Association shall have power to enter into an agreement in favor of all first mortgagees to effectuate the provisions of this paragraph 9.

F. Agreements for Professional Management. The length of any agreement for professional management of the Property or any contract providing for any services of the Declarant, may not exceed one (1) year, renewable thereafter for successive one (1) year periods. Any such agreement or contract shall provide for termination by either party without cause and without payment of a termination fee upon ninety (90) days' written notice.

G. Priority of First Mortgagees. No provision of this Declaration or the Bylaws of the Association shall be construed to give any Unit Owner, or any other party, priority over the rights of any first mortgagee of a Unit pursuant to its first mortgage in the case of a distribution to a Unit Owner of insurance proceeds or condemnation award for losses to or a taking of Common Elements or any portion thereof or any Unit or portion thereof. The Association shall give timely written notice of any damage or proposed condemnation to all first mortgagees, if such damage or condemnation affects the Common Elements, and to the first mortgagee of any Unit affected by such damage or condemnation.

H. Attendance at Meeting of Members. Any Eligible Holder who so requests to the Association in writing shall be given notice of all meetings of the members as if such first mortgagee were a member entitled to notice. Each such first mortgagee shall have the right to designate a representative to attend all such meetings, which representative shall not have the right to cast a vote.

10. Option to Add to Planned Community.

Declarant shall have the option ("Option") without the consent or joinder of the Unit Owners, the Association, any holder of an interest as security for an obligation or any other person or entity, to add to the planned community the parcel of land (hereinafter referred to as the "Additional Property Parcel") described in Exhibit B attached hereto and located in the City of Blaine, County of Anoka, State of Minnesota.

Such Option shall be subject to the terms and conditions hereinafter set forth:

A. Duration of Option. The Option will expire on that date which is seven (7) years after the date upon which this Declaration is recorded. There are no circumstances that will terminate the Option before the expiration of said seven (7) year period. In addition, and notwithstanding the foregoing, the Option may be extended by an Amendment to this Declaration approved in writing by the Declarant and by the vote or written agreement of Unit Owners other than the Declarant or an affiliate of the Declarant to whose Units are allocated at least 67 percent of the votes in the Association. Such Amendment shall specify the date upon which the Option as so amended will expire, and shall be duly recorded.

B. Timing. The Additional Property Parcel need not be added at one time and portions of the Additional Property Parcel may be added at different times.

C. Maximum Number of Units. The maximum number of units that may be created within the Additional Property Parcel is 48. All of such units will be restricted exclusively to residential use.

D. Buildings. Any buildings and units that may be erected upon any portion of the Additional Property Parcel which is added to the planned community will be compatible with the buildings and units originally constituting a part of the planned community in terms of architectural style, structure type, quality of construction, principal materials employed in construction, and size.

E. Applicability of Restrictions. All restrictions in this Declaration affecting the use, occupancy, and alienation of units will apply to units created in all portions of the Additional Property Parcel which are added to the planned community.

F. Improvements in Common Elements. It is presently contemplated that the Common Elements in those portions of the Additional Property Parcel added to the planned community will be substantially comparable to those originally constituting a part of the planned community. Declarant reserves the right to construct such other, additional improvements as a part of the Common Elements of the Additional Property Parcel as Declarant may hereafter determine, but in no event shall Declarant have any obligation to construct any improvements to the Common Elements of the Additional Property Parcel.

G. No Assurances. Nothing herein contained shall bind the Declarant to add all or any part of the Additional Property Parcel to the planned community or to adhere to any particular plan of development or improvement for any portion of the Additional Property Parcel not added to the planned community. None of the assurances set forth in paragraphs 10.C., 10.D., 10.E. or 10.F. above will apply to the Additional Property Parcel if it is not added to the planned community.

H. Exercise of Option. Declarant may exercise its option to add the Additional Property Parcel or any portion thereof by complying with the applicable notice requirements of Section 515B.2-111 of the Act and by securing the execution and recording of one or more amendments to this Declaration in the manner specified in said Section 515B.2-111. Such

Amendment shall allocate one vote in the Association to each Unit formed in the Additional Property Parcel being added and shall reallocate the percentages of the Common Expenses of the Association among the Units equally. Contemporaneously with the filing of such Amendment, the Declarant shall record a supplemental CIC plat in accordance with the provision of Section 515B.2-110(e) of the Act.

I. Assignment of Option. The Option described in this paragraph 10 may be assigned by Declarant insofar as it affects the Additional Property Parcel herein described to the extent and in the manner set forth in Section 515B.3-104.

J. Reservation of Easements. Declarant hereby reserves the right, in the event that the Additional Property Parcel or any portion thereof is not added to the planned community (whether due to lapse of time or termination pursuant to paragraph 10.A. above) to create the following perpetual, non-exclusive easements appurtenant to the Additional Property Parcel in, over, upon, and under portions of the Common Elements within the planned community:

(i) Non-exclusive easements for the following purposes: a) to connect any improvements constructed on the portion of the Additional Property Parcel which is not added to the planned community (hereinafter referred to as the "Excluded Parcel") to any natural gas, storm sewer, water, sanitary sewer, electrical, telephone or other utility line, pipe, wire or other facilities, including the right to connect any improvements constructed on the Excluded Parcel into, and the right to utilize, such utility lines, pipes, wires or other facilities which are or may be located within and/or which may serve the planned community, b) to obtain natural gas, water, electricity, telephone and other utility services from, and to discharge storm and sanitary waste into, all such lines, pipes, wires or other facilities; and c) to install, repair, maintain, operate and replace all such natural gas, storm sewer, water, sanitary sewer, electrical, telephone or other utility lines, pipes, wires, or other facilities; and d) to do such other acts or things as are necessary in order to connect into and/or to utilize such utility facilities to serve any improvement constructed or to be constructed on the Excluded Parcel provided, however, that Declarant, its successors or assigns, as the owner or owners of the Excluded Parcel benefited by the easements hereby reserved, shall be responsible for the restoration of any damage done or sustained in connection with the use of such easements.

(ii) Non-exclusive easements for the purposes of: a) affording the Excluded Parcel and any improvements constructed or to be constructed thereon with access to and from a public road; b) installing, repairing, maintaining, surfacing, resurfacing, grading, replacing and extending any private drives, lanes, streets, roads, or rights-of-way over which the easements hereby reserved are or may be located; and c) to do such other acts or things as are necessary in order to afford any improvement constructed or to be constructed on the Excluded Parcel with access to a public road provided, however, that Declarant, its successors or assigns, as the owner or owners of the Excluded Parcel benefited by the easements hereby reserved, shall be responsible for the restoration of any land, drives, streets, roads or rights-of-way which are disturbed in connection with the use of such easements, and provided further, however, that the location of the easements hereby reserved shall, to the extent practicable, be limited to the location of the private drives, lanes, streets, roads, and rights-of-way existing within the Common Elements at the time or times that the easements hereby reserved are created.

The easements herein reserved may be created in the event that, and from time to time as, the Excluded Parcel is created due to lapse of time or termination pursuant to paragraph 10.A. hereof. As evidence of the creation of one or more of the easements reserved in this paragraph 10.J., the then owner or owners of the Excluded Parcel for whose benefit the easement is created shall execute and cause to be filed for record a Declaration of Easement setting forth a description of the easements thereby created and a description of the Excluded Parcel so benefited by the easements thereby created. No consent or joinder of the Association or any Unit Owner or any mortgagee or other holder of an interest in any Unit or Excluded Parcel as security for the performance of an obligation, nor any release therefrom, shall be required to effect or to evidence the creation of the easements hereby reserved. In addition, the owner of the Excluded Parcel or of a platted lot within the Excluded Parcel may at any time waive or terminate any easement hereby reserved or hereafter created for the benefit of such owner's Excluded Parcel or platted lot within the Excluded Parcel, as the case may be, by the execution and recording of an instrument specifying such waiver or termination, and without the necessity of any consent or joinder by the Association, any Unit Owner, or any mortgagee or other holder of an interest in any Unit or Excluded Parcel or platted lot within the Excluded Parcel as security for the performance of an obligation, or any release therefrom. In the event that easements reserved in this paragraph 10.J. are created, the Unit Owners and the owner or owners of the Excluded Parcel benefited by such easements shall, so long as the easements reserved herein are in existence, share all expenses of maintaining, repairing and replacing the private drives, lanes, streets, roads, or rights-of-way, and the utility lines, pipes, wires and other facilities, which may be commonly used pursuant to the easements herein reserved in the following manner. A portion of any such costs and expenses equal to a fraction, the numerator of which is the number of Units in the planned community and the denominator of which is the total number of Units in the planned community and the total number of units, lots or other individual parcels within the Excluded Parcel benefited by such easements, shall be paid by the unit owners of the planned community. The balance of any such costs or expenses shall be paid by the owner or owners of the Excluded Parcel benefited by such easements. Any portion of the costs and expenses to be paid by the Unit Owners of the planned community shall be paid by the Association as a Common Expense. Notwithstanding the foregoing, if the Excluded Parcel benefited by such easements is used for other than residential purposes, then such costs and expenses shall be apportioned to, and shared by the Unit Owners and the owner or owners of the Excluded Parcel on any fair and equitable basis. Notwithstanding anything contained herein to the contrary, the Federal Housing Administration shall have the right to approve or disapprove the contemplated development of the Excluded Parcels and the right to approve or consent to any easement imposed by Declarant pursuant to this paragraph 10.J.

11. Easements

A. Additional Easements. In addition to the easements, covenants, restrictions and conditions described elsewhere in this Declaration, all Units shall be subject to easements and covenants hereinafter specifically described for the benefit of the Property or for the limited benefit of specified adjoining Units, all as more fully set forth in this paragraph.

B. Private Yard Area. Except as otherwise provided herein, each Unit Owner shall be entitled to the exclusive use and occupancy of the Private Yard Area in his or her Unit (defined as the portion of the Unit not covered by an Improvement) to the exclusion of all others; provided, however, the Property generally and all other Unit Owners shall be entitled to a visual easement over all Private Yard Areas, subject to and limited by the original structures erected thereon by the Declarant. No Owner shall erect or cause to be erected any structure of any sort upon his or her Unit, or plant any trees or shrubs prior to obtaining the written approval of the Association. Except as permitted under the limited circumstances described in the preceding sentence, all planting, landscaping and private yard maintenance shall be performed by the Association and as elsewhere provided herein or in the By-Laws the costs thereof shall be and constitute a portion of the annual assessment by the Association upon all Units in the Property.

C. Roadway and Utility Easements. Each Unit over which a roadway or utility easement has been dedicated, as shown on the recorded plat of the Property, or over which a roadway or utility is in fact installed or constructed as a part of the initial roadway and utility system for the Property, shall be subject to a right and easement for roadway or underground general utility purposes over that portion of such Unit which is burdened with such dedicated roadway or utility easement, or over which such roadway or utility actually passes. Such purposes shall include, but not be limited to, roadway, sewer, water, gas, electrical, telephone and cable television purposes, including the right to build, construct, reconstruct, rebuild, repair, maintain and operate a roadway, underground sewer, water, gas, electrical mains and telephone or television cables, and any surface connections to such underground mains, along with the right to enter upon, and open the ground for such purposes providing that all such openings shall be filled and the surface restored to its former condition.

D. Priority. The utility and roadway easements described hereinabove in paragraph 11.C., are and shall continue to be superior to the Private Yard Easements described hereinabove in paragraph 11.B.; provided, however, in the event that it shall be necessary to install, repair or maintain any roadway or utility facilities crossing any Private Yard Area, such repairs and maintenance shall be undertaken so as to cause, to the extent practicable, minimal interference with the use of such areas, and any and all damage to the driveway, driveway apron surfaces, walkway or yard areas shall be repaired and the surface fully restored.

E. Easements Perpetual and Appurtenant. The easements described herein shall be perpetual in duration and shall be appurtenant to the Units which are burdened and benefited by such easements.

F. Easement Rights of Association. Notwithstanding anything herein to the apparent contrary, all the easements created herein which run in favor of the Association may only be used by the Association in connection with the exercise of those rights and obligations of the Association which are more fully described elsewhere in this Declaration.

12. Miscellaneous.

A. Termination. Except in the case of a taking of all of the Units by eminent domain, this planned community may be terminated only by the written agreement of eighty percent (80%) of the Unit Owners and eighty percent (80%) of first mortgagees of Units, and may not be abandoned, nor may such termination or abandonment be sought by act or omission, without such unanimous consent.

B. Right of Association to Hold Unit. Subject to the provisions of the Bylaws of the Association, the Board of Directors, acting on behalf of the Association, shall have the power to acquire, hold, lease, mortgage and convey a Unit, including the power to purchase a Unit at the foreclosure sale for unpaid assessments.

C. Remedies of Association. In the event of the failure of any Unit Owner to comply with the provisions of this Declaration, the Articles or the Bylaws of the Association, or the decisions, regulations or rules of the Association, the Association or any aggrieved Unit Owner may in addition to any other right or remedy available to the Association or such aggrieved Unit Owner, bring an action for the recovery of damages, injunctive relief or both. Suit to recover a money judgment for unpaid Common Expenses or for other amounts owing the Association may be maintained by the Association without foreclosing or waiving the lien securing the same. In the event of any such suit or action, the prevailing party shall be entitled to recover from the losing party, an amount equal to all costs, including attorney fees, incurred by such prevailing party in the preparation for and prosecution of such suit or action.

D. Condemnation of Common Elements. Subject to the provisions of the Act, the Association shall have control over any condemnation proceedings, negotiations, settlements and agreements with the condemning authority relating to the acquisition by the condemning authority of the Common Elements or any part thereof.

E. Supplemental to Law. The provisions of this Declaration shall be in addition to and supplemental to the Act and to all other provisions of law. This planned community is not subject to an ordinance provided for in Section 515B.1-106 of the Act.

F. Definition of Terms. As used in this Declaration or in the Bylaws of the Association, any words or terms defined in the Act shall have the meaning there ascribed to them. The singular shall be deemed to include the plural wherever appropriate; and unless the context clearly indicates to the contrary, any obligation imposed shall be joint and several. The "Association" shall mean Heatherwood Townhomes Homeowners' Association, a Minnesota non-profit corporation.

G. Administration. The Unit Owners of Units in the planned community covenant and agree that the administration of the planned community shall be in accordance with the provisions of the Act, this Declaration, and the Bylaws of the Association.

H. Joinder of Declarant. Until the earlier of: (i) that date which is five years after the conveyance of a Unit to a Unit Owner other than Declarant; (ii) that date which is 60 days after the conveyance of 75% of the Units (including any Units which have then or may thereafter be added to the planned community pursuant to paragraph 10 of this Declaration) to Unit Owners other than Declarant; or (iii) a recording of a written surrender of control of the Association by Declarant; in addition to the statutory requirements for the amendment of this Declaration and the Bylaws of the Association, and the requirements for such amendment as set forth herein, the written joinder in consent of the Declarant, the Federal Housing Administration, and the U.S. Department of Veteran Affairs shall be required for any amendment of either this Declaration or the Bylaws of the Association.

I. FHA Approval: Until the expiration of the period of Declarant control described in this Declaration, the following actions will require the prior approval of the Federal Housing Administration: Annexation of additional properties, dedication of Common Elements and amendment of this Declaration.

13. Special Declarant Rights.

Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights within the meaning of Section 515B.1-103 (31) of the Act for so long as its owns a Unit, or for such shorter period as may be specifically indicated:

A. Complete Improvements. To complete improvements indicated on the CIC Plat;

B. Add Additional Real Estate. To add Additional Property to the Property as described in paragraph 10;

C. Sales Facilities. As provided in paragraph 4.B., to construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Property;

D. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements;

E. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its special declarant rights;

F. Consent to Certain Amendments. As long as Declarant owns any unsold Unit, Declarant's written consent shall be required for any amendment to this Declaration, the Articles of Incorporation or the Bylaws of the Association or rules and regulations which directly or indirectly affects or may affect Declarant's rights under this Declaration, or the Articles of Incorporation or Bylaws of the Association;

G. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) recording of a written surrender of control of the Association by Declarant; (ii) the date which is 60 days after conveyance to Owners other than Declarant of 75% of the Units, including any Units which have then or may thereafter be added to the planned community pursuant to paragraph 10; or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, however, not later than 60 days after conveyance of 50% of the Units, including Units which have then or may thereafter be added to the planned community pursuant to paragraph 10 to Unit Owners other than Declarant, one-third of all of the members of the Board of Directors shall be elected by Unit Owners other than the Declarant at a meeting of the Unit Owners to be called for such purpose.

14. Participation in Master Association.

Subject to the prior approval of the Federal Housing Administration and the Department of Veterans Affairs, the Board of Directors of the Association shall have the power and authority, pursuant to Section 515B.2-121 of the Act, to delegate to a master association any of the powers conferred herein by the Act, this Declaration or the By-Laws of the Association, including but not limited to the powers described in Section 515B.3-102(a)(2) of the Act. Nothing contained in this paragraph 14 shall be deemed to require the Association to participate in or to be subject to a master association.

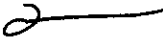
IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed the date and year first above written.

BRIGHTKEYS BUILDING AND DEVELOPMENT  
CORPORATION

By *Anna M. Gwood*  
Its *Treasurer*

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF Washington )

On this 5 day of April, 1999, before me, a Notary Public within and for said County, personally appeared Donna M. Caywood, to me personally known, who, being by me duly sworn did say s/he is the Treasurer of BrightKEYS Building and Development Corporation, a Minnesota corporation, the corporation named in the foregoing instrument, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors and said Treasurer acknowledged said instrument to be the free act and deed of said corporation.

  
\_\_\_\_\_  
Notary Public, Washington County, MN  
My Commission Expires 1-31-00

This Instrument Was Drafted By:

GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.  
3400 City Center  
33 South Sixth Street  
Minneapolis, Minnesota 55402  
Telephone: (612) 343-2800



GP:368145 v3



CONSENT OF MORTGAGEE

BrightKEYS Building + Dev Corp a Minnesota Corp, mortgagee of the property described in the within Declaration establishing Common Interest Community No. 53, BrightKEYS of Heatherwood, a planned community, pursuant to that certain mortgage filed as Document No. \_\_\_\_\_ in the office of the Anoka County, Minnesota Recorder, hereby joins in and consents to, all of the terms, provisions, covenants, conditions, restrictions and easements contained in said Declaration, and agrees that its interest in the property covered by and pursuant to said Document No. \_\_\_\_\_ is subject to said Declaration and to all of the terms, provisions, covenants, conditions, restrictions and easements therein contained.

Dated: 4/9 \_\_\_\_\_, 1999.

21st Century Bank - North  
By [Signature]  
Its SVP

STATE OF MINNESOTA )  
COUNTY OF Anoka ) ss.

On this 9th day of April, 1999, before me, a Notary Public within and for said County, personally appeared James N. Lindberg, to me personally known, who, being by me duly sworn, did say that s/he is the Senior Vice president of 21st Century Bank - North Corporation, the association named in the foregoing instrument, and that said instrument was signed in behalf of said association by authority of its Board of Directors and said Senior Vice president acknowledged said Consent to be the free act and deed of said association.

Connie L. Bauer  
Notary Public, Anoka County, MN  
My Commission Expires Jan. 31, 2000

GP:368145 v3



**Common Interest Community No. 53**  
**A Planned Community**  
**BrightKEYS of Heatherwood**  
**EXHIBIT A TO DECLARATION**

<u>Lot No.</u>	<u>Percentage</u>	<u>Guaranteed Maximum Assessment</u>	
	<u>Interest</u>	<u>Monthly</u>	<u>Annual</u>
1	2-16/17%	\$90.00	\$1,080.00
2	2-16/17%	\$90.00	\$1,080.00
3	2-16/17%	\$90.00	\$1,080.00
4	2-16/17%	\$90.00	\$1,080.00
5	2-16/17%	\$90.00	\$1,080.00
6	2-16/17%	\$90.00	\$1,080.00
7	2-16/17%	\$90.00	\$1,080.00
8	2-16/17%	\$90.00	\$1,080.00
9	2-16/17%	\$90.00	\$1,080.00
10	2-16/17%	\$90.00	\$1,080.00
11	2-16/17%	\$90.00	\$1,080.00
12	2-16/17%	\$90.00	\$1,080.00
13	2-16/17%	\$90.00	\$1,080.00
14	2-16/17%	\$90.00	\$1,080.00
15	2-16/17%	\$90.00	\$1,080.00
16	2-16/17%	\$90.00	\$1,080.00
17	2-16/17%	\$90.00	\$1,080.00
18	2-16/17%	\$90.00	\$1,080.00
19	2-16/17%	\$90.00	\$1,080.00
20	2-16/17%	\$90.00	\$1,080.00
21	2-16/17%	\$90.00	\$1,080.00
22	2-16/17%	\$90.00	\$1,080.00
23	2-16/17%	\$90.00	\$1,080.00
24	2-16/17%	\$90.00	\$1,080.00
25	2-16/17%	\$90.00	\$1,080.00
26	2-16/17%	\$90.00	\$1,080.00
27	2-16/17%	\$90.00	\$1,080.00
28	2-16/17%	\$90.00	\$1,080.00
29	2-16/17%	\$90.00	\$1,080.00
30	2-16/17%	\$90.00	\$1,080.00
31	2-16/17%	\$90.00	\$1,080.00
32	2-16/17%	\$90.00	\$1,080.00
33	2-16/17%	\$90.00	\$1,080.00
34	2-16/17%	\$90.00	\$1,080.00

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All in Block 1, Heatherwood 4th Addition, Anoka County, Minnesota

Common Interest Community No. 53  
A Planned Community  
BrightKEYS of Heatherwood  
EXHIBIT B TO DECLARATION

Legal Description for Additional Property Parcel

Outlot A, Heatherwood, 4th Addition

GP:530849 v1

TORRENS

Receipt # <u>58877/49 -</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>5.24.99, 11:00</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>1</u> of <u>20</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Recordability: <u>96</u>	<input type="checkbox"/> Transfer <input checked="" type="checkbox"/> New Desc.
Filing Fees: <u>49.00</u>	<input type="checkbox"/> Division <input type="checkbox"/> GAC
Well Certificate Received this Date: _____	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Refund Rect # _____	<input type="checkbox"/> Other <input checked="" type="checkbox"/> No Change
From Cert. # <u>See below</u> # of New Certs.: <u>0</u>	Notes: <u>US.</u>
Tract Updated: _____ / _____	Comp. Entry _____
Typed _____	Comp. Complete _____

DOCUMENT NO. 334709.0 TORRENS

**ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE  
 FOR RECORD ON **MAY 24 1999**  
 AT **11:00 AM** AND WAS DULY RECORDED.  
 FEES AND TAXES IN THE AMOUNT OF **\$49.00** PAID.

RECEIPT NO. 1999058877

EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

KHJ

BY \_\_\_\_\_  
 DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

BK 266 PG 85193 NO 85193

266      85636      85636

334709.0 TORRENS  
 METRO LEGAL SERVICES INC  
 THE TOWLE BLDG STE 150  
 330 2ND AVE S  
 MPLS, MN 55401