

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

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**Taxpayer Information:** (name and complete address)

Eagle Vista, LLC  
9500 University Avenue, Suite 2112  
Clive, IA 50325

**Return Document To:** (name and complete address)

Preparer

**Declarant:**

Eagle Vista, LLC

**Grantees:**

To Whom It May Concern

**Legal Description:** See Page 2.

**Document or instrument number of previously recorded documents:** N/A.

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION** is made this 2<sup>nd</sup> day of November, 2016, by the Declarant, Eagle Vista, LLC, an Iowa limited liability company.

**WHEREAS**, Declarant is the Owner of certain real estate property located in the City of Adel, Dallas County, Iowa which is legally described as follows:

Lots 1 - 42 inclusive, of Eagle Vista, an Official Plat now including in and forming a part of the City of Adel, Dallas County Iowa.

**WHEREAS**, the property referenced above is referred to as the "Property" or "Eagle Vista;" and

**WHEREAS**, Declarant is desirous of protecting the value and desirability of the Property.

**NOW, THEREFORE**, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of the Property and which shall run with the land and shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**1. DEFINITIONS**

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided herein:

- A. "Association" shall mean and refer to Eagle Vista Owners Association, Inc., its successors and assigns, a nonprofit corporation organized pursuant to Chapter 504 of the Code of Iowa, 2011.
- B. "Association Responsibility Elements" shall mean all storm water detention basins including, without limitation, all pipes, inlets and outlets, and which are to be maintained by the Association for the benefit of the Owners.

- C. "Board of Directors" shall mean the Board of Directors of the Association.
- D. "Declarant" shall mean and refer to Eagle Vista L.L.C., an Iowa limited liability company.
- E. "Lot" shall mean and refer to each and any individual parcel of land within Eagle Vista, shown on the recorded Official Plat of Eagle Vista, and numbered as Lots 1 through 42, inclusive.
- F. "Member" shall mean and refer to those persons entitled to membership in the Association.
- G. "Outbuilding" shall mean an enclosed, covered structure (other than a dwelling or the attached garage), such as a tool shed or garden house or pool house.
- H. "Owner" shall mean and refer to the owner of the record (whether one or more persons or entities) of the legal or equitable title to any Lot.

## **2. RESIDENTIAL USE**

All Lots in the Property shall be residential lots and shall not be improved, used, or occupied for other than private residential purposes. No full-time business activity may be conducted on any Lot or in any dwelling or structure constructed or maintained on any Lot except those activities which may be permitted under the terms and provisions of the Zoning Ordinance of the City of Adel, Iowa applicable to Eagle Vista.

## **3. BUILDING TYPES**

Except as otherwise specifically provided for herein, no Outbuilding or other building or structure shall be constructed, altered, or maintained on any Lot, other than a detached, single-family dwelling, unless such Outbuilding is in harmony aesthetically as to external design, colors and materials with the residence constructed on the Lot.

## **4. BUILDING AREA**

No dwelling shall be constructed on any Lot unless the design and location is in reasonable harmony with existing structures and unless it meets the following minimum square feet of living area requirements:

- A. One story dwellings shall have finished floor area of not less than 2,000 square feet, one and one-half story dwellings shall have finished floor area of not less than 2,400 square feet, and two story dwellings shall have finished floor area of not less than 2,600 square feet.
- B. In computing total finished area, only twenty-five percent (25%) of a finished area which has its floor below the exterior grade shall be included in the total finished area requirement.

- C. In the computation of floor area, the same shall not include any porches, breezeways, or attached or built-in garages.

No dwelling structure of any kind may be moved onto any Lot. All exterior painted portions of new dwellings constructed on any Lot shall be painted with earth tone colors. All exterior painted portions of dwellings which are re-painted shall be re-painted in one of said earth tone colors.

## **5. DESIGN AND CONSTRUCTION**

- A. No mobile home or manufactured home as defined in the Code of Iowa shall be placed upon or erected on any Lot.
- B. All dwellings shall have a minimum of a three car attached garage. All dwellings shall have a Portland cement concrete driveway running from the city street to the garage.
- C. All building structures or improvements of any kind must be completed within twelve (12) months from the commencement date of the construction of said building structure or improvement.
- D. No above-ground (or other non-permanent) swimming pools shall be permitted on any Lot.
- E. Acceptable roofing materials are slate, tile, cedar shingles, cedar shakes, standing seamed copper, and heavy asphalt shingle. Asphalt shingles shall have a minimum weight of 280 pounds per square. Shingles shall be of a style and construction so as to create shadow and texture similar to shakes or slate. All roofs shall have a minimum 6/12 pitch.
- F. All dwellings must have decorative masonry for at least 25% of its exterior surface, unless otherwise approved in writing by the Declarant. Any lap siding used must not be greater than 8 inches.

## **6. TEMPORARY AND OTHER STRUCTURES; CERTAIN USES**

No temporary building or structure shall be built upon or maintained on any Lot. No camper, motor home, boat, trailer, tent, shack, garage, unfinished dwelling basement or Outbuilding shall be used at anytime as a dwelling. No truck with a gross vehicle weight greater than forty-five hundred (4,500) pounds and no camper, motor home, boat, jet ski, snowmobile, trailer, work van, work truck, mechanical equipment or similar property may be parked or maintained on any Lot (except inside a garage) or on the public street adjacent to any Lot, other than on a temporary basis; provided that this restriction shall not apply to what are customarily considered sport utility vehicles, passenger vans or "conversion vans" or to trucks, equipment or trailers used in connection with construction of or rebuilding of a dwelling on any Lot. Temporary shall mean no more than a total of ten (10) days per year. At no time shall an automobile, motorcycle, truck, camper, motor home, other vehicle, boat, jet ski, snowmobile, trailer, mechanical equipment or similar property be disassembled, repaired or serviced on any Lot, except inside a garage or dwelling. No automobile, motorcycle, truck, camper, motor home, other vehicle, boat, jet ski,

snowmobile, trailer, mechanical equipment or similar property may be at anytime parked or maintained on the yard of any Lot.

## **7. FENCES**

No fence shall be built or maintained within the building setback area as shown on the recorded Official Plat of Eagle Vista (or as established by the zoning ordinance of the City of Adel, whichever is the more restrictive) and no fences shall be built or maintained in front of the front line of the residential dwelling extended to the side Lot lines. Fences shall be allowed on or across drainage easements or waterways as long as they do not impede the water flow and are kept clean from any debris buildup. All fences must be constructed of wood or wrought iron. Chain link fences shall be permitted only if it is black vinyl-coated.

## **8. RUBBISH CONTAINERS**

No rubbish container shall be visible from the street with the exception of the scheduled pick-up time and twelve hours prior to and after the scheduled pick-up time.

## **9. LANDSCAPING**

If the Owner of the Lot does not commence construction within six (6) months after the purchase of the Lot from Declarant, the Owner shall be required to grade the Lot, seed the Lot to grass and keep it properly mowed. Following completion of construction of a residential dwelling on any Lot, the front yard, side yard and rear yard shall be fully seeded or sodded to grass.

No hedge or shrub planting which obstructs sightlines at elevations between two (2) and ten (10) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at point thirty-five (35) feet from the intersection of the street lines, or in the case of a rounded property corner within the triangular area formed by the intersection of the street property line with the edge of the driveway. No trees shall be permitted to remain with such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstructions of such sightlines.

The Owner shall keep the Lot free of debris and shall keep the same mowed so that the grass does not exceed six inches in height.

## **10. SIDEWALKS**

The purchaser of Lots 1 through 12 and Lots 16 through 24 shall, at the purchaser's expense, install public sidewalks in accordance with the specification of the City of Adel. The installation and construction of the sidewalks shall be completed upon the earlier of: (i) substantial completion of the residential dwelling on said Lot; or (ii) one (1) year following the purchase of the Lot from Declarant.

## **11. EASEMENTS; PUBLIC DRAINAGE SWALES; WETLANDS**

Easements for the use, installation and maintenance of utilities, sidewalks and drainage facilities are reserved as shown on the recorded Official Plat of Eagle Vista or are reserved on separately recorded easements. The Owner and/or occupant of each Lot, jointly and severally, but subject to the other provisions herein as to the responsibility of the Association for the Association Responsibility Elements, shall at the expense of such Owner and/or occupant, maintain, keep, and preserve that portion of the easement area within the Lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within said easement area (except customary and traditional ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services, sidewalks or drainage facilities within such easement areas. The Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such Owner and/or occupant, preserve and maintain any berm and/or swale constructed on their Lot for drainage purposes to accomplish the purposes for which it was constructed, including but not limited to removing any obstructions and seeding and, as necessary, re-seeding the grass on such berm or swale. In addition to drainage way easements, there may be flowage ways, intermittent streams and/or other such waterways flowing through a Lot. No building, fence or other obstruction may be allowed to impede or in any way restrict the flow of water through such waterways. Maintenance of such waterways, including but not limited to the placement of riprap as may from time to time be necessary, is the duty and responsibility of the Lot Owner.

There shall be an easement on Lots 39 through 42 for the detention of surface water as shown on the Official Plat of Eagle Vista or as reserved on separately recorded easements, with such detention areas to be the Association Responsibility Elements. The Association, its agents and contractors shall have an easement and license to, in and over each Lot for the purpose of performing its maintenance obligations and for access to accomplish such maintenance.

The drainage swales which abut the paved street are included within the public street right of way and/or within surface water flowage easement areas shown on the plat of eagle Vista. Such swales shall be created and brought to grade by the Declarant in connection with the development of the plat of Eagle Vista. However, after any Lot is sold by the Declarant the Owner of such Lot shall be responsible, prior to any construction of a home on the Lot, and at its cost and expense, to place the necessary drain pipe in the swale and placement of concrete over such pipe in connection with construction of the driveway serving the Lot, and shall after construction bring the grade of the swale adjacent to the Lot to that originally graded by the Declarant and in accordance with the Public Improvement Drawings, and shall seed the swale area, with netting being used to keep the seed in place, using a seed mixture as dictated by the Declarant. Thereafter, the Lot Owner shall be responsible at their cost and expense to maintain the swale area in front of their Lot through mowing, reseeding as necessary, maintenance of the proper grade, and keeping such swale area free of debris and obstructions.

There exists on Lot 42 a wetlands area which shall not be disturbed in any fashion by the owner of such Lot 42.

## **12. NUISANCES**

No noxious or offensive activity or odors shall be permitted upon or shall be permitted to escape from any Lot, nor shall anything be done thereon which is or may become what a reasonable person would consider to be a genuine annoyance or a genuine nuisance, either temporarily or permanently.

## **13. SIGNS**

No sign of any kind shall be placed, exposed to view, or permitted to remain on any Lot or any street adjacent thereto, except (i) street markers, traffic signs, or any signs installed by the City of Adel, by other governmental entities or by the Declarant, (ii) signs which have been approved by Declarant in writing not exceeding 144 square inches in area on which there shall only be exhibited the street number and/or the name of the resident, and (iii) a customary and traditional sign (one per Lot) advertising a Lot or dwelling for sale, not exceeding 1,296 square inches. In the event that any signs other than those described above shall be placed or exposed to view on any Lot, the agents of the Declarant are hereby given the right to enter upon such Lot and remove said signs.

## **14. UTILITIES AND SEPTIC TANKS**

All utility connection facilities and services shall be underground. No individual water supply system shall be permitted on any Lot. Dry sewer lines have been installed in Eagle Vista by Declarant, but shall not be active until they can be hooked into a future extension of the public sanitary sewer trunks by the City to the Property. Each Lot owner will need to install a septic tank and fields on their lot in accordance with City and/or County Department of Health regulations for use in the meantime, and should give consideration to the probable location of any future sanitary sewer connection when constructing the septic system..

## **15. ANTENNAS**

No exterior towers or antennas of any kind shall be constructed, modified, or permitted on any Lot, except as herein specifically permitted. Customary television or radio antennas not exceeding five (5) feet in height shall be permitted if attached directly to either the dwelling or the garage. A satellite dish (or similar structure) with a diameter of less than nineteen inches (19") shall be permitted if attached directly to either the dwelling or the garage. A satellite dish or similar structure greater in diameter than nineteen inches (19") shall be permitted to be placed elsewhere on a Lot, but only if it is totally hidden from view by a customary and traditional screen of suitable height (or otherwise totally hidden from view) from all other areas within the Eagle Vista Property and streets and other properties adjoining the Eagle Vista Property.

## **16. MAINTENANCE**

The Owner and/or occupant of each Lot shall jointly and severally be responsible to keep the Lot free of trash, weeds and debris and to keep the lawn and landscaping well maintained and healthy. The Owner and/or occupant of each Lot shall jointly and severally be responsible to maintain the exterior of any dwelling, the driveway, fence, screening and all other improvements.

## **17. CERTAIN ANIMALS PROHIBITED**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of three dogs and/or cats be kept on any one Lot at any one time. Dogs must reside in the dwelling. No dog may be kept outside a dwelling for more than two (2) hours per day.

## **18. SURFACE WATER DRAINAGE AND DETENTION AND ASSOCIATION RESPONSIBILITY ELEMENTS**

In regard to all matters concerning surface water, each Lot shall be subject to and benefited by such easements as may exist for the flowage of surface water under the law of the State of Iowa and as shown on the plat of Eagle Vista. As to any surface water flowage easements shown on the plat running across the Lots, each Lot Owner shall be responsible at their own cost for the maintenance of such easement areas as provided for other easements under Section 11 above. As to the above referenced storm water detention areas located on Lots 39 through 42, which constitute the Association Responsibility Elements hereunder, all Owners and the Association, on behalf of the Owners, shall have such rights and obligations with respect to such Association Responsibility Elements set forth below.

A. The Association shall be responsible for the management and control, for the exclusive benefit of the Owners, of the Association Responsibility Elements and all improvements thereon and shall keep the same in good, clean and sanitary condition, order and repair in compliance with the standards of sound property management and the terms of this Declaration. The Association and its designates may enter upon and within an Association Responsibility Element at reasonable times for the following purposes:

- (i) Installation, maintenance, repair, removal, replacement or inspection of an Association Responsibility Element.
- (ii) Enforcement of any provisions of this Declaration or the Articles of Incorporation or the Bylaws of the Association.
- (iii) Mowing and maintenance of grass and landscaped areas.
- (iv) removal of obstructions.
- (v) soil erosion repair and sediment removal.

In the event that the need for maintenance or repair of any portion of the Association Responsibility Elements is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests or invitees of an Owner, the cost of such maintenance or repair shall be added to and become part of the assessment to which the Owner is subject, shall be a lien upon the Lot and residence of such Owner, and shall become due and payable upon demand.



- B. No Owner shall obstruct or interfere whatever with the rights and privileges of other Owners or the Association in the Association Responsibility Elements and nothing shall be planted, altered, constructed upon, or removed from the Association Responsibility Elements by an Owner, except by prior written consent of the Board of Directors. If an Owner violates this section, the Association shall have the right to restore the Association Responsibility Elements to the prior condition and charge and assess the cost thereof against the Owner who violates this section and such cost shall become a special assessment and a lien upon the Lot and residence of such Owner and shall become due and payable upon demand. The Association shall have the same rights and powers to collect the cost of such restoration as provided for the collection of the delinquent assessments. If an Owner interferes with the rights and privileges of another Owner in the use of the Association Responsibility Elements, the Association or the offended Owner may commence an action to enjoin such interference and the prevailing party shall be entitled to recover such reasonable attorneys fees as the Court may allow together with all necessary costs and disbursements incurred in connection therewith.

**19. ASSOCIATION RESPONSIBILITIES; MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; ASSESSMENTS**

- A. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. Subject to provisions of subsection B of this Section 19, the Owners of a Lot shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. **The sole responsibility of the Association shall be the maintenance, management and control of the storm water detention areas on the plat which are the Association Responsibility Elements. The Association shall not provide any other services to Lot Owners nor assess the Lot Owners anything other than the costs of carrying out its responsibilities as to the Association Responsibility Elements.**
- B. Notwithstanding any other provision of this Declaration, Declarant shall be the sole voting Member of the Association until Declarant no longer owns any portion of any Lot, or until Declarant waives, in writing, its right to be the sole voting member. Until such time, Declarant shall have the right to appoint all Directors to the Board of Directors and to cast all votes as it deems appropriate. Each Owner by acceptance of a deed to a Lot shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.
- C. No dissolution of the Association shall occur without the prior approval of the City of Adel, Iowa.
- D. Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly

assessments or charges, and (2) special assessments for capital improvements and operating deficits; such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with late fees, interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the joint and several personal obligation of each person who was the Owner of such property at the time when the assessment became due.

- E. The assessments levied by the Association shall be used exclusively for the insurance, improvement, maintenance, repair, replacement, removal and demolition of the Association Responsibility Elements and for other purposes specifically provided herein.
- F. The monthly assessment amount shall be set by the Directors each year and may be increased, effective January 1 of each year, at an amount not more than ten percent (10%) greater than the maximum assessment for the previous year without a vote of the majority of the Owners entitled to vote; any monthly assessment increase over ten percent (10%) will require a vote of the majority of the Owners entitled to vote voting in person or by proxy in favor of such increase at a meeting duly called for such purpose. Once the Association has given the Owners written notice of any change in the monthly assessment of any special assessment, the Association is not required to submit statements for assessments to any Owner. All monthly payments shall be made on the first of each month.
- G. In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, removal or demolition of an Association Responsibility Element that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are entitled to vote in person or by proxy at a meeting duly called for this purpose.
- H. Written notice of any meeting called for the purpose of taking any action authorized under subsections F and G above shall be sent to all Members entitled to vote not less than five (5) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of twenty-five percent (25%) of the Members or proxies entitled to cast votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be fifty percent (50%) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Both monthly and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.
- I. The monthly assessments provided for herein shall commence as to each respective Lot on the first day of the first month following the date of conveyance to an Owner of a Lot with a completed residence constructed thereon and for which a certificate of occupancy has been issued. **LOTS OWNED BY THE DECLARANT THAT DO NOT HAVE**

**COMPLETED LIVING UNITS CONSTRUCTED THEREON AND COMPLETED UNITS OWNED BY DECLARANT THAT ARE NOT SOLD, LEASED OR OCCUPIED SHALL BE EXEMPT FROM THE ASSESSMENTS DESCRIBED IN THIS SECTION 19.** The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

- J. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment all cost and expenses incurred by the Association in collecting said assessments, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Association Responsibility Elements or abandonment of the Owner's Lot.
- K. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The assessment shall be paid prior to or at the closing of sale or transfer of any Lot. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

## **20. INSURANCE FOR ASSOCIATION RESPONSIBILITY ELEMENTS**

- A. The Association shall obtain a master casualty insurance policy or policies affording extended coverage insurance for the Association Responsibility Elements in an amount equal to the full replacement value thereof. The Association may obtain "all risk" coverage for the Association Responsibility Elements. The Association shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. The Association may cause such full replacement value to be determined by a qualified appraiser and the cost of any such appraisal shall be included in the monthly maintenance assessment for each Lot on a pro rata basis. Such insurance coverage shall be for the benefit of the Association, each Owner, and, if applicable, the first Mortgagee of each Lot.

The master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain a provision that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, the Owners and their respective agents and guests, and (b) waives any defense based on invalidity based upon the acts of the insured; and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by any Owner as hereinafter permitted.

- B. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time with regard to claims pertaining to injuries to persons or damage to property arising out of the existence, use or maintenance responsibilities of the Association as to the Association Responsibility Elements. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association or Board of Directors, its agents and employees, the Owners and all other persons entitled to occupy any Lot. The Association shall also obtain any other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf to the Association. Each Owner shall be deemed to have delegated to the Board of Directors the Owner's right to adjust with the insurance companies all losses under policies purchased by the Association.
- C. The premiums for all such insurance hereinabove described shall be paid by the Association and the pro rata cost thereof shall become a part of the monthly assessment to which each Lot conveyed by Declarant shall be subject under the terms and provisions of Section 19D hereof. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner, mortgagee, or the City whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.
- D. In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and the mortgagee jointly, or in accordance with the terms of any endorsement in favor of the mortgagee.
- E. Damage to or destruction of any Association Responsibility Element due to any casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.
- F. If the insurance proceeds received by the Association, as a result of any such casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Association Responsibility Elements so damaged or destroyed (or the

costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association, which shall then have the right to levy a special assessment against all Lots for the amount of such deficiency.

Repair, reconstruction and restoration as referenced herein shall mean construction or rebuilding of any Association Responsibility Element to as near as possible the same condition as it existed immediately prior to the damage or destruction.

- G. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Association Responsibility Elements. The action of the Board of Directors in proceeding to repair or reconstruct damages shall not constitute a waiver of any rights against Owners for committing willful or malicious damage.

## **21. ENFORCEMENT OF COVENANTS**

This Declaration of Residential Covenants, Conditions and Restrictions shall be deemed to run with the land, binding upon and inuring to the benefit of the Declarant, the Owners, the Association and the City. The Declarant and/or the Association and/or Owner of any Lot and/or the City may bring an action in any court of competent jurisdiction to enforce this Declaration of Residential Covenants, Conditions and Restrictions and enjoin its violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity.

## **22. AMENDMENTS OF COVENANTS**

This Declaration of Residential Covenants, Conditions and Restrictions may be amended from time to time with the approval of the Owners entitled to vote; provided, however, only the Declarant shall have a right to amend the Declaration if the Declarant continues to own one or more Lots subject to this Declaration, or has not otherwise waived its right to be the sole voting member of the Association; and may then do so without the consent of any other Owners. Said approval shall otherwise be given by the affirmative vote of not less than two-thirds (2/3) of the Owners entitled to vote as members of the Association. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Amendments or modifications by the Declarant shall be effective only after all other Owners are provided with a copy of the amendment or modification by ordinary mail and the amendment or modification has been filed with the Dallas County Recorder.

## **23. PERIOD OF COVENANTS**

This Declaration of Residential Covenants, Conditions and Restrictions as it relates to covenants, conditions and restrictions considered "use restrictions" under such Section 614.24 of the Iowa Code subject to the limitations period under such Section 614.24, as amended, shall continue and remain in full force and effect at all times as to the Property and as to the Owners of any Lot, regardless of how title was acquired, for a period of twenty-one (21) years from the date of the recordation of this Declaration in the office of the Dallas County Recorder. Pursuant to Section 614.24 of the Code of Iowa, as amended, the provisions of this Declaration subject to the time

limitations of such Section may be extended for an additional period of twenty-one (21) years by the filing of record by any Owner, the Declarant, or the Association of a certified claim in the records of the Dallas County Recorder prior to the twenty-first anniversary of the date of the filing of this Declaration, or the twenty-first anniversary of the last filing of such a verified claim.

#### **24. ENFORCEMENT AND WAIVER**

- A. In the event that any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so expressly held to be void, which shall continue unimpaired and in full force and effect.
- B. Wherever there is a conflict between this Declaration and the zoning ordinance of the City of Adel, Iowa, the more restrictive provision shall be binding.

#### **25. DISCLAIMER**

Declarant may at anytime by written instrument filed with the Dallas County Recorder, disclaim its right and powers hereunder and thereafter it shall have no rights or responsibilities hereunder. Declarant shall have no liability in or for damages of any sort to any Owner, or any lessee or occupant of any Lot, or otherwise to any person for any exercise or failure to exercise any right (or duty or obligation, if any) of Declarant hereunder, for the making of an amendment or modification hereto by Declarant for the granting of approval or withholding of approval required or permitted under the terms of this Declaration or in any other manner arising herefrom. Provided, however, any Owner may exercise any rights such Owner may have against Declarant or otherwise seek to enforce the provisions of this Declaration against Declarant by any action in equity for specific performance or injunctive relieve to which the Declarant shall be subject. The remedies of specific performance and injunctive relief shall be the only remedies against Declarant for any exercise or failure to exercise any right (or duty or obligation, if any) of Declarant hereunder, for the making of an amendment or modification hereto by Declarant, for the granting of approval or withholding of approval required or permitted under the terms of this Declaration or for other matters arising herefrom, all other remedies being expressly waived. Notwithstanding the foregoing, the rights and powers of the Declarant hereunder, if not previously waived or relinquished, shall be deemed to have been disclaimed by Declarant on the date on which Declarant conveys the last Lot it owns in the Property, and thereafter enforcement and/or extension of this Declaration may be carried out exclusively by the other parties as provided in Sections 21 and 23 above.

[Remainder of this page intentionally left blank.]

**IN WITNESS WHEREOF**, Declarant has caused this Declaration of Residential Covenants, Conditions and Restrictions, to be executed as of the date first written above by the Declarant.

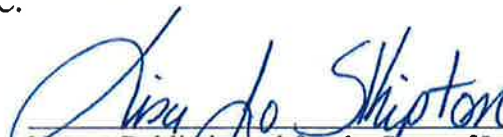
DECLARANT:

**EAGLE VISTA, LLC,**  
an Iowa limited liability company

By:   
Jared Johnson, President

STATE OF IOWA, COUNTY OF POLK

This record was acknowledged before me on the 2<sup>nd</sup> day of November, 2016,  
by Jared Johnson, as President of Eagle Vista, LLC.

  
Notary Public in and for the State of Iowa  
My Commission Expires 02/21/17  
(Stamp)



**CONSENT OF MORTGAGEE TO  
DECLARATION OF RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR EAGLE VISTA**

The undersigned, Great Western Bank, is the holder of a certain mortgage against the Property submitted to the Declaration of Residential Covenants, Conditions and Restrictions for the Eagle Vista which said Mortgage is recorded in Book 2016, Page 3348, as modified in Book 2016 at Page 17052 of the Dallas County records. By its execution of this Consent, the undersigned hereby consents to the submission of the Property described in the Declaration and covered by such Mortgage to the covenants and provisions of the Declaration, such that the lien of the undersigned as to such Property so submitted would become subject to the terms of the Declaration in the same manner as if the Declaration had been filed of record on the date prior to the date of the filing of record of the above-referenced Mortgage.

Dated this 3 day of November, 2016.

**GREAT WESTERN BANK**

By: *Patrick Reding*  
Name: Patrick Reding  
Title: SVP

**STATE OF IOWA, COUNTY OF POLK**

This record was acknowledged before me on the 3 day of November, 2016,  
by Patrick Reding, as SVP of Great  
Western Bank.



*Bo Sikkema*  
Notary Public in and for the State of Iowa  
My Commission Expires 6-3-17  
(Stamp)