

**UNANIMOUS CONSENT IN LIEU OF A MEETING OF
THE BOARD OF DIRECTORS OF
ELKSTONE OWNERS ASSOCIATION, INC.
a Colorado non-profit corporation**

July 31, 2013

Pursuant to and in accordance with Colorado Revised Statute §7-128-202, the undersigned, being all of the Directors on the Board of Directors (the “**Board**”) of the Elkstone Owners Association, Inc., a Colorado non-profit corporation (the “**Elkstone Association**”), hereby waive actual attendance at a special meeting of the Board and approve the following by unanimous written consent, to have the same force and effect as actions taken at a special meeting of the Board.

WHEREAS, due to actual and/or potential financial interests of Sterling Capital LLC, a Georgia limited liability company (“**Sterling**”) in the transactions involved addressed by this consent, Lee A. Hooper (the “**Recused Director**”), with concurrence of the Board and Elkstone Association legal counsel, has recused himself from formally voting on the matters addressed in this consent, to avoid any appearance of and/or actual conflicts of interest;

WHEREAS, as a result of the foregoing, the actions taken in this consent have been unanimously approved by the remaining two “independent” directors (the “**Independent Directors**”), with the consent of the Recused Director.

WHEREAS, the Elkstone Association officers, Independent Directors and legal counsel, with consent of the Recused Director, have negotiated (i) the completion and installation of the common access roadway snowmelt system; and (ii) a grant of ski access with the Trail’s Edge at Double Cabins Owners Association, Inc., a Colorado non-profit corporation (the “**TE Association**”) and Sterling, for the benefit of the Elkstone Association.

WHEREAS, these negotiations with TE Association and Sterling include, among other things the (i) First Amendment to Easement Agreement and Grant of Easement (the “**Easement Agreement**”); (ii) Joint Access Easement, Snowmelt and Maintenance Agreement Elkstone/Trail’s Edge at Double Cabins (the “**Snowmelt Systems Agreement**”); and (iii) New Snowmelt System Escrow Agreement (TE Association) (the “**Escrow Agreement**”) (collectively referenced as the “**Elkstone Agreements**”).

WHEREAS, the Board has reviewed the terms and conditions of the Elkstone Agreements, and has determined these to be in the best interest of the Elkstone Association.

NOW, THEREFORE, BE IT RESOLVED THAT:

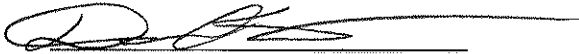
1. The Board hereby authorizes, approves and consents to the Elkstone Association entering into, executing, delivering and, as appropriate, recording the Elkstone Agreements, all of these to be in the form as follows: (i) the Easement Agreement, in the form attached as Schedule 1; (ii) the Snowmelt Systems Agreement, in the form attached as Schedule 2; and (iii) the Escrow Agreement, in the form attached as Schedule 3.

2. The Board hereby authorizes, directs and empowers Dan Dockray, as an independent Director and the Elkstone Association Vice President, to execute, deliver and, as appropriate, record the Elkstone Agreements, as well as all other documents necessary and/or appropriate to effectuate the (i) completion and installation of the common access roadway snowmelt system; and (ii) grant of ski access.

3. Dan Dockray further is authorized and directed to undertake such other and further activities and/or actions as he reasonably deems appropriate and/or necessary, in his sole and absolute discretion, to effect the purposes stated herein including, without limitation, executing, delivering and, as appropriate, recording all necessary documents and/or paying (or advancing) such costs on behalf of the Elkstone Association in order to effect the purposes stated herein.

IN WITNESS WHEREOF, the undersigned Directors hereby unanimously consent to, approve, and adopt the foregoing Board of Directors Unanimous Written Consent, effective as of the date set forth above.

INDEPENDENT DIRECTORS:



Dan Dockray, Director

Elizabeth Barth, Director

CONSENTED AND AGREED TO BY THE FOLLOWING RECUSED DIRECTORS:

Lee Hooper, Director

CERTIFICATION

The undersigned, being the duly elected and acting Secretary of Elkstone Owners Association, Inc. certifies that the persons whose names are subscribed to in the foregoing Consent of Directors represent all of the Directors of Elkstone Owners Association, Inc.

Elizabeth Barth, Secretary

2. The Board hereby authorizes, directs and empowers Dan Dockray, as an independent Director and the Elkstone Association Vice President, to execute, deliver and, as appropriate, record the Elkstone Agreements, as well as all other documents necessary and/or appropriate to effectuate the (i) completion and installation of the common access roadway snowmelt system; and (ii) grant of ski access.

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INDEPENDENT DIRECTORS:

Dan Dockray, Director



Elizabeth Barth, Director

CONSENTED AND AGREED TO BY THE FOLLOWING RECUSED DIRECTORS:

Lee Hooper, Director

CERTIFICATION

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Elizabeth Barth, Secretary

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IN WITNESS WHEREOF, the undersigned Directors hereby unanimously consent to, approve, and adopt the foregoing Board of Directors Unanimous Written Consent, effective as of the date set forth above.

INDEPENDENT DIRECTORS:

Dan Dockray, Director

Elizabeth Barth, Director

CONSENTED AND AGREED TO BY THE FOLLOWING RECUSED DIRECTORS:

Lee Hooper, Director

Lee Hooper, Director

CERTIFICATION

The undersigned, being the duly elected and acting Secretary of Elkstone Owners Association, Inc. certifies that the persons whose names are subscribed to in the foregoing Consent of Directors represent all of the Directors of Elkstone Owners Association, Inc.

Elizabeth Barth, Secretary

Schedule 1
(to Unanimous Consent to Approve Agreements)

Easement Agreement

FIRST AMENDMENT TO EASEMENT AGREEMENT AND GRANT OF EASEMENT

THIS FIRST AMENDMENT TO EASEMENT AGREEMENT AND GRANT OF EASEMENT (the “**First Amendment**”) is made and entered into, effective as of this 31st day of July, 2013 (the “**Effective Date**”), by and among (i) the ELKSTONE OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**Elkstone Association**”); (ii) STERLING CAPITAL LLC, a Georgia limited liability company (“**Sterling**”); and (iii) TRAIL’S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**TE Association**”). The Elkstone Association, Sterling, and the TE Association sometimes hereinafter shall be referenced to collectively as the “**Parties**” and individually as a “**Party**”.

WHEREAS, the Elkstone Association, Elk Lake Properties LLC, a Colorado limited liability company (“**Elk Lake**”), and The PBC 1996 Trust, a California trust (“**PBC Trust**”), executed and delivered that certain “*Easement Agreement and Grant of Easement*” recorded on November 8, 2004 at Reception No. 370284 and re-recorded on December 13, 2006 at Reception No. 388998 in the Official Records of the San Miguel County Clerk and Recorder (the “**Initial Easement**”).

WHEREAS, Sterling is the record owner of the majority of the 22 individual condominium units located within the Elkstone common interest community (the “**Elkstone Community**”) known as “*Elkstone 21*” (the “**Elkstone 21 Units**”), for which Sterling is Elk Lake’s successor-in-interest as “*Declarant*” for the Elkstone Community.

WHEREAS, in addition to the 22 Elkstone 21 Units, the Elkstone Community also includes an additional seven Elkstone “*Townhome*” units (the “**Elkstone Townhomes**”) for a total of 29 “**Elkstone Units**” in the Elkstone Community.

WHEREAS, the TE Association is the successor-in-interest to PBC Trust as the “*Declarant*” for the Trail’s Edge community (the “**TE Community**”), consisting of the 12 lots known as “*Lots 600BR-1 through 600BR-12*” (the “**Trail’s Edge Lots**”), and the TE Association serves as the “master” homeowners’ association for the twelve lots in the TE Community that administers and conducts all activities on the general common elements within the TE Community (the “**TE General Common Elements**”), on behalf of the owners of the Trail’s Edge Lots.

WHEREAS, the “*Ski Trail Access Easement*” (as defined below and as set forth in the Initial Easement) is located on, over, through and across a portion of the TE General Common Elements.

WHEREAS, the Trail’s Edge Condominiums Owners Association, Inc., a Colorado non-profit corporation (the “**TE Condominiums Association**”) serves as the owners’ association for the condominium community situated and constructed on the Trail’s Edge Lot known as “*Lot 600 BR-12*” (the “**TE Condominiums Community**”); and, in that connection, the TE Condominiums Association administers and conducts all activities on the common elements of the TE Condominiums Community on behalf of the owners of the 10 condominiums within the TE Condominiums Community.

WHEREAS, Elk Lake has retained certain potential development rights in, on, through and over designated portions of the Elkstone Community's general common elements (the "**Expansion Area**") and, therewith, reserved rights in the future to (i) construct up to four additional condominium units within the Expansion Area in the future (the "**Elk Lake Units**"); and (ii) add the Elk Lake Units into the Elkstone Community.

WHEREAS, the original ski access easement grant set forth in Paragraph 4 of the above-referenced Initial Easement contains certain limitations and ambiguities that the Parties desire to supplement, supersede, and replace with the Ski Trail Access Easement set forth herein in favor of the (i) Elkstone Association; (ii) Sterling; (iii) Elk Lake; and (iv) all current and future owners of any Elkstone Units and up to four Elk Lake Units as property may be added into the Elkstone Community.

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration the receipt and sufficiency of which hereby are acknowledged and accepted, the Parties hereby agree, as follows:

A. **DELETION AND REPLACEMENT OF PARAGRAPH 4 OF THE INITIAL EASEMENT.** Paragraph 4 of the Initial Easement hereby is deleted in its entirety and superseded and replaced with the following:

4. *Grant of Ski Access Easement. The TE Association hereby grants, conveys, transfers, and delivers to (i) the Elkstone Association; (ii) the owners of Elkstone Units 1-29, inclusive; and (iii) such future owners of Elk Lake Units that may be added into the Elkstone Community, if any, as well as all their respective heirs, successors, assigns, tenants, lessees, guests, and/or invitees, a non-exclusive pedestrian (but only in connection with ownership of units in the Elkstone Community) easement for ingress and egress in, on, over, across, and through (a) that portion of Lot 600B and the Trail's Edge Community; and (b) that certain access easement area across Trail's Edge Lots 10 and 11 granted in favor of the Trail's Edge Lots and TE Association, both of which access and connect to the Double Cabins ski trail, all as described and depicted on the attached Exhibit "A", for pedestrian and ski access to and from the Double Cabins ski trail and for no other purpose (the "**Ski Trail Access Easement**").*

B. **TE CONDOMINIUMS ASSOCIATION PAYMENT.** The TE Condominiums Association hereby agrees to pay the sum of \$10,000.00 (the "**TE Condominiums Payment**") directly to Sterling, together with execution and delivery of this First Amendment, as reimbursement of Sterling costs associated with this First Amendment and related matters, and as full and final payment by the TE Condominiums Association for access to, usage of, and/or tapping into the Utility Box Easement and the utility services facilities located in, on, over, across and/or through the Utility Box Easement Area (defined below). The Elkstone Association, as owner of the Utility Box Easement Area, hereby consents to and expressly authorizes Sterling to accept and/or retain the TE Condominiums Payment in consideration of the Utility Tie-In Easement (defined below).

C. **GRANT OF UTILITY TIE-IN EASEMENT.** In consideration of the TE Condominiums Payment, the Elkstone Association hereby grants, transfers conveys to the TE Condominiums Association, its successors and assigns, the following Utility Tie-In Easement and on the following terms:

1. A non-exclusive easement upon, over, in and across that portion of Lot 600A described in Exhibit B to the Ski Trail Access Easement (the “**Utility Box Easement Area**”) for the purpose of accessing and tying into the existing facilities for the Elkstone Community and the TE Community (the “**Utility Tie-In Easement**”). It is intended by this grant of the Utility Tie-In Easement that the TE Condominiums Association and its members have an easement for the utilities that currently serve the TE Condominiums Community as of the Effective Date, and that the TE Condominiums Association shall enjoy the same rights of access and use of the existing utility and power facilities in the Utility Box Easement Area as currently are enjoyed by the TE Association.

2. The Utility Tie-In Easement shall include, without limitation, use of the currently-existing electric power, telephone, cable television, sewer and water, and other facilities and connections currently in place. Should technological, cost reduction, or other advances make additional or different future utilities installation in the Utility Box Easement Area necessary or advisable, the TE Condominiums shall have the right to upgrade such utilities, so long as such upgrades do not result in an expansion of the Utility Box Easement Area, and do not result in additional above-ground utility boxes or other structures. Any such expansion, additional boxes or structures shall not be installed without the Elkstone Association’s prior written consent.

3. The Elkstone Association and Sterling hereby waive and release and hold harmless the TE Condominiums Association and its members from any claims by them for liability, cost or expense (including, without limitation, tap fees, attorney fees and/or legal costs) for any actual or alleged trespass, unauthorized use, tie-in or presence of any utility, electric lines, water or sewer lines or equipment related thereto, belonging to or serving the TE Condominiums Association or its members that may exist or may have been used prior to the Effective Date.

D. **POTENTIAL FUTURE ELK LAKE UNITS SKI TRAIL ACCESS EASEMENT RIGHTS.** In the event that more than four Elk Lake Units ever should be added to the Elkstone Community at any future date, then the Ski Trail Access Easement rights granted for the Elk Lake Units in Paragraph A. above shall not allow use of the Ski Trail Access Easement by more than the owners of four Elk Lake Units (to be designated by recorded notice) and their respective heirs, successors, assigns, tenants, lessees, guests and/or invitees, without the express prior written consent of Sterling to be granted or denied on such terms and conditions as Sterling shall deem appropriate in its sole and absolute discretion; provided, however, that Sterling’s right to grant consent to use of the Ski Trail Access Easement is personal to Sterling only, and such right is not assignable or transferable under any circumstances including, without limitation, by virtue of Sterling’s prior declarant control “turnover” to the Elkstone Association.

E. **OTHER TERMS.** Except as expressly modified in this Agreement, the terms of the Initial Easement shall remain in full force and effect. Capitalized terms used but not otherwise defined in this First Amendment shall have the meanings assigned them in the Initial Easement. This First Amendment shall not be amended without the written consent of all of the Parties.

IN WITNESS WHEREOF, the Parties have executed and delivered this First Amendment, as of the Effective Date.

ELKSTONE OWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: _____
Daniel E. Dockray, Vice President

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by Daniel E. Dockray, as Vice President of the Elkstone Owners Association, Inc., a Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

STERLING CAPITAL LLC,
a Georgia limited liability company

By: _____
Lee A. Hooper, Vice President

STATE OF GEORGIA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by Lee A. Hooper, as Vice President of Sterling Capital LLC, a Georgia limited liability company.

WITNESS my hand and official seal.
My commission expires:

Notary Public

**TRAIL’S EDGE AT DOUBLE CABINS
OWNERS ASSOCIATION, INC.,**
a Colorado non-profit corporation

By: _____
Bruce MacIntire, President

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by Bruce MacIntire, as President of the Trail’s Edge at Double Cabins Owners Association, Inc., a Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

AGREED TO, ACCEPTED AND APPROVED:

**TRAIL'S EDGE CONDOMINIUMS
OWNERS ASSOCIATION, INC.,**
a Colorado non-profit corporation

By: _____
Bruce MacIntire, President

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013,
by Bruce MacIntire, as President of the Trail's Edge Condominiums Owners Association, Inc., a
Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

Exhibit "A"

Description and Depiction of Ski Trail Access Easement

(see attached)

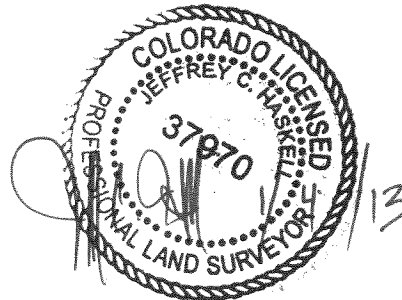
**FOLEY ASSOCIATES, INC.
CIVIL ENGINEERING AND LAND SURVEYING
P. O. BOX 1385
TELLURIDE, CO 81435
970-728-6153**

EXHIBIT 'A'
LEGAL DESCRIPTION

A strip of land 5 feet wide lying 2.5 feet on each side of the following centerline description located within Trail's Edge Lane, Lot 600BR-10 and Lot 600BR-11, Telluride Mountain Village, according to Trail's Edge At Double Cabins, An Amendment To The Final Plat Of Lot 600B, Town Of Mountain Village recorded in Plat Book 1 at Page 3385 at the office of the Clerk and Recorder, San Miguel County, State of Colorado further described as follows,

Beginning at a point (P.O.B.) on the western boundary of said Lot 600B from which the northwest corner of said Lot 600B bears N 13°13'56" E, 89.76 feet;
THENCE 104.94 feet along a circular curve concave to the north with a Radius of 152.50 feet, an Delta Angle of 39°25'36", a Chord bearing of S 51°18'49" E, and a Chord of 102.88 feet;
THENCE S 71°01'35" E, 221.77 feet;
THENCE S 24°10'04" E, 11.42 feet to the Point of Terminus(P.O.T.);
The sidelines of said 5 foot strip of land to be extended or shortened to form a continuous sideline and meet at the existing boundary of said Trail's Edge Lane, Lot 600BR-10 and Lot 600BR-11,
TOGETHER WITH the Ski Trail and Pedestrian Access Easement as shown on Plat Book 1 at page 3386,

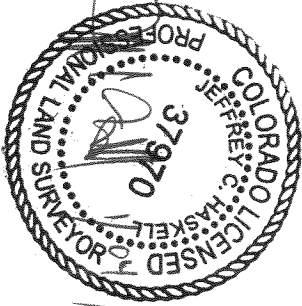
County of San Miguel,
State of Colorado



Jeffrey C. Haskell

P.L.S.37970

EXHIBIT A



EASEMENT AGREEMENT AND GRANT OF EASEMENT PER RECEPTION NOS. 370284 AND 388998

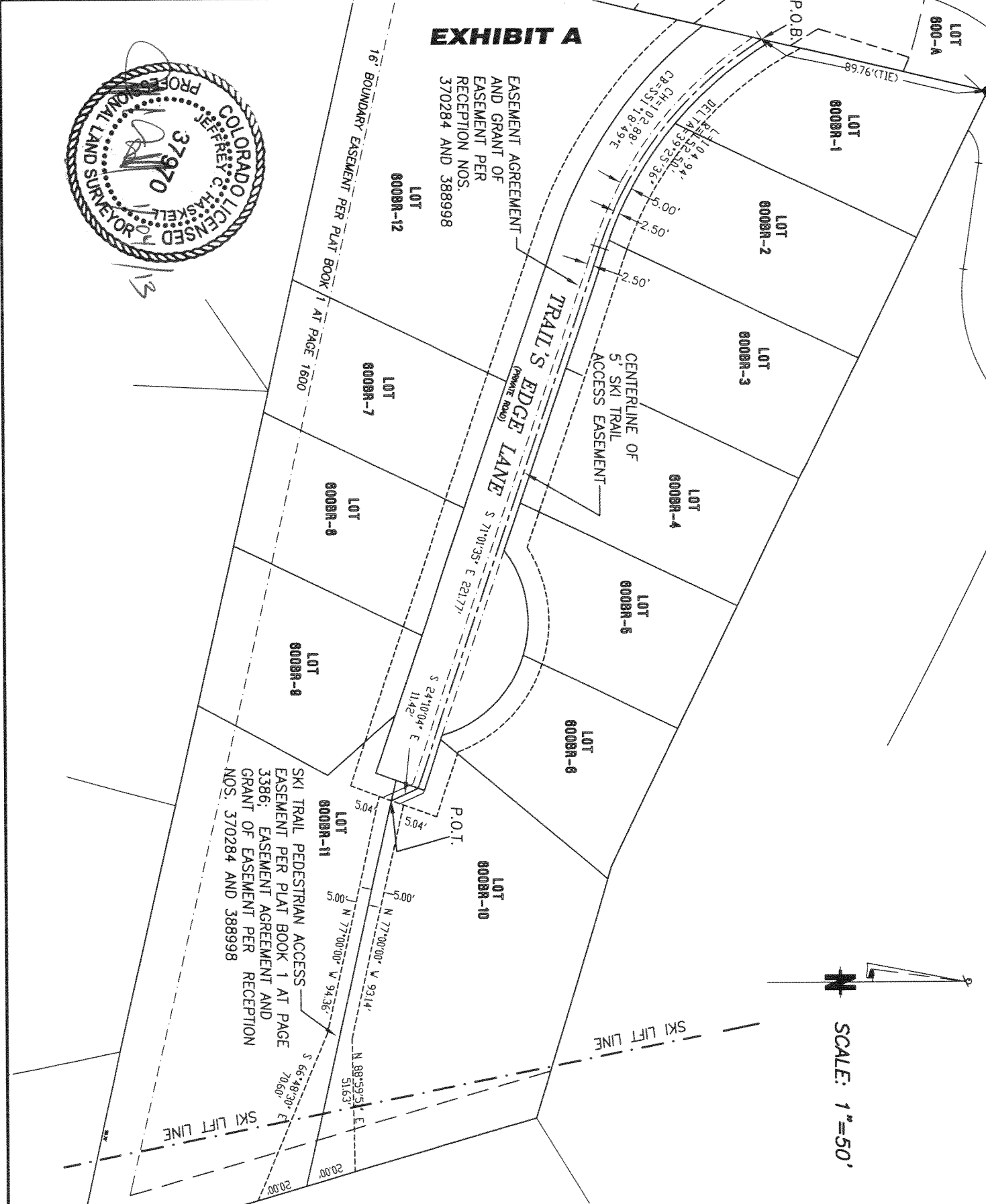
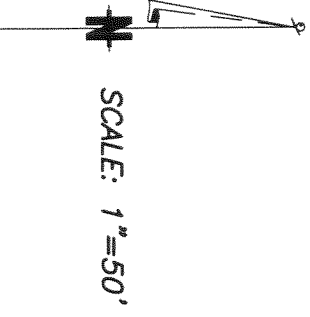
16' BOUNDARY EASEMENT PER PLAT BOOK 1 AT PAGE 1600

LOT 800-A-1
LOT 800BR-1
LOT 800BR-2
LOT 800BR-3
LOT 800BR-4
LOT 800BR-6
LOT 800BR-6
LOT 800BR-10

CENTERLINE OF 5' SKI TRAIL ACCESS EASEMENT

TRAIL'S EDGE LANE (PRIVATE ROAD)

SKI TRAIL PEDESTRIAN ACCESS EASEMENT PER PLAT BOOK 1 AT PAGE 3386; EASEMENT AGREEMENT AND GRANT OF EASEMENT PER RECEPTION NOS. 370284 AND 388998



NO.	DESCRIPTION	DATE

Project No.	37970
Client	
Date	11-13-13
Scale	1" = 50'

FOLEY ASSOCIATES, INC.
ENGINEERING - PLANNING - SURVEYING
PO Box 1985 125 W. Pacific Ave. Suite B1
Telluride, Colorado, 81452
Phone 970-734-4132 Fax 970-734-6995
email to info@foleyassoc.com

ELKSTONE EXHIBIT A

Client:	
Contact:	

Schedule 2
(to Unanimous Consent to Approve Agreements)

Snowmelt Systems Agreement

**JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT
ELKSTONE/TRAIL'S EDGE AT DOUBLE CABINS**

THIS JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT (the “**Agreement**”) is made and entered into, effective as of this 31st day of July, 2013 (the “**Effective Date**”), by and among the (i) ELKSTONE OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**Elkstone Association**”); (ii) STERLING CAPITAL LLC, a Georgia limited liability company (“**Sterling**”) and (iii) TRAIL'S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**TE Association**”), collectively the “**Parties**” and individually a “**Party**”.

RECITALS

WHEREAS, Sterling owns a majority of the 22 individual condominium units located within the Elkstone common interest community (the “**Elkstone Community**”) and known as “*Elkstone 21*” (the “**Elkstone 21 Units**”), for which Elkstone Units Sterling is successor-in-interest to Elk Lake Properties LLC, a Colorado limited liability company (“**Elk Lake**”), the Declarant for the Elkstone Community.

WHEREAS, in addition to the 22 Elkstone 21 Units, the Elkstone Community also includes an additional seven Elkstone Townhome units (the “**Elkstone Townhomes**”), for a total of 29 “**Elkstone Units**” currently comprising the Elkstone Community.

WHEREAS, the Elkstone Association serves as the homeowners’ association for the Elkstone Community that administers and conducts all activities on the general common elements within the Elkstone Community (the “**Elkstone General Common Elements**”) on behalf of the owners of the Elkstone Units (the “**Elkstone Owners**”) and, in that capacity, further serves as the successor-in-interest to Elk Lake, as Declarant of the Elkstone Community.

WHEREAS, the TE Association is the successor-in-interest to The PBC 1996 Trust, a California trust (“**PBC Trust**”), which PBC Trust served as the Declarant for the Trail’s Edge at Double Cabins common interest-ownership community (“**Trail’s Edge Community**”), which Trail’s Edge Community consists of the 12 lots known as “Lots 600BR-1 through 600BR-12” (the “**Trail’s Edge Lots**”).

WHEREAS, in that capacity, the TE Association serves as the master homeowners’ association for the twelve lots in the Trail’s Edge Community that administers and conducts all activities on the general common elements within the Trail’s Edge Community (the “**TE General Common Elements**”) on behalf of the owners of the Trail’s Edge Lots (the “**Trail’s Edge Owners**”).

WHEREAS, Elk Lake has retained certain potential development rights in, on, through and over designated portions of the Elkstone General Common Elements within the Elkstone Community (the “**Expansion Area**”) and, therewith, reserved rights in the future to (i) construct up to four additional condominium units within the Expansion Area in the future, possibly capable of being converted into as many as 12 “efficiency” or similar Town-allowed conversion units (the “**Elk Lake Units**”); and (ii) add the Elk Lake Units into the Elkstone Community (thereby potentially increasing the current total of 29 Elkstone Units to a total of up to as many as 33 future Elkstone Units).

WHEREAS, the Elkstone Community and the Trail’s Edge Community are located adjacent to each other and utilize a common roadway for access to both the Elkstone Community and the Trail’s Edge Community (“**Common Roadway**”), which Common Roadway is depicted and described on the map and Site Plan of the Common Roadway and the Existing Snowmelt System attached as **Schedule 1** (the “**Roadway Map Summary**”).

WHEREAS, for purposes of this Agreement the term “**Common Roadway**” always shall mean only that portion of the roadway accessing both the Elkstone and Trail’s Edge Communities that (i) begins at Mountain Village Boulevard and crosses a portion of the Town of Mountain Village (the “**Town**”) Right-of-Way (the “**Town ROW**”); (ii) runs along, over, across and through the parcel known as “**Tract A-7A**”; and (iii) runs along, over, across and through those portions of the Elkstone General Common Elements that extend to the point where the Elkstone Place asphalt roadway abuts the concrete, snowmelted portion of Trail’s Edge Lane (the “**Elkstone/Trail’s Edge Junction**”); and (iv) further includes the adjacent portion of the concrete, snowmelted Trail’s Edge Lane that extends along, over, across and through the Elkstone General Common Elements in a southeasterly direction to the point where the portion of Trail’s Edge Lane located on the Elkstone General Common Elements abuts the Elkstone/Trail’s Edge Junction (the “**Trail’s Edge Community Junction**”).

WHEREAS, all of the concrete portion of the existing roadway improvements currently part of the Existing Snowmelt System (as defined below) that lies between the Elkstone/Trail’s Edge Junction and the Trail’s Edge Community Junction is together described as the “**Trail’s Edge Repair Area**”

WHEREAS, for purposes of the New System Installation Work (as defined below) the Common Roadway shall be deemed to include the Trail’s Edge Repair Area.

WHEREAS, for purposes of the Common Roadway Operation and resulting Common Roadway Costs (both as defined below), the Trail’s Edge Repair Area shall not be included but, rather all operational, repair, replacement and maintenance costs associated with the Trail’s Edge Repair Area shall be born, undertaken and paid exclusively by the TE Association.

WHEREAS, that portion of the existing roadway located west of the Access Junction that ends at the point where the asphalt currently abuts the concrete, snowmelted portion of the roadway at the intersection of the roadway where Trail’s Edge Lane (as defined below) begins for access to the Trail’s Edge Community separate from access to the Elkstone Units but does not include any portion of the existing roadway lying within the Trail’s Edge Community that extends easterly from the Access Junction, which generally is described as “**Trail’s Edge Lane.**” The Trail’s Edge Lane portion of the roadway currently is heated and serviced by an existing snowmelt system (the “**Existing Snowmelt System**”) that, in turn currently obtains its heating from the existing boiler system located on Tract A-7A that currently heats and services the Existing Snowmelt System (the “**Existing TE Boiler**”). Specifically, Trail’s Edge Lane (and not the Common Roadway) shall be deemed for purposes of this Agreement to include both the snowmelted portions of Trail’s Edge Lane roadway improvements beyond the Access Junction, as well as the roadway and adjacent sidewalk improvements accessing the Trail’s Edge Lots from the TE General Common Elements, all as further depicted and described on the Roadway Map Summary.

WHEREAS, the Parties desire to install a new/expanded snowmelt system for the non-snowmelted Common Roadway and further complete certain repairs or modifications to the roadway and curbing within the Trail’s Edge Repair Area (the “**New Snowmelt System**”) so as to connect the New Snowmelt System with the Existing Snowmelt System to provide one complete and contiguous snowmelt system servicing and heating the entire Common Roadway (the “**Common Roadway Snowmelt System**”), as well as Trail’s Edge Lane, and all heated and supplied by the Existing TE Boiler.

WHEREAS, the Parties desire to confirm, ratify and clarify the rights of the Parties to utilize the Common Roadway for ingress and egress to and from the Elkstone Community and Trail’s Edge Community, respectively, and to set forth procedures and details for undertaking and sharing costs and responsibilities for installing, maintaining, repairing, replacing, insuring and undertaking related steps

regarding the Common Roadway Snowmelt System, as well as the Common Roadway generally (all from and after the Effective Date).

WHEREAS, in addition to the foregoing, the Parties further desire formally and clearly to vacate and/or terminate certain outdated and/or expired easements for sales trailers, temporary construction access, and/or other matters that affect portions of the Elkstone and/or Trail's Edge Communities and, therewith, to clarify the Parties' intentions by stating and memorializing such vacations and/or terminations.

NOW, THEREFORE, in consideration of the mutual agreements and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged and accepted, the Parties hereby agree as follows:

I. GENERAL MATTERS

As set forth above, by this Agreement, the Parties desire to: (i) reconfirm the permanent and indefeasible nature of the access to and from Elkstone and Trail's Edge Communities by the Common Roadway (including through those portions of the Common Roadway currently not heated by the Existing Snowmelt System); (ii) confirm and establish their intentions to install the New Snowmelt System; and (iii) establish and reflect their agreement regarding procedures for sharing of costs and designating responsibilities for installing, maintaining and improving both the Common Roadway and the Common Roadway Snowmelt System, all as set forth below.

II. EASEMENT MATTERS

A. **Confirmation of Access Rights**. The Parties hereby ratify, confirm, agree and acknowledge that both the Elkstone and Trail's Edge Communities, as well as both (i) the Elkstone Owners (including any future Elk Lake Units) and (ii) the Trail's Edge Owners, as well as their respective guests, invitees and assignees, all have been granted and shall be deemed to enjoy perpetual, indefeasible rights for pedestrian, vehicular, non-vehicular and all related rights of access in, on, over, across and through the Common Roadway for purposes of ingress and egress to and from each respective community and its units/lots. Except as specifically provided in this Agreement, nothing contained herein shall limit or alter such rights including without limitation, any rights granted to the Elkstone Owners and/or Elkstone Association to access across Tract A-7A.

B. **Vacation/Termination of Prior/Expired Temporary Easement Rights**. The Parties hereby further confirm, agree and acknowledge, ratify and declare that all prior grants of temporary easements for construction trailers, excavation, fill, support, staging, storage, parking and/or related rights of access granted in and/or to any portions of the respective Elkstone Community or Trail's Edge Community by Elk Lake, the PBC Trust and/or any other successors-in-interest to the current Elkstone Owners and/or Trail's Edge Owners shall be deemed vacated, terminated, void and of no further effect or validity. This specifically shall relate to (though without limitation) any rights of temporary construction and/or sales related access contained in the following: (i) the Easement Agreement recorded in the San Miguel County Recorder official records (the "**Official Records**") on October 30, 2000 at Reception No. 337660; and (ii) the Easement Agreement and Grant of Easement recorded in the Official Records on November 8, 2004 at Reception No. 370284 and re-recorded on December 13, 2006 at Reception No. 388998. Nothing herein shall be deemed to exclude or prohibit retaining any existing fill, support or other installations of a permanent nature, if any.

C. **Vacation/Termination of Prior Inconsistent Common Roadway Easement Rights**. The Parties further hereby confirm, agree, acknowledge, ratify and declare that all prior grants of access

easements inconsistent with the existing location of the “as-built” Common Roadway and this Agreement shall be deemed vacated, terminated, void and of no further effect or validity. This specifically shall include, without limitation, any such grants of access and/or easement rights contained in, or implied from, any documents recorded in the Official Records that underlie or encroach upon any existing Elkstone Unit or Trail’s Edge Lot. Any existing Common Roadway access rights vested in any of the Parties or utilities providers relating to any portions of the Common Roadway shall be deemed to be vested in the entirety of the “as-built” Common Roadway, from and after the Effective Date.

D. **Grant of Common Roadway Snowmelt Systems Easement.** From and after the Effective Date, and only in the event that the New System Installation Work is properly and timely undertaken by Sterling according to the terms of this Agreement, the Parties hereby confirm, agree, acknowledge, ratify and declare that the Elkstone Community and Trail’s Edge Community, as well as both the Elkstone Association and the TE Association (by and on behalf of each association’s respective unit/townhome/lot owners) shall be deemed vested with, and hereby are granted and conveyed, full right power and authority to install, repair, replace, maintain and operate the Existing Snowmelt System and, once the New Snowmelt System is installed, the Common Roadway Snowmelt System. Such right, power and authority shall include, without limitation, all rights to access, improve and work on and with both the Existing TE Boiler and all installed snowmelt systems improvements and existing and in place from time-to-time.

III. COMMON ROAD OPERATIONS MATTERS

A. **The Current Common Roadway Operations.**

1. **The Existing Snowmelt System.** Until such time as the New Snowmelt System shall be designed, approved by the Town and any other regulatory bodies and fully constructed and placed into operation as the Common Roadway Snowmelt System (the “**Current Conditions Operations Period**”), the Existing Snowmelt System (including, without limitation, all portions of such system located in the Trail’s Edge Repair Area) shall be operated, maintained, repaired and replaced by the TE Association (the “**Existing Systems Operations**”). During this Current Conditions Operations Period, all costs associated with the Existing Systems Operations shall be borne entirely by the Trail’s Edge Community (the “**Existing Systems Costs**”). Existing System Costs shall not include any costs for New System Installation Work (as defined below).

2. **Operations on the Un-Snowmelted Common Roadway.** During the Current Conditions Operations Period, the un-snowmelted Common Roadway shall be operated, maintained (including snow and ice removal), repaired and replaced by the Elkstone Association (the “**Existing Roadway Operations**”). During the Current Conditions Operations Period, all costs associated with the Existing Roadway Operations shall be borne 58% by the Elkstone Community and 42% by the Trails’ Edge Community, in accordance with the attached **Schedule 2** (the “**Existing Roadway Costs**”), with the Elkstone Association billing the costs for such Existing Roadway Costs to the TE Association quarterly. The TE Association shall pay the Elkstone Association its share of such Existing Roadway Costs within 45 days after billing; provided, however, that the TE Association shall have the right for 15 days after such billing to challenge any such billed Existing Roadway Costs.

B. **The New Snowmelt System Approvals and Installation.**

1. **The New Snowmelt Approvals.** Sterling hereby agrees and commits to use its reasonable good faith efforts to undertake and obtain, at its sole cost and expense (as set forth below), such permitting, land use and similar approvals from the Town and/or any other necessary regulatory bodies as reasonably shall be required to (i) allow installation of the New Snowmelt System; (ii) connect this to the Existing TE Boiler; and (iii) enable operations of the Common Roadway Snowmelt System to commence

in connection with the Existing Snowmelt System (the “**New Snowmelt Approvals**”). In connection with such commitment by Sterling regarding the New Snowmelt Approvals, both the Elkstone Association and TE Association (on their own behalf and as agents for their respective owners/members) hereby represent, warrant and covenant to and with Sterling that they timely and fully shall provide all reasonably necessary documentation, endorsements, authorizations and/or (non-financial) support as shall be required for purposes of obtaining the New Snowmelt Approvals. Sterling shall file an application with the Town by no later than two business days after full execution, delivery and recordation of this Agreement and that certain First Amendment to Easement Agreement and Grant of Easement (the “**Ski Access Easement Amendment**”), for purposes of obtaining the New Snowmelt Approvals, and shall provide the TE Association’s counsel with a copy of same.

2. Commitments Regarding the New System Installation Work.

a. Within 10 business days after receiving the New Snowmelt Approvals, Sterling shall present to the TE Association, with a copy to the Elkstone Association, a notice (the “**New Systems Cost Notice**”) summarizing both costs expended for the New Snowmelt Approvals and estimated costs anticipated to install the approved New Snowmelt System with connection to the Existing TE Boiler and the Existing Snowmelt System (the “**New System Installation Work**”). The New System Cost Notice shall include a schedule itemizing line-items (with reasonable detail) for (i) costs incurred by Sterling in connection with the New Snowmelt Approvals; (ii) Sterling’s good faith estimate of costs projected to complete the New System Installation Work; (iii) all contracting, permitting, engineering, legal and other costs associated with these; and (iv) a 10% contingency allowance, based on (ii) and (iii) above (collectively, the “**System Cost Projections**”).

b. In the event that the New System Cost Notice reflects System Cost Projections of no more than \$200,000.00 (the “**Approved New System Cost Notice**”), then Sterling shall be obligated to undertake and commence the New System Installation Work.

c. In the event that the New System Cost Notice should reflect System Cost Projections in an amount in excess of \$200,000.00 then, within five business days after Sterling issues the New System Cost Notice, Sterling shall provide the TE Association, the Elkstone Association and the Escrow Agent (defined below) with a written notice (the “**TE Snowmelt Election Notice**”) electing one of the following options:

Either (i) Confirmation that Sterling elects to proceed with the New System Installation work, in which case Sterling shall bear responsibility for all costs (the “**Election to Fund Costs**”);

Or (ii) Confirmation that Sterling elects to decline pursuing the New System Installation Work and, accordingly, elects to direct the Escrow Agent to distribute the New Snowmelt Deposit, pursuant to Paragraph III. B. 4. below (the “**Snowmelt Rejection Election**”).

d. In the event that Sterling should provide a Snowmelt Rejection Election then, once the New Snowmelt Deposit has been disbursed pursuant to Paragraph III. B. 4. below, all obligations and commitments of the Parties shall cease with respect to the New Snowmelt Approvals and/or for Sterling to undertake the New System Installation Work. The foregoing notwithstanding, nothing associated therewith shall prevent Sterling and/or the Elkstone Association from undertaking the New System Installation Work (or similar work) at a future date, at its/their sole cost and expense (and at its/their sole and absolute discretion). In that event, the TE Association hereby commits to (i) allow the Party or Parties undertaking the New System Installation Work, after 30 days prior written notice, to connect the installed systems to the Existing TE Boiler (at no cost to the TE Association); and (ii)

thereafter allow operations of the New Snowmelt System to be undertaken pursuant to the Common Roadway Operations provisions set forth in Section III. C. below.

e. Failure by Sterling to deliver either an Election to Fund Costs or a Snowmelt Rejection Election within the five-day period described in Paragraph III. B. 2. c. above shall have the same effect, for purposes of this Agreement and the Escrow Agreement, as timely delivery by Sterling of a Snowmelt Rejection Election.

3. The New System Installation Work.

a. In the event that Sterling provides either (i) the Approved New System Cost Notice pursuant to Paragraph III. B. 2. b. above; or (ii) the Election to Fund Costs, pursuant to Paragraph III. B. 2. c. above then Sterling commits to commence the New System Installation Work as soon as possible, but in no event more than nine months thereafter (the “**Commencement Date**”).

b. Once so commenced, Sterling commits to use its reasonable good faith efforts timely and professionally to complete such New Systems Installation Work in accordance with the New Snowmelt Approvals within three months after the Commencement Date, subject to *force majeure* occurrences outside the control of Sterling (the “**Completion Date**”).

c. In connection therewith, both the Elkstone Association and TE Association (on their own behalf and as agents for their respective owners/members) hereby represent, warrant and covenant to and with Sterling that they timely and fully shall provide all reasonably necessary documentation, endorsements, authorizations, construction scheduling coordination and/or coordinated access as shall be required for purposes of enabling Sterling timely to obtain the New Snowmelt Approvals and complete all New System Installation Work.

d. Completion of the New System Installation Work shall include, without limitation, replacement of the surface of Tract A-7A and roadways affected and served by the New System Installation Work, substantially in compliance with Town road requirements and/or standards for access driveways of this type, and substantially equal to the currently existing condition of Trail’s Edge Lane.

e. In the event that Sterling should fail to complete the New System Installation Work within three months after the Completion Date (the “**Penalty Deadline**”), then (i) the TE Association shall immediately be entitled, upon written demand to the Escrow Agent, to receive payment of \$80,000.00 from the New Snowmelt Escrow (as defined below), without any further action, consent or authorization from any Party; and (ii) at any time thereafter, either or both of the Elkstone Association and/or the TE Association (jointly, the “**Associations**”) shall have the right and authorization (but not the obligation) to complete the New Systems Installation Work and secure reimbursement of all costs and expenses incurred in connection therewith from the New Snowmelt Deposit pursuant to Paragraph III. B. 4. c. below (the “**Completion Reimbursements**”).

4. The New Snowmelt System Escrow Deposit. Within five days after execution, delivery and recordation of both this Agreement and the Ski Access Easement Amendment, Sterling shall deposit into escrow the amount of \$200,000.00 (the “**New Snowmelt Deposit**”) to be held by Fidelity Title Insurance Company (the “**Escrow Agent**”) for purposes of securing Sterling’s commitments set forth herein regarding the New Snowmelt Approvals and New System Installation Work (the “**New Snowmelt Escrow**”). Until delivery and approval of the Completion Certification, the New Snowmelt Deposit shall not be used to fund the New Snowmelt Approvals or the New System Installation Work, except in the event of Completion Reimbursements to one or both of the Associations as set forth in Paragraph

III.B.3.e., above. Subject to the foregoing, the New Snowmelt Deposit shall be held and disbursed by the Escrow Agent, only as follows:

a. Once Sterling has completed the New System Installation Work, Sterling shall certify and provide written evidence to the Associations and the Escrow Agent of (i) its completion of the New System Installation Work; (ii) Town's acceptance thereof; and (iii) payment in full of all contractors and suppliers with potential mechanic's lien rights against the work performed, as evidenced by fully executed releases and/or final lien waivers from all such contractors and suppliers (the "**Completion Certification**"). The Completion Certification shall be delivered to the Associations and the Escrow Agent for the Associations' reasonable review and approval, which shall be granted or denied within five business days after receipt (and failure to deny after receipt of such notice shall be deemed approval). Upon the written approval by the Associations of the Completion Certification, the Escrow Agent shall disburse all of the New Snowmelt Deposit, plus any interest accrued thereon (if any), to Sterling within the earlier of (a) one business day after delivery of such approvals to Sterling and the Escrow Agent; or (b) in the event such approvals shall not be delivered to the Escrow Agent within 10 business days after the Completion Certification.

b. In the event that Sterling should deliver a Snowmelt Rejection Election pursuant to Paragraph III. B. 2. c. above then, within two business days after delivery of the Snowmelt Rejection Election, the Escrow Agent shall disburse (i) \$80,000.00 from the New Snowmelt Deposit to the TE Association; and (ii) the balance of the New Snowmelt Deposit (plus all interest earned thereon, if any, less any unpaid escrow fees) to Sterling. After such disbursement, all obligations of the Parties regarding the New Snowmelt System, under the pertinent New Snowmelt Escrow paragraphs of this Agreement shall terminate and be deemed of no further force or effect.

c. In the event that Sterling shall commence the New Systems Installation Work, but fail to complete this before the Penalty Deadline, then, after payment to the TE Association pursuant to Paragraph III. B. 3. e. above, then one or both of the Associations shall have the right (but not the obligation) to elect to exercise their rights to complete these pursuant to Paragraph III. B. 3. e. above. In that event, the completing Association(s) shall provide a Completion Certificate to the Escrow Agent, Sterling and any non-completing association (if any). If, within 10 business days thereafter, no objections have been made by Sterling or any non-completing Association, the Escrow Agent shall disburse from the New Snowmelt Escrow the Completion Reimbursement to the incurring Association(s), with any remaining balance, if any, being disbursed to Sterling within three business days thereafter. The Escrow Agent shall disburse to Sterling any amounts remaining in the New Snowmelt Escrow 12 months after the Penalty Deadline, without any further action, consent or authorization from any Party.

C. The Common Roadway Snowmelt Operations.

1. Common Roadway Operations. From and after completion of the New System Installation Work and connection of the New Snowmelt System to the Existing Snowmelt System and the Existing TE Boiler, the resulting Common Roadway Snowmelt System and all other matters relating to the Common Roadway (except the Existing TE Boiler, which shall be operated and maintained by the TE Association pursuant to Paragraph III. C. 3. Below) shall be operated maintained, repaired and replaced by the Elkstone Association (the "**Common Roadway Operations**").

2. Common Roadway Operations Costs.

a. From and after the date the associations approve the Completion Certification, all costs associated with the Common Roadway Operations shall be borne and shared between the Elkstone Community and Trail's Edge Community, respectively, on a pro rata basis calculated by the then-current

number of units and lots that constitute the members of both the Elkstone Association and the TE Association, respectively, from time-to-time (the “**Sharing Ratio**”). Thus, as of the Effective Date, the Sharing Ratio for the TE Community shall be reflected as 42% (based on 21 of 50 total lots/units) with the Elkstone Association Sharing Ratio reflected as 58% (based on 29 of 50 total lots/units). In the event that all four of the Elk Lake Units should be added into the Elkstone Community, that in turn would result in a 39% Sharing Ratio for the TE Association (based on 21 of 54 total lots/units) and 61% for the Elkstone Association (based on 33 of 54 total lots/units). In the event more than four Elk Lake Units are properly added to the Elkstone Community, the Sharing Ratios described above shall be adjusted accordingly.

b. The Elkstone Association will bill the costs for such Common Roadway Operations to the TE Association quarterly (the “**Common Roadway Costs**”) and the TE Association shall pay the Elkstone Association its share of the Common Roadway Costs within 45 days after billing; provided, however, that the TE Association shall have the right for 15 days after such billing to challenge any such billed Common Roadway Costs.

3. TE Boiler Operations and Costs. The TE Community and the Elkstone Community shall share the costs of operating, managing, repairing and replacing the Existing TE Boiler in a manner capable of heating and servicing both the Common Roadway Snowmelt System and the Existing Snowmelt System with the same Sharing Ratio as that of the Common Roadway Operations described above. The TE Association shall bear the responsibility for operating, managing, repairing and replacing the Existing TE Boiler and then shall allocate and bill the Elkstone Association only for that share of such costs as shall be attributable to the Elkstone Association’s Sharing Ratio (the “**Common Snowmelt Heating Costs**”). The Elkstone Association shall pay the TE Association its share of the Common Snowmelt Heating Costs based on its Sharing Ratios within 45 days after billing; provided, however, that the Elkstone Association shall have the right for 15 days after such billing to challenge any such billed Snowmelt Heating Costs.

4. The Annual Budgets. The Elkstone Association and the TE Association shall establish an annual operations and reserve budget, covering anticipated expenses of both the Common Roadway Operations and the Existing TE Boiler (the “**Annual Budget**”), which Annual Budget shall include budget allowances for the (i) repair, upkeep and maintenance and (ii) capital reserves for both the Common Roadway Costs and Common Snowmelt Heating Costs. The Annual Budget shall be adopted by both Associations before the end of the calendar year covered by the prior Annual Budget and failure by the Associations so to adopt an Annual Budget shall result in the prior year’s Annual Budget continuing until such time as a new Annual Budget is so adopted by both Associations. Any non-budgeted expenses in excess of \$2,500 shall require the prior written approval of the Boards for both Associations (with any failure to object within 10 business days after receipt of notice being deemed approved).

D. Sterling and Elkstone Association Non-Responsibilities. The Parties hereby acknowledge, accept and agree that nothing contained in this Agreement shall create any responsibility or liability for the Elkstone Association to construct or install the New Snowmelt System, under any circumstances. Furthermore, in the event that the Systems Cost Projections reflected in the New Systems Cost Notice should exceed \$200,000.00 and Sterling should provide a Snowmelt Rejection Election then, upon Escrow Agent’s disbursement of the New Snowmelt Deposit pursuant to Paragraph III. B. 4. b. above, Sterling shall have no further obligations to construct or install the New Snowmelt System.

E. Sterling Commitments to Hold Harmless. Sterling hereby confirms, represents, and warrants to and with both the Elkstone Association and TE Association that, should it undertake the New System Installation Work (including, without limitation, any actions Sterling should take after a Snowmelt Rejection Election pursuant to Paragraph III. B. 2. d.), Sterling will keep both the Elkstone

General Common Elements and the TE General Common Elements free and clear of any liens or claims associated with the New Snowmelt Approvals and/or New System Installation Work, and shall indemnify and hold harmless the Elkstone Association and the TE Association from and against any cost, liability or expense arising therefrom, including reasonable attorneys' fees and legal costs.

IV. GENERAL MATTERS

A. **Costs Allocations.** The Sharing Ratios, allocations and responsibilities for the Existing Systems Costs, the Common Roadway Costs and the Elkstone Snowmelt Heating Costs are summarized and set forth on the attached **Schedule 3.**

B. **Insurance Obligations.** Each of the Associations shall obtain and maintain in full force and effect, from and after the Effective Date, property damage and public liability insurance policies (each with an aggregate and per-occurrence limited of no less than \$2,000,000.00) insuring that such association and its respective owners/members (and naming the other association and its respective owners/members as additional named parties) from and against all liabilities related to the Common Roadway.

C. **Respective Operations/Payment Rights and Obligations.** In the event that any Party should fail fully and timely to perform any obligation contained in Section III above, then the other Parties shall have the right to provide written notice of such default to the defaulting Party and, if such default is not cured within five days after such written notice, to undertake and/or perform the defaulted obligation and charge the defaulting Party with all costs associated with such undertaking/performance. In the event that any Party should fail timely to pay any assessment for costs incurred pursuant to Section II, then the paying Party shall be entitled to recover all costs associated with such nonpayment (including assessing default interest on all unpaid amounts accruing at the rate of 1.5% per month).

D. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon the Parties and their respective heirs, successors, legal representatives and assigns. The Parties hereto represent, covenant and warrant to and with each other that they are fully authorized to execute this Agreement and have taken all actions necessary to obtain such authorization.

E. **Recordation.** This Agreement shall be recorded in the Official Records.

F. **Effective Upon Execution and Recordation.** This Agreement shall not be binding upon any Party and shall not become effective until it is executed and recorded by the Parties.

G. **No Further Rights; No Third Party Rights.** Except as expressly set forth herein, nothing contained herein shall be construed as creating any rights in any third persons or parties.

H. **Modification.** This Agreement represents the complete, integrated, and merged understanding of the Parties, and no prior or contemporaneous term, condition, promise, representation, or understanding regarding the subject matter herein shall be of any legal force or effect unless it is embodied herein in writing or in a written amendment to this Agreement. This Agreement may not be amended, terminated or otherwise modified, nor may this Agreement be assigned by any Party, except in writing signed by all the Parties.

I. **Governing Law.** The Parties hereby agree and accept that Colorado law shall govern this Agreement, with venue in San Miguel County, Colorado.

J. **Captions.** Captions are for convenience only and are not to be construed as defining or limiting in any way the scope of intent of the provisions of such sections.

K. **Severability.** Should any term or provision of this Agreement, or the application thereof to any person or circumstances to any extent, be determined to be invalid or unenforceable by a court of competent jurisdiction or altered or modified as the result of any voter referendum or initiative, unless agreed to in writing by all the Parties, the remaining terms and provisions of this Agreement (including any rights, obligations, privileges, permits, and/or approvals arising therefrom) shall remain in full effect, unaltered.

L. **Attorneys' Fees and Costs.** In the event of any controversy, claim or dispute relating to or arising from the provisions of this Agreement or the provisions contained herein, the prevailing Party or Parties shall recover their actual, reasonable legal fees and related expenses (both court costs and costs of any expert witnesses or consultants) including, without limitation, all post-judgment fees and expenses and costs of collection.

M. **Time is of the Essence; Waiver.** Time is of the essence in all instances involved in this Agreement. No waiver by any Party or any failure or refusal to comply with its obligations herein shall be deemed a waiver of any other or subsequent failure or refusal to so comply, and any such waiver made shall be in writing subscribed by the Party intended to be benefitted thereby.

N. **Recitals.** The Recitals set forth above shall be deemed part of this Agreement and fully enforceable.

O. **Notice.** If the Parties wish to contact or notify each other and/or the Escrow Agent concerning the subject matter herein, they shall deliver written notice, via U.S. Mail, certified, return receipt requested, by e-mail, or by personal delivery obtaining a signed receipt as outlined below. Said notice shall be effective when received by the noticed Party. Received means when the communication arrives. If a Party's contact information changes, it shall be the responsibility of that Party to notify all the other Parties and the Escrow Agent about said change.

If to Elkstone Association: Elkstone Owners Association, Inc.
Attn: President
P.O. Box 3071
Telluride, CO 81435

With a Copy to: Russell & Pieterse, LLC
c/o Nicole Y. Pieterse, Esq.
P.O. Box 2673
Telluride, Colorado 81435
nicolepieterse@lawtelluride.com

If to Sterling: Sterling Capital LLC
c/o Lee A. Hooper
Two Ravinia Drive, Suite 1120
Atlanta, GA 30346-2107
lee.hooper@sterlingtr.com

With a Copy to: Tueller & Associates, P.C.
c/o Douglas R. Tueller, Esq.

P.O. Box 3153
Telluride, Colorado 81435
dtueller@tuellerlaw.com

If to TE Association: Trail's Edge at Double Cabins Owners Association, Inc.
Attn: President
P.O. Box 2201
Telluride, CO 81435

With a Copy to: Michael J. Lynch, Esq.
Robinson, Waters & O'Dorisio, P.C.
P.O. Box 2636
Telluride, CO 81435
mlynch@rwolaw.com

P. **Survival.** Except as expressly set forth otherwise herein, all representations, warranties, agreements, covenants and obligations herein or in any schedule, exhibit or certificate delivered by any Party to any other Party incident to the transactions contemplated hereby shall be deemed to have been relied upon by the other Parties and shall survive the execution and delivery of this Agreement.

IN WITNESS WHEREOF, the Parties have executed, delivered and entered into this Agreement as of the Effective Date.

ELKSTONE OWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: _____
Daniel E. Dockray, Vice President

STATE OF COLORADO)
)ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on the ___ day of _____, 2013, by Daniel E. Dockray, as Vice President of the Elkstone Owners Association, Inc., a Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

TRAIL'S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: _____
Bruce MacIntire, President

STATE OF COLORADO)
)ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by Bruce MacIntire as President of the Trail's Edge at Double Cabins Owners Association, Inc., a Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

STERLING CAPITAL LLC,
a Georgia limited liability company

By: _____
Lee A. Hooper, Vice President

STATE OF GEORGIA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the ____ day of _____ 2013, by Lee A. Hooper, as Vice President of Sterling Capital LLC, a Georgia Limited liability company.

WITNESS my hand and official seal.
My commission expires:

Notary Public

Schedule 1

(to Joint Access Easement, Snowmelt and Maintenance Agreement)

Common Roadway and the Existing Snowmelt System

Site Plan

SCHEDULE 1


COMMON ROADWAY AND THE EXISTING SNOWMELT SYSTEM

SITE PLAN


MOUNTAIN VILLAGE BLVD.

LEGEND

COMMON ROADWAY =

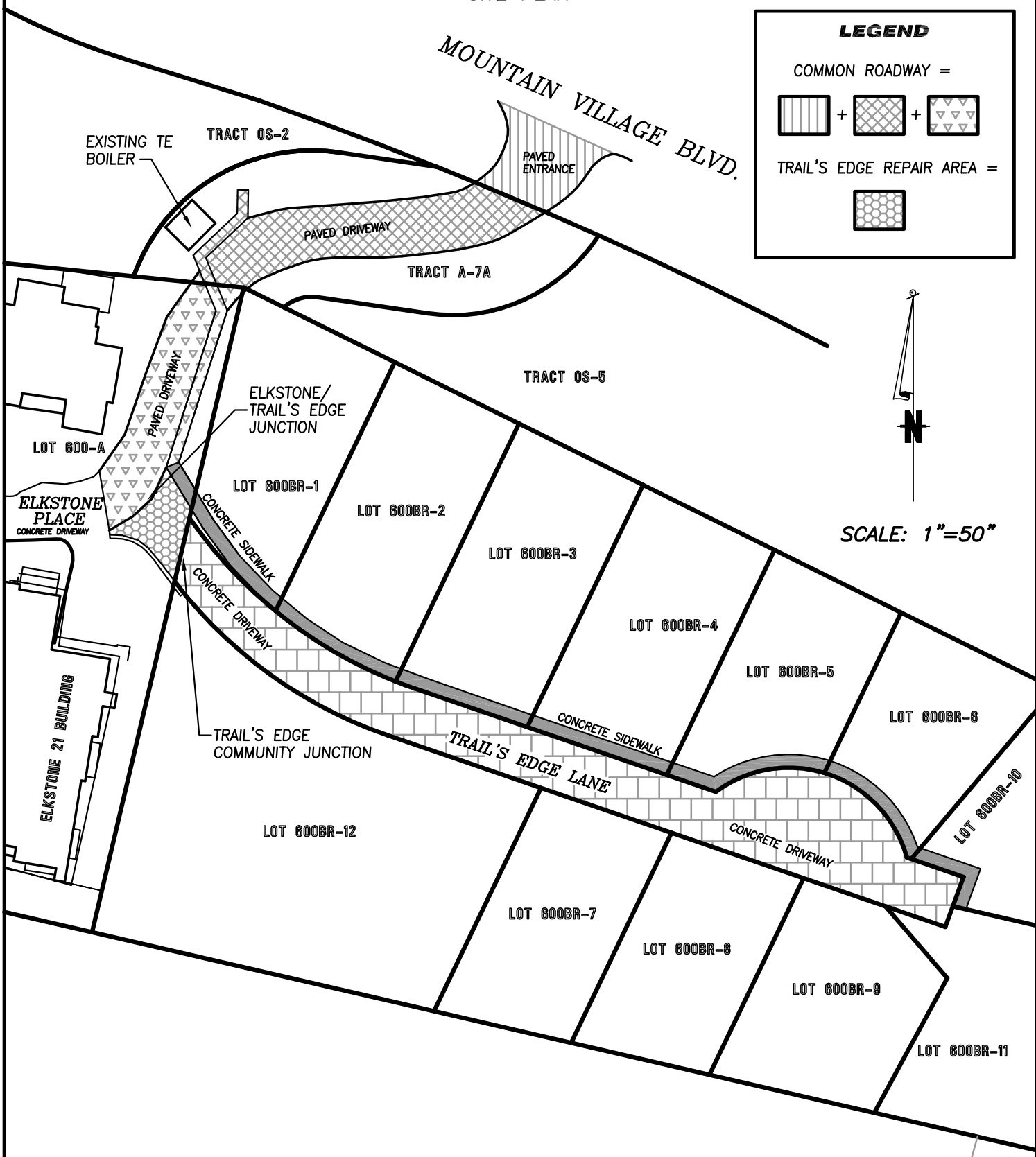


TRAIL'S EDGE REPAIR AREA =





SCALE: 1"=50"






Project No.: Scale: Date: Author: Check: Title:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Rev.</th> <th>Description</th> <th>Date</th> <th>By</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	Rev.	Description	Date	By																	<p>FOLEY ASSOCIATES, INC. <small>ENGINEERING - PLANNING - SURVEYING</small></p> <p>PO Box 1095, 76th St, Pacific Junction, IA 50648 phone 515.279.6500 fax 515.279.6500 e-mail: info@foley-assoc.com</p>	<p style="text-align: center;">Client: _____</p> <p style="text-align: center;">Contact: _____</p>
Rev.	Description	Date	By																				

Schedule 2
(to Joint Access Easement, Snowmelt and Maintenance Agreement)

Sharing Ratios of Existing Roadway Costs

Schedule 2
Sharing Ratios of Existing Roadway Costs

UN-SNOWMELTED COMMON ROADWAY




	<u>Corresponding Crosshatch from Schedule 1, Existing Common Roadway Costs</u>	<u>Square Footage</u>	<u>Percentage</u>	<u>Sharing Ratios</u>	<u>Elkstone</u>	<u>Trail's Edge</u>
Drive Portion from Mountain Village Blvd. over Town ROW		1,024	19.1%	58% Elkstone 42% Trail's Edge	11.1%	8.0%
Drive Portion over Tract A-7A		2,635	49.0%	58% Elkstone 42% Trail's Edge	28.4%	20.6%
Drive portion over Elkstone General Common Elements to Access Junction		1,715	31.9%	58% Elkstone 42% Trail's Edge	18.5%	13.4%
		<u>5,374</u>	<u>100.0%</u>		<u>58.0%</u>	<u>42.0%</u>

Schedule 3
(to Joint Access Easement, Snowmelt and Maintenance Agreement)







Sharing Ratios/Cost Allocation Summary

Schedule 3
Sharing Ratios of Common Roadway Costs (with New Snowmelt System) and Common Snowmelt Heating Costs

UPON COMPLETION OF THE NEW SNOWMELT SYSTEM (SEE NOTE 1)

	Corresponding Crosshatch from Schedule 1, Existing Common Roadway Costs	Square Footage	Percentage	Sharing Ratios	Elkstone	Trail's Edge
I. SHARING RATIOS OF COMMON ROADWAY COSTS (See Note 2):						
Drive Portion from Mountain Village Blvd. over Town ROW		1,024	19.1%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	11.1%	8.0%
Drive Portion over Tract A-7A		2,635	49.0%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	28.4%	20.6%
Drive Portion over Elkstone General Common Elements to Access Junction		1,715	31.9%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	18.5%	13.4%
TOTAL COMMON ROADWAY COSTS RATIOS		5,374	100.0%		58.0%	42.0%

II. SHARING RATIO OF COMMON SNOWMELT HEATING COSTS (See Note 3):

A. Common Portion of Elkstone Place						
Drive Portion from Mountain Village Boulevard over Town ROW		1,024	6.8%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	3.9%	2.8%
Drive Portion over Tract A-7A		2,635	17.4%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	10.1%	7.3%
Drive Portion over Elkstone General Common Elements to Access Junction		1,715	11.3%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	6.6%	4.8%
Total Common Portion of Elkstone Place		5,374	35.5%		20.6%	14.9%
B. Trail's Edge Lane						
Concrete Drive beyond Access Junction leading to Trail's Edge over Elkstone General Common Elements (Trail's Edge Repair Area)		537	3.5%	100% Trail's Edge	0.0%	3.5%
Concrete Driveway on TE General Common Elements		7,524	49.6%	100% Trail's Edge	0.0%	49.6%
Concrete Sidewalk on TE General Common Elements		1,721	11.4%	100% Trail's Edge	0.0%	11.4%
Total Trail's Edge Lane		9,782	64.5%		0.0%	64.5%
TOTAL COMMON SNOWMELT HEATING COSTS RATIOS		15,156	100.0%		20.6%	79.4%

Notes and Additional Information:

- 1) Unless otherwise noted, all references contained in Notes and Additional Information refer to the document entitled JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT ELKSTONE/TRAIL'S EDGE AT DOUBLE CABINS.
- 2) These Common Roadway Costs include costs for the New Snowmelt System installed in the Common Roadway which will be incurred by the Elkstone Association and billed to the TE Association, as described in Section III.C.2.b, and exclude costs related to the Existing TE Boiler (see Note 3, below).
- 3) These Common Snowmelt Heating Costs will be incurred by the TE Association and billed to the Elkstone Association, as described in Section III.C.3, and relate only to expenditures made in connection with the Existing TE Boiler, and exclude any Common Roadway Costs (see Note 2, above).

Schedule 3
(to Unanimous Consent to Approve Agreements)

Escrow Agreement

**NEW SNOWMELT SYSTEM ESCROW AGREEMENT
(TE ASSOCIATION)**

THIS NEW SNOWMELT SYSTEM ESCROW AGREEMENT (the “**Escrow Agreement**”) is made and entered into, effective as of this 31st day of July, 2013 (the “**Effective Date**”), by and among the (i) ELKSTONE OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**Elkstone Association**”); STERLING CAPITAL LLC, a Georgia limited liability company (“**Sterling**”); and TRAIL’S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**TE Association**”), collectively referenced as the “**Parties**” and, individually, as a “**Party**”; and (ii) FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California Corporation (the “**Escrow Agent**”).

RECITALS

WHEREAS, the Parties have entered into an agreement for possible future approvals to install certain snowmelt and related systems improvements, defined and described as the “**New Snowmelt System**” in that certain Joint Access Easement, Snowmelt and Maintenance Agreement Elkstone/Trail’s Edge at Double Cabins to be recorded in the San Miguel County Office of the Clerk and Recorder simultaneously herewith, and a copy of which is attached as Schedule 1 (the “**Snowmelt Systems Agreement**”)

WHEREAS, pursuant to the Snowmelt Systems Agreement, the Parties and Escrow Agent desire to enter into this Escrow Agreement in order to set forth terms and conditions for implementing the Parties’ obligations and rights regarding the New Snowmelt System, as set forth in the Snowmelt Systems Agreement.

WHEREAS, all capitalized but undefined terms used in this Escrow Agreement shall have the same meaning as in the Snowmelt Systems Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged and accepted, the Parties hereby agree, as follows:

AGREEMENT

1. Common Roadway Snowmelt System Escrow. Within one business day after the Escrow Agent informs Sterling that it has received (i) a fully-executed in recordable form Snowmelt Systems Agreement and (ii) deposit of the \$10,000.00 payment required by the Trail’s Edge Condominiums Owners Association, Inc., a Colorado non-profit corporation pursuant to that certain First Amendment to Easement Agreement and Grant of Easement, Sterling shall (a) deposit with the Escrow Agent the New Snowmelt Deposit (as defined in Paragraph III.B.4 of the Snowmelt Systems Agreement) which New Snowmelt Deposit the Escrow Agent shall place

into an interest bearing escrow account in a federally insured bank of Escrow Agent's choice (the "**Snowmelt Escrow Account**"); and (b) deposit with the Escrow Agent the Escrow Fee (defined below), plus \$100.00 for estimated recording costs for the Snowmelt Systems Agreement documents. The Escrow Agent promptly shall (x) notify all the Parties of the deposit and Snowmelt Escrow Account information; and (y) supply Sterling with the W-9 form related to interest accrued on the New Snowmelt Deposit.

2. Escrow Agent understands and acknowledges that no portion of the New Snowmelt Deposit shall be disbursed to Sterling, or otherwise used for purposes of the New Snowmelt Installation Work, except in strict accordance with Paragraphs III.B.3 and 4 of the Snowmelt Systems Agreement including, without limitation, as follows:

a. In the event that either (i) Sterling should fail to complete the New Systems Installation Work by the Penalty Deadline, pursuant to Paragraph III.B.3.e of the Snowmelt Systems Agreement; or (ii) Sterling sends the Snowmelt Rejection, Election pursuant to Paragraph III.B.2.c. of the Snowmelt Systems Agreement (or fails to send a notice as described in Paragraph III.B.2.e.), then the Escrow Agent shall pay to the TE Association \$80,000.00 within three business days after the TE Association provides a written demand for such payment, without the need for any further action, consent or authorization from any Party. Thereafter, the Escrow Agent shall be authorized, upon written application by either or both of the TE Association and/or the Elkstone Association (the "**Completing Association(s)**"), to disburse from the Snowmelt Escrow Account such amounts as the Completing Association(s) should certify to the Escrow Agent, Sterling and any non-completing association (as applicable) by written, verified certificate accompanied by written billings and lien releases for New System Installation Work uncompleted by Sterling and undertaken by either or both of the Completing Association(s) pursuant to Paragraphs III.B.3.e and III.B.4.c of the Snowmelt Systems Agreement (the "**Completion Disbursements**"). The Escrow Agent only shall make such Completion Disbursements at such time as it confirms compliance with Paragraph III.B.4.e of the Snowmelt Systems Agreement and, once all Completion Disbursements have been made, the Escrow Agent shall disburse any remaining amounts in the Snowmelt Escrow Account to Sterling within three business days. Nothing contained herein shall obligate either the TE Association or the Elkstone Association to complete any uncompleted New System Installation Work. Pursuant to Section III.B.4.c of the Snowmelt Systems Agreement, the Escrow Agent shall disburse to Sterling any amounts remaining in the New Snowmelt Escrow 12 months after the Penalty Deadline, without any further action, consent or authorization from any Party.

3. Escrow Agent Handling of the New Snowmelt Deposit. The Parties hereby agree, acknowledge, confirm and direct that the Escrow Agent shall deposit, hold and disburse the New Snowmelt Deposit, plus all interest accrued thereon, in strict accordance with Paragraph III.B.4 of the Snowmelt Systems Agreement. All interest earned on the New Snowmelt Deposit in the Snowmelt Escrow Account shall accrue in strict accordance with the Snowmelt Systems Agreement and shall be payable upon final disbursement of the New Snowmelt Deposit, as set forth in Paragraph III.B.4 of the Snowmelt Systems Agreement.

4. Escrow Agreement. Sterling shall pay the \$500.00 escrow fee charged by the Escrow Agent for administering this Escrow Agreement (the “**Escrow Fee**”).

5. Notice. If the Parties wish to contact or notify each other and/or the Escrow Agent concerning the subject matter herein, they shall deliver written notice, via U.S. Mail, certified, return receipt requested, by e-mail, or by personal delivery obtaining a signed receipt as outlined below. Said notice shall be effective when received by the noticed Party. Received means when the communication arrives. If a Party’s contact information changes, it shall be the responsibility of that Party to notify all the other Parties and the Escrow Agent about said change.

If to Elkstone Association: Elkstone Owners Association, Inc.
Attn: President
P.O. Box 3071
Telluride, CO 81435

With a Copy to: Russell & Pieterse, LLC
c/o Nicole Y. Pieterse, Esq.
P.O. Box 2673
Telluride, CO 81435
nicole.pieterse@lawtelluride.com

If to Sterling: Sterling Capital LLC
c/o Lee A. Hooper
Two Ravinia Drive, Suite 1120
Atlanta, GA 30346-2107
lee.hooper@sterlingtr.com

With a Copy to: Tueller & Associates, P.C.
c/o Douglas Tueller, Esq.
P.O. Box 3153
Telluride, CO 81435
dtueller@tuellerlaw.com

If to TE Association: Trail’s Edge at Double Cabins Owners Association, Inc.
Attn: President
P.O. Box 2201
Telluride, CO 81435
brucem@luxwest.com

With a Copy to: Robinson Waters & O'Dorisio, P.C.
Michael J. Lynch
P.O. Box 2636
Telluride, CO 81435
mlynch@rwolaw.com

If to Escrow Agent: Fidelity National Title Insurance Company
c/o Steve Woods, Vice President
4643 South Ulster Street, Suite 500
Denver, CO 80237

6. Entire Agreement, Waiver. This Escrow Agreement represents the entire, final and complete agreement by and among the Parties and the Escrow Agent and supersedes or replaces all written and oral agreements previously made or existing. No provision of this Escrow Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by all Parties. No waiver by any Party of any breach of, or failure to comply with, any condition or provision of this Escrow Agreement shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

7. Governing Law, Venue and Attorneys Fees. The validity, interpretation, construction and performance of this Escrow Agreement shall be governed by the laws of the State of Colorado. If any action at law or in equity is necessary to enforce or interpret the terms of this Escrow Agreement, venue shall be in San Miguel County, Colorado, and the prevailing Party shall be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which the Party may be entitled.

8. Severability. If any provision or provisions of this Escrow Agreement shall be found invalid or unenforceable, this shall not affect the validity of the remaining provisions of this Escrow Agreement, and the remaining provisions shall remain in full force and effect.

9. Arm's Length, Encouragement to Consult with Independent Legal Counsel. The Parties hereby agree and acknowledge to and with each other that this Escrow Agreement was prepared and executed at arm's length and after free and full negotiation by the Parties and the Escrow Agent, and that there shall be no presumption to construe the terms of this Escrow Agreement in favor of one Party and/or the Escrow Agent and against another, but rather the terms of this Agreement shall be construed objectively as written. The Parties and the Escrow Agent further acknowledge that they have been represented by independent legal counsel concerning the propriety of entering into this Escrow Agreement.

10. Binding Effect. This Escrow Agreement shall be binding upon and shall inure to the benefit of any heirs, successors or assigns of the Parties and/or Escrow Agent.

11. Execution and Delivery. This Escrow Agreement may be executed and delivered in counterparts and a photocopy or facsimile signature shall have the same force and effect as an original. All Parties and/or the Escrow Agent shall initial the preceding pages and sign below.

IN WITNESS WHEREOF, the Parties and the Escrow Agent have executed, delivered and entered into this Escrow Agreement as of the Effective Date.

ELKSTONE OWNERS ASSOCIATION INC.,
a Colorado non-profit corporation

By: _____
Daniel E. Dockray, Vice President

TRAIL'S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: _____
Bruce McIntire, President

STERLING CAPITAL LLC,
a Georgia limited liability company

By: _____
Lee A. Hooper, Vice President

FIDELITY NATIONAL TITLE INSURANCE COMPANY,
a California corporation

By: _____
Steve Wood, Vice President

Schedule 1
(to New Snowmelt System Escrow Agreement)

Snowmelt Systems Agreement

**JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT
ELKSTONE/TRAIL'S EDGE AT DOUBLE CABINS**

THIS JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT (the “**Agreement**”) is made and entered into, effective as of this 31st day of July, 2013 (the “**Effective Date**”), by and among the (i) ELKSTONE OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**Elkstone Association**”); (ii) STERLING CAPITAL LLC, a Georgia limited liability company (“**Sterling**”) and (iii) TRAIL'S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**TE Association**”), collectively the “**Parties**” and individually a “**Party**”.

RECITALS

WHEREAS, Sterling owns a majority of the 22 individual condominium units located within the Elkstone common interest community (the “**Elkstone Community**”) and known as “*Elkstone 21*” (the “**Elkstone 21 Units**”), for which Elkstone Units Sterling is successor-in-interest to Elk Lake Properties LLC, a Colorado limited liability company (“**Elk Lake**”), the Declarant for the Elkstone Community.

WHEREAS, in addition to the 22 Elkstone 21 Units, the Elkstone Community also includes an additional seven Elkstone Townhome units (the “**Elkstone Townhomes**”), for a total of 29 “**Elkstone Units**” currently comprising the Elkstone Community.

WHEREAS, the Elkstone Association serves as the homeowners’ association for the Elkstone Community that administers and conducts all activities on the general common elements within the Elkstone Community (the “**Elkstone General Common Elements**”) on behalf of the owners of the Elkstone Units (the “**Elkstone Owners**”) and, in that capacity, further serves as the successor-in-interest to Elk Lake, as Declarant of the Elkstone Community.

WHEREAS, the TE Association is the successor-in-interest to The PBC 1996 Trust, a California trust (“**PBC Trust**”), which PBC Trust served as the Declarant for the Trail’s Edge at Double Cabins common interest-ownership community (“**Trail’s Edge Community**”), which Trail’s Edge Community consists of the 12 lots known as “Lots 600BR-1 through 600BR-12” (the “**Trail’s Edge Lots**”).

WHEREAS, in that capacity, the TE Association serves as the master homeowners’ association for the twelve lots in the Trail’s Edge Community that administers and conducts all activities on the general common elements within the Trail’s Edge Community (the “**TE General Common Elements**”) on behalf of the owners of the Trail’s Edge Lots (the “**Trail’s Edge Owners**”).

WHEREAS, Elk Lake has retained certain potential development rights in, on, through and over designated portions of the Elkstone General Common Elements within the Elkstone Community (the “**Expansion Area**”) and, therewith, reserved rights in the future to (i) construct up to four additional condominium units within the Expansion Area in the future, possibly capable of being converted into as many as 12 “efficiency” or similar Town-allowed conversion units (the “**Elk Lake Units**”); and (ii) add the Elk Lake Units into the Elkstone Community (thereby potentially increasing the current total of 29 Elkstone Units to a total of up to as many as 33 future Elkstone Units).

WHEREAS, the Elkstone Community and the Trail’s Edge Community are located adjacent to each other and utilize a common roadway for access to both the Elkstone Community and the Trail’s Edge Community (“**Common Roadway**”), which Common Roadway is depicted and described on the map and Site Plan of the Common Roadway and the Existing Snowmelt System attached as **Schedule 1** (the “**Roadway Map Summary**”).

WHEREAS, for purposes of this Agreement the term “**Common Roadway**” always shall mean only that portion of the roadway accessing both the Elkstone and Trail’s Edge Communities that (i) begins at Mountain Village Boulevard and crosses a portion of the Town of Mountain Village (the “**Town**”) Right-of-Way (the “**Town ROW**”); (ii) runs along, over, across and through the parcel known as “**Tract A-7A**”; and (iii) runs along, over, across and through those portions of the Elkstone General Common Elements that extend to the point where the Elkstone Place asphalt roadway abuts the concrete, snowmelted portion of Trail’s Edge Lane (the “**Elkstone/Trail’s Edge Junction**”); and (iv) further includes the adjacent portion of the concrete, snowmelted Trail’s Edge Lane that extends along, over, across and through the Elkstone General Common Elements in a southeasterly direction to the point where the portion of Trail’s Edge Lane located on the Elkstone General Common Elements abuts the Elkstone/Trail’s Edge Junction (the “**Trail’s Edge Community Junction**”).

WHEREAS, all of the concrete portion of the existing roadway improvements currently part of the Existing Snowmelt System (as defined below) that lies between the Elkstone/Trail’s Edge Junction and the Trail’s Edge Community Junction is together described as the “**Trail’s Edge Repair Area**”

WHEREAS, for purposes of the New System Installation Work (as defined below) the Common Roadway shall be deemed to include the Trail’s Edge Repair Area.

WHEREAS, for purposes of the Common Roadway Operation and resulting Common Roadway Costs (both as defined below), the Trail’s Edge Repair Area shall not be included but, rather all operational, repair, replacement and maintenance costs associated with the Trail’s Edge Repair Area shall be born, undertaken and paid exclusively by the TE Association.

WHEREAS, that portion of the existing roadway located west of the Access Junction that ends at the point where the asphalt currently abuts the concrete, snowmelted portion of the roadway at the intersection of the roadway where Trail’s Edge Lane (as defined below) begins for access to the Trail’s Edge Community separate from access to the Elkstone Units but does not include any portion of the existing roadway lying within the Trail’s Edge Community that extends easterly from the Access Junction, which generally is described as “**Trail’s Edge Lane.**” The Trail’s Edge Lane portion of the roadway currently is heated and serviced by an existing snowmelt system (the “**Existing Snowmelt System**”) that, in turn currently obtains its heating from the existing boiler system located on Tract A-7A that currently heats and services the Existing Snowmelt System (the “**Existing TE Boiler**”). Specifically, Trail’s Edge Lane (and not the Common Roadway) shall be deemed for purposes of this Agreement to include both the snowmelted portions of Trail’s Edge Lane roadway improvements beyond the Access Junction, as well as the roadway and adjacent sidewalk improvements accessing the Trail’s Edge Lots from the TE General Common Elements, all as further depicted and described on the Roadway Map Summary.

WHEREAS, the Parties desire to install a new/expanded snowmelt system for the non-snowmelted Common Roadway and further complete certain repairs or modifications to the roadway and curbing within the Trail’s Edge Repair Area (the “**New Snowmelt System**”) so as to connect the New Snowmelt System with the Existing Snowmelt System to provide one complete and contiguous snowmelt system servicing and heating the entire Common Roadway (the “**Common Roadway Snowmelt System**”), as well as Trail’s Edge Lane, and all heated and supplied by the Existing TE Boiler.

WHEREAS, the Parties desire to confirm, ratify and clarify the rights of the Parties to utilize the Common Roadway for ingress and egress to and from the Elkstone Community and Trail’s Edge Community, respectively, and to set forth procedures and details for undertaking and sharing costs and responsibilities for installing, maintaining, repairing, replacing, insuring and undertaking related steps

regarding the Common Roadway Snowmelt System, as well as the Common Roadway generally (all from and after the Effective Date).

WHEREAS, in addition to the foregoing, the Parties further desire formally and clearly to vacate and/or terminate certain outdated and/or expired easements for sales trailers, temporary construction access, and/or other matters that affect portions of the Elkstone and/or Trail's Edge Communities and, therewith, to clarify the Parties' intentions by stating and memorializing such vacations and/or terminations.

NOW, THEREFORE, in consideration of the mutual agreements and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged and accepted, the Parties hereby agree as follows:

I. GENERAL MATTERS

As set forth above, by this Agreement, the Parties desire to: (i) reconfirm the permanent and indefeasible nature of the access to and from Elkstone and Trail's Edge Communities by the Common Roadway (including through those portions of the Common Roadway currently not heated by the Existing Snowmelt System); (ii) confirm and establish their intentions to install the New Snowmelt System; and (iii) establish and reflect their agreement regarding procedures for sharing of costs and designating responsibilities for installing, maintaining and improving both the Common Roadway and the Common Roadway Snowmelt System, all as set forth below.

II. EASEMENT MATTERS

A. **Confirmation of Access Rights**. The Parties hereby ratify, confirm, agree and acknowledge that both the Elkstone and Trail's Edge Communities, as well as both (i) the Elkstone Owners (including any future Elk Lake Units) and (ii) the Trail's Edge Owners, as well as their respective guests, invitees and assignees, all have been granted and shall be deemed to enjoy perpetual, indefeasible rights for pedestrian, vehicular, non-vehicular and all related rights of access in, on, over, across and through the Common Roadway for purposes of ingress and egress to and from each respective community and its units/lots. Except as specifically provided in this Agreement, nothing contained herein shall limit or alter such rights including without limitation, any rights granted to the Elkstone Owners and/or Elkstone Association to access across Tract A-7A.

B. **Vacation/Termination of Prior/Expired Temporary Easement Rights**. The Parties hereby further confirm, agree and acknowledge, ratify and declare that all prior grants of temporary easements for construction trailers, excavation, fill, support, staging, storage, parking and/or related rights of access granted in and/or to any portions of the respective Elkstone Community or Trail's Edge Community by Elk Lake, the PBC Trust and/or any other successors-in-interest to the current Elkstone Owners and/or Trail's Edge Owners shall be deemed vacated, terminated, void and of no further effect or validity. This specifically shall relate to (though without limitation) any rights of temporary construction and/or sales related access contained in the following: (i) the Easement Agreement recorded in the San Miguel County Recorder official records (the "**Official Records**") on October 30, 2000 at Reception No. 337660; and (ii) the Easement Agreement and Grant of Easement recorded in the Official Records on November 8, 2004 at Reception No. 370284 and re-recorded on December 13, 2006 at Reception No. 388998. Nothing herein shall be deemed to exclude or prohibit retaining any existing fill, support or other installations of a permanent nature, if any.

C. **Vacation/Termination of Prior Inconsistent Common Roadway Easement Rights**. The Parties further hereby confirm, agree, acknowledge, ratify and declare that all prior grants of access

easements inconsistent with the existing location of the “as-built” Common Roadway and this Agreement shall be deemed vacated, terminated, void and of no further effect or validity. This specifically shall include, without limitation, any such grants of access and/or easement rights contained in, or implied from, any documents recorded in the Official Records that underlie or encroach upon any existing Elkstone Unit or Trail’s Edge Lot. Any existing Common Roadway access rights vested in any of the Parties or utilities providers relating to any portions of the Common Roadway shall be deemed to be vested in the entirety of the “as-built” Common Roadway, from and after the Effective Date.

D. **Grant of Common Roadway Snowmelt Systems Easement.** From and after the Effective Date, and only in the event that the New System Installation Work is properly and timely undertaken by Sterling according to the terms of this Agreement, the Parties hereby confirm, agree, acknowledge, ratify and declare that the Elkstone Community and Trail’s Edge Community, as well as both the Elkstone Association and the TE Association (by and on behalf of each association’s respective unit/townhome/lot owners) shall be deemed vested with, and hereby are granted and conveyed, full right power and authority to install, repair, replace, maintain and operate the Existing Snowmelt System and, once the New Snowmelt System is installed, the Common Roadway Snowmelt System. Such right, power and authority shall include, without limitation, all rights to access, improve and work on and with both the Existing TE Boiler and all installed snowmelt systems improvements and existing and in place from time-to-time.

III. COMMON ROAD OPERATIONS MATTERS

A. **The Current Common Roadway Operations.**

1. **The Existing Snowmelt System.** Until such time as the New Snowmelt System shall be designed, approved by the Town and any other regulatory bodies and fully constructed and placed into operation as the Common Roadway Snowmelt System (the “**Current Conditions Operations Period**”), the Existing Snowmelt System (including, without limitation, all portions of such system located in the Trail’s Edge Repair Area) shall be operated, maintained, repaired and replaced by the TE Association (the “**Existing Systems Operations**”). During this Current Conditions Operations Period, all costs associated with the Existing Systems Operations shall be borne entirely by the Trail’s Edge Community (the “**Existing Systems Costs**”). Existing System Costs shall not include any costs for New System Installation Work (as defined below).

2. **Operations on the Un-Snowmelted Common Roadway.** During the Current Conditions Operations Period, the un-snowmelted Common Roadway shall be operated, maintained (including snow and ice removal), repaired and replaced by the Elkstone Association (the “**Existing Roadway Operations**”). During the Current Conditions Operations Period, all costs associated with the Existing Roadway Operations shall be borne 58% by the Elkstone Community and 42% by the Trails’ Edge Community, in accordance with the attached **Schedule 2** (the “**Existing Roadway Costs**”), with the Elkstone Association billing the costs for such Existing Roadway Costs to the TE Association quarterly. The TE Association shall pay the Elkstone Association its share of such Existing Roadway Costs within 45 days after billing; provided, however, that the TE Association shall have the right for 15 days after such billing to challenge any such billed Existing Roadway Costs.

B. **The New Snowmelt System Approvals and Installation.**

1. **The New Snowmelt Approvals.** Sterling hereby agrees and commits to use its reasonable good faith efforts to undertake and obtain, at its sole cost and expense (as set forth below), such permitting, land use and similar approvals from the Town and/or any other necessary regulatory bodies as reasonably shall be required to (i) allow installation of the New Snowmelt System; (ii) connect this to the Existing TE Boiler; and (iii) enable operations of the Common Roadway Snowmelt System to commence

in connection with the Existing Snowmelt System (the “**New Snowmelt Approvals**”). In connection with such commitment by Sterling regarding the New Snowmelt Approvals, both the Elkstone Association and TE Association (on their own behalf and as agents for their respective owners/members) hereby represent, warrant and covenant to and with Sterling that they timely and fully shall provide all reasonably necessary documentation, endorsements, authorizations and/or (non-financial) support as shall be required for purposes of obtaining the New Snowmelt Approvals. Sterling shall file an application with the Town by no later than two business days after full execution, delivery and recordation of this Agreement and that certain First Amendment to Easement Agreement and Grant of Easement (the “**Ski Access Easement Amendment**”), for purposes of obtaining the New Snowmelt Approvals, and shall provide the TE Association’s counsel with a copy of same.

2. Commitments Regarding the New System Installation Work.

a. Within 10 business days after receiving the New Snowmelt Approvals, Sterling shall present to the TE Association, with a copy to the Elkstone Association, a notice (the “**New Systems Cost Notice**”) summarizing both costs expended for the New Snowmelt Approvals and estimated costs anticipated to install the approved New Snowmelt System with connection to the Existing TE Boiler and the Existing Snowmelt System (the “**New System Installation Work**”). The New System Cost Notice shall include a schedule itemizing line-items (with reasonable detail) for (i) costs incurred by Sterling in connection with the New Snowmelt Approvals; (ii) Sterling’s good faith estimate of costs projected to complete the New System Installation Work; (iii) all contracting, permitting, engineering, legal and other costs associated with these; and (iv) a 10% contingency allowance, based on (ii) and (iii) above (collectively, the “**System Cost Projections**”).

b. In the event that the New System Cost Notice reflects System Cost Projections of no more than \$200,000.00 (the “**Approved New System Cost Notice**”), then Sterling shall be obligated to undertake and commence the New System Installation Work.

c. In the event that the New System Cost Notice should reflect System Cost Projections in an amount in excess of \$200,000.00 then, within five business days after Sterling issues the New System Cost Notice, Sterling shall provide the TE Association, the Elkstone Association and the Escrow Agent (defined below) with a written notice (the “**TE Snowmelt Election Notice**”) electing one of the following options:

Either (i) Confirmation that Sterling elects to proceed with the New System Installation work, in which case Sterling shall bear responsibility for all costs (the “**Election to Fund Costs**”);

Or (ii) Confirmation that Sterling elects to decline pursuing the New System Installation Work and, accordingly, elects to direct the Escrow Agent to distribute the New Snowmelt Deposit, pursuant to Paragraph III. B. 4. below (the “**Snowmelt Rejection Election**”).

d. In the event that Sterling should provide a Snowmelt Rejection Election then, once the New Snowmelt Deposit has been disbursed pursuant to Paragraph III. B. 4. below, all obligations and commitments of the Parties shall cease with respect to the New Snowmelt Approvals and/or for Sterling to undertake the New System Installation Work. The foregoing notwithstanding, nothing associated therewith shall prevent Sterling and/or the Elkstone Association from undertaking the New System Installation Work (or similar work) at a future date, at its/their sole cost and expense (and at its/their sole and absolute discretion). In that event, the TE Association hereby commits to (i) allow the Party or Parties undertaking the New System Installation Work, after 30 days prior written notice, to connect the installed systems to the Existing TE Boiler (at no cost to the TE Association); and (ii)

thereafter allow operations of the New Snowmelt System to be undertaken pursuant to the Common Roadway Operations provisions set forth in Section III. C. below.

e. Failure by Sterling to deliver either an Election to Fund Costs or a Snowmelt Rejection Election within the five-day period described in Paragraph III. B. 2. c. above shall have the same effect, for purposes of this Agreement and the Escrow Agreement, as timely delivery by Sterling of a Snowmelt Rejection Election.

3. The New System Installation Work.

a. In the event that Sterling provides either (i) the Approved New System Cost Notice pursuant to Paragraph III. B. 2. b. above; or (ii) the Election to Fund Costs, pursuant to Paragraph III. B. 2. c. above then Sterling commits to commence the New System Installation Work as soon as possible, but in no event more than nine months thereafter (the “**Commencement Date**”).

b. Once so commenced, Sterling commits to use its reasonable good faith efforts timely and professionally to complete such New Systems Installation Work in accordance with the New Snowmelt Approvals within three months after the Commencement Date, subject to *force majeure* occurrences outside the control of Sterling (the “**Completion Date**”).

c. In connection therewith, both the Elkstone Association and TE Association (on their own behalf and as agents for their respective owners/members) hereby represent, warrant and covenant to and with Sterling that they timely and fully shall provide all reasonably necessary documentation, endorsements, authorizations, construction scheduling coordination and/or coordinated access as shall be required for purposes of enabling Sterling timely to obtain the New Snowmelt Approvals and complete all New System Installation Work.

d. Completion of the New System Installation Work shall include, without limitation, replacement of the surface of Tract A-7A and roadways affected and served by the New System Installation Work, substantially in compliance with Town road requirements and/or standards for access driveways of this type, and substantially equal to the currently existing condition of Trail’s Edge Lane.

e. In the event that Sterling should fail to complete the New System Installation Work within three months after the Completion Date (the “**Penalty Deadline**”), then (i) the TE Association shall immediately be entitled, upon written demand to the Escrow Agent, to receive payment of \$80,000.00 from the New Snowmelt Escrow (as defined below), without any further action, consent or authorization from any Party; and (ii) at any time thereafter, either or both of the Elkstone Association and/or the TE Association (jointly, the “**Associations**”) shall have the right and authorization (but not the obligation) to complete the New Systems Installation Work and secure reimbursement of all costs and expenses incurred in connection therewith from the New Snowmelt Deposit pursuant to Paragraph III. B. 4. c. below (the “**Completion Reimbursements**”).

4. The New Snowmelt System Escrow Deposit. Within five days after execution, delivery and recordation of both this Agreement and the Ski Access Easement Amendment, Sterling shall deposit into escrow the amount of \$200,000.00 (the “**New Snowmelt Deposit**”) to be held by Fidelity Title Insurance Company (the “**Escrow Agent**”) for purposes of securing Sterling’s commitments set forth herein regarding the New Snowmelt Approvals and New System Installation Work (the “**New Snowmelt Escrow**”). Until delivery and approval of the Completion Certification, the New Snowmelt Deposit shall not be used to fund the New Snowmelt Approvals or the New System Installation Work, except in the event of Completion Reimbursements to one or both of the Associations as set forth in Paragraph

III.B.3.e., above. Subject to the foregoing, the New Snowmelt Deposit shall be held and disbursed by the Escrow Agent, only as follows:

a. Once Sterling has completed the New System Installation Work, Sterling shall certify and provide written evidence to the Associations and the Escrow Agent of (i) its completion of the New System Installation Work; (ii) Town's acceptance thereof; and (iii) payment in full of all contractors and suppliers with potential mechanic's lien rights against the work performed, as evidenced by fully executed releases and/or final lien waivers from all such contractors and suppliers (the "**Completion Certification**"). The Completion Certification shall be delivered to the Associations and the Escrow Agent for the Associations' reasonable review and approval, which shall be granted or denied within five business days after receipt (and failure to deny after receipt of such notice shall be deemed approval). Upon the written approval by the Associations of the Completion Certification, the Escrow Agent shall disburse all of the New Snowmelt Deposit, plus any interest accrued thereon (if any), to Sterling within the earlier of (a) one business day after delivery of such approvals to Sterling and the Escrow Agent; or (b) in the event such approvals shall not be delivered to the Escrow Agent within 10 business days after the Completion Certification.

b. In the event that Sterling should deliver a Snowmelt Rejection Election pursuant to Paragraph III. B. 2. c. above then, within two business days after delivery of the Snowmelt Rejection Election, the Escrow Agent shall disburse (i) \$80,000.00 from the New Snowmelt Deposit to the TE Association; and (ii) the balance of the New Snowmelt Deposit (plus all interest earned thereon, if any, less any unpaid escrow fees) to Sterling. After such disbursement, all obligations of the Parties regarding the New Snowmelt System, under the pertinent New Snowmelt Escrow paragraphs of this Agreement shall terminate and be deemed of no further force or effect.

c. In the event that Sterling shall commence the New Systems Installation Work, but fail to complete this before the Penalty Deadline, then, after payment to the TE Association pursuant to Paragraph III. B. 3. e. above, then one or both of the Associations shall have the right (but not the obligation) to elect to exercise their rights to complete these pursuant to Paragraph III. B. 3. e. above. In that event, the completing Association(s) shall provide a Completion Certificate to the Escrow Agent, Sterling and any non-completing association (if any). If, within 10 business days thereafter, no objections have been made by Sterling or any non-completing Association, the Escrow Agent shall disburse from the New Snowmelt Escrow the Completion Reimbursement to the incurring Association(s), with any remaining balance, if any, being disbursed to Sterling within three business days thereafter. The Escrow Agent shall disburse to Sterling any amounts remaining in the New Snowmelt Escrow 12 months after the Penalty Deadline, without any further action, consent or authorization from any Party.

C. The Common Roadway Snowmelt Operations.

1. Common Roadway Operations. From and after completion of the New System Installation Work and connection of the New Snowmelt System to the Existing Snowmelt System and the Existing TE Boiler, the resulting Common Roadway Snowmelt System and all other matters relating to the Common Roadway (except the Existing TE Boiler, which shall be operated and maintained by the TE Association pursuant to Paragraph III. C. 3. Below) shall be operated maintained, repaired and replaced by the Elkstone Association (the "**Common Roadway Operations**").

2. Common Roadway Operations Costs.

a. From and after the date the associations approve the Completion Certification, all costs associated with the Common Roadway Operations shall be borne and shared between the Elkstone Community and Trail's Edge Community, respectively, on a pro rata basis calculated by the then-current

number of units and lots that constitute the members of both the Elkstone Association and the TE Association, respectively, from time-to-time (the “**Sharing Ratio**”). Thus, as of the Effective Date, the Sharing Ratio for the TE Community shall be reflected as 42% (based on 21 of 50 total lots/units) with the Elkstone Association Sharing Ratio reflected as 58% (based on 29 of 50 total lots/units). In the event that all four of the Elk Lake Units should be added into the Elkstone Community, that in turn would result in a 39% Sharing Ratio for the TE Association (based on 21 of 54 total lots/units) and 61% for the Elkstone Association (based on 33 of 54 total lots/units). In the event more than four Elk Lake Units are properly added to the Elkstone Community, the Sharing Ratios described above shall be adjusted accordingly.

b. The Elkstone Association will bill the costs for such Common Roadway Operations to the TE Association quarterly (the “**Common Roadway Costs**”) and the TE Association shall pay the Elkstone Association its share of the Common Roadway Costs within 45 days after billing; provided, however, that the TE Association shall have the right for 15 days after such billing to challenge any such billed Common Roadway Costs.

3. TE Boiler Operations and Costs. The TE Community and the Elkstone Community shall share the costs of operating, managing, repairing and replacing the Existing TE Boiler in a manner capable of heating and servicing both the Common Roadway Snowmelt System and the Existing Snowmelt System with the same Sharing Ratio as that of the Common Roadway Operations described above. The TE Association shall bear the responsibility for operating, managing, repairing and replacing the Existing TE Boiler and then shall allocate and bill the Elkstone Association only for that share of such costs as shall be attributable to the Elkstone Association’s Sharing Ratio (the “**Common Snowmelt Heating Costs**”). The Elkstone Association shall pay the TE Association its share of the Common Snowmelt Heating Costs based on its Sharing Ratios within 45 days after billing; provided, however, that the Elkstone Association shall have the right for 15 days after such billing to challenge any such billed Snowmelt Heating Costs.

4. The Annual Budgets. The Elkstone Association and the TE Association shall establish an annual operations and reserve budget, covering anticipated expenses of both the Common Roadway Operations and the Existing TE Boiler (the “**Annual Budget**”), which Annual Budget shall include budget allowances for the (i) repair, upkeep and maintenance and (ii) capital reserves for both the Common Roadway Costs and Common Snowmelt Heating Costs. The Annual Budget shall be adopted by both Associations before the end of the calendar year covered by the prior Annual Budget and failure by the Associations so to adopt an Annual Budget shall result in the prior year’s Annual Budget continuing until such time as a new Annual Budget is so adopted by both Associations. Any non-budgeted expenses in excess of \$2,500 shall require the prior written approval of the Boards for both Associations (with any failure to object within 10 business days after receipt of notice being deemed approved).

D. Sterling and Elkstone Association Non-Responsibilities. The Parties hereby acknowledge, accept and agree that nothing contained in this Agreement shall create any responsibility or liability for the Elkstone Association to construct or install the New Snowmelt System, under any circumstances. Furthermore, in the event that the Systems Cost Projections reflected in the New Systems Cost Notice should exceed \$200,000.00 and Sterling should provide a Snowmelt Rejection Election then, upon Escrow Agent’s disbursement of the New Snowmelt Deposit pursuant to Paragraph III. B. 4. b. above, Sterling shall have no further obligations to construct or install the New Snowmelt System.

E. Sterling Commitments to Hold Harmless. Sterling hereby confirms, represents, and warrants to and with both the Elkstone Association and TE Association that, should it undertake the New System Installation Work (including, without limitation, any actions Sterling should take after a Snowmelt Rejection Election pursuant to Paragraph III. B. 2. d.), Sterling will keep both the Elkstone

General Common Elements and the TE General Common Elements free and clear of any liens or claims associated with the New Snowmelt Approvals and/or New System Installation Work, and shall indemnify and hold harmless the Elkstone Association and the TE Association from and against any cost, liability or expense arising therefrom, including reasonable attorneys' fees and legal costs.

IV. GENERAL MATTERS

A. **Costs Allocations.** The Sharing Ratios, allocations and responsibilities for the Existing Systems Costs, the Common Roadway Costs and the Elkstone Snowmelt Heating Costs are summarized and set forth on the attached **Schedule 3.**

B. **Insurance Obligations.** Each of the Associations shall obtain and maintain in full force and effect, from and after the Effective Date, property damage and public liability insurance policies (each with an aggregate and per-occurrence limited of no less than \$2,000,000.00) insuring that such association and its respective owners/members (and naming the other association and its respective owners/members as additional named parties) from and against all liabilities related to the Common Roadway.

C. **Respective Operations/Payment Rights and Obligations.** In the event that any Party should fail fully and timely to perform any obligation contained in Section III above, then the other Parties shall have the right to provide written notice of such default to the defaulting Party and, if such default is not cured within five days after such written notice, to undertake and/or perform the defaulted obligation and charge the defaulting Party with all costs associated with such undertaking/performance. In the event that any Party should fail timely to pay any assessment for costs incurred pursuant to Section II, then the paying Party shall be entitled to recover all costs associated with such nonpayment (including assessing default interest on all unpaid amounts accruing at the rate of 1.5% per month).

D. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon the Parties and their respective heirs, successors, legal representatives and assigns. The Parties hereto represent, covenant and warrant to and with each other that they are fully authorized to execute this Agreement and have taken all actions necessary to obtain such authorization.

E. **Recordation.** This Agreement shall be recorded in the Official Records.

F. **Effective Upon Execution and Recordation.** This Agreement shall not be binding upon any Party and shall not become effective until it is executed and recorded by the Parties.

G. **No Further Rights; No Third Party Rights.** Except as expressly set forth herein, nothing contained herein shall be construed as creating any rights in any third persons or parties.

H. **Modification.** This Agreement represents the complete, integrated, and merged understanding of the Parties, and no prior or contemporaneous term, condition, promise, representation, or understanding regarding the subject matter herein shall be of any legal force or effect unless it is embodied herein in writing or in a written amendment to this Agreement. This Agreement may not be amended, terminated or otherwise modified, nor may this Agreement be assigned by any Party, except in writing signed by all the Parties.

I. **Governing Law.** The Parties hereby agree and accept that Colorado law shall govern this Agreement, with venue in San Miguel County, Colorado.

J. **Captions.** Captions are for convenience only and are not to be construed as defining or limiting in any way the scope of intent of the provisions of such sections.

K. **Severability.** Should any term or provision of this Agreement, or the application thereof to any person or circumstances to any extent, be determined to be invalid or unenforceable by a court of competent jurisdiction or altered or modified as the result of any voter referendum or initiative, unless agreed to in writing by all the Parties, the remaining terms and provisions of this Agreement (including any rights, obligations, privileges, permits, and/or approvals arising therefrom) shall remain in full effect, unaltered.

L. **Attorneys' Fees and Costs.** In the event of any controversy, claim or dispute relating to or arising from the provisions of this Agreement or the provisions contained herein, the prevailing Party or Parties shall recover their actual, reasonable legal fees and related expenses (both court costs and costs of any expert witnesses or consultants) including, without limitation, all post-judgment fees and expenses and costs of collection.

M. **Time is of the Essence; Waiver.** Time is of the essence in all instances involved in this Agreement. No waiver by any Party or any failure or refusal to comply with its obligations herein shall be deemed a waiver of any other or subsequent failure or refusal to so comply, and any such waiver made shall be in writing subscribed by the Party intended to be benefitted thereby.

N. **Recitals.** The Recitals set forth above shall be deemed part of this Agreement and fully enforceable.

O. **Notice.** If the Parties wish to contact or notify each other and/or the Escrow Agent concerning the subject matter herein, they shall deliver written notice, via U.S. Mail, certified, return receipt requested, by e-mail, or by personal delivery obtaining a signed receipt as outlined below. Said notice shall be effective when received by the noticed Party. Received means when the communication arrives. If a Party's contact information changes, it shall be the responsibility of that Party to notify all the other Parties and the Escrow Agent about said change.

If to Elkstone Association: Elkstone Owners Association, Inc.
Attn: President
P.O. Box 3071
Telluride, CO 81435

With a Copy to: Russell & Pieterse, LLC
c/o Nicole Y. Pieterse, Esq.
P.O. Box 2673
Telluride, Colorado 81435
nicolepieterse@lawtelluride.com

If to Sterling: Sterling Capital LLC
c/o Lee A. Hooper
Two Ravinia Drive, Suite 1120
Atlanta, GA 30346-2107
lee.hooper@sterlingtr.com

With a Copy to: Tueller & Associates, P.C.
c/o Douglas R. Tueller, Esq.

TRAIL'S EDGE AT DOUBLE CABINS OWNERS ASSOCIATION, INC.,
a Colorado non-profit corporation

By: _____
Bruce MacIntire, President

STATE OF COLORADO)
)ss.
COUNTY OF SAN MIGUEL)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2013, by Bruce MacIntire as President of the Trail's Edge at Double Cabins Owners Association, Inc., a Colorado non-profit corporation.

WITNESS my hand and official seal.
My commission expires:

Notary Public

STERLING CAPITAL LLC,
a Georgia limited liability company

By: _____
Lee A. Hooper, Vice President

STATE OF GEORGIA)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on the ____ day of _____ 2013, by Lee A. Hooper, as Vice President of Sterling Capital LLC, a Georgia Limited liability company.

WITNESS my hand and official seal.
My commission expires:

Notary Public

Schedule 1

(to Joint Access Easement, Snowmelt and Maintenance Agreement)


Common Roadway and the Existing Snowmelt System

Site Plan


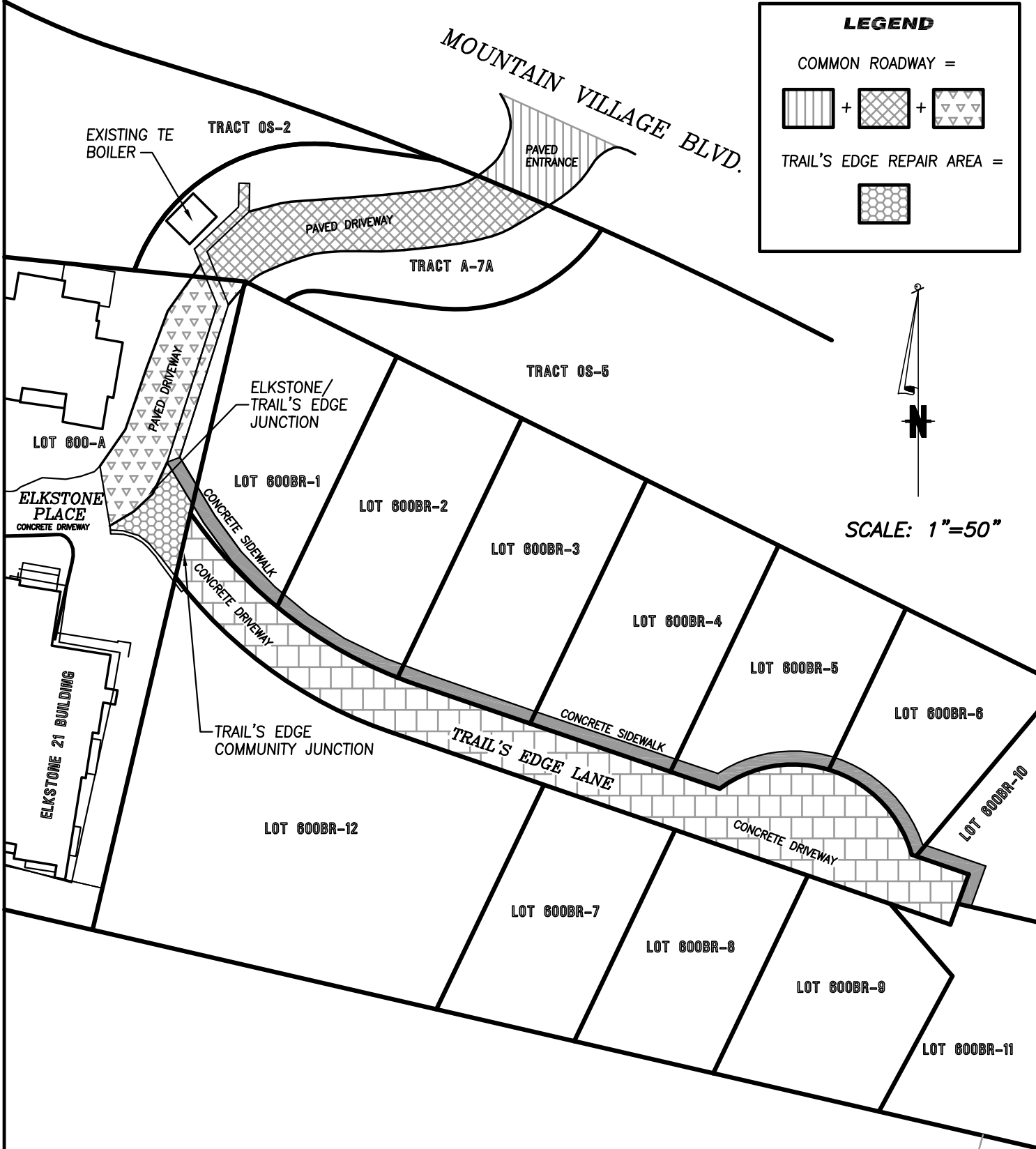
SCHEDULE 1 COMMON ROADWAY AND THE EXISTING SNOWMELT SYSTEM SITE PLAN

LEGEND

COMMON ROADWAY =



TRAIL'S EDGE REPAIR AREA =

SCALE: 1"=50"

Rev	Description	Date	By

FOLEY ASSOCIATES, INC.
ENGINEERING - PLANNING - SURVEYING

PO Box 1085, 7577 Pacific Ave. Suite B1
Portland, Oregon 97205
phone 503 728 8100 fax 503 728 8080
e-mail: info@foley-assoc.com

Client: _____




Contact: _____

Schedule 2
(to Joint Access Easement, Snowmelt and Maintenance Agreement)

Sharing Ratios of Existing Roadway Costs

Schedule 2
Sharing Ratios of Existing Roadway Costs

UN-SNOWMELTED COMMON ROADWAY




	<u>Corresponding Crosshatch from Schedule 1, Existing Common Roadway Costs</u>	<u>Square Footage</u>	<u>Percentage</u>	<u>Sharing Ratios</u>	<u>Elkstone</u>	<u>Trail's Edge</u>
Drive Portion from Mountain Village Blvd. over Town ROW		1,024	19.1%	58% Elkstone 42% Trail's Edge	11.1%	8.0%
Drive Portion over Tract A-7A		2,635	49.0%	58% Elkstone 42% Trail's Edge	28.4%	20.6%
Drive portion over Elkstone General Common Elements to Access Junction		1,715	31.9%	58% Elkstone 42% Trail's Edge	18.5%	13.4%
		<u>5,374</u>	<u>100.0%</u>		<u>58.0%</u>	<u>42.0%</u>

Schedule 3
(to Joint Access Easement, Snowmelt and Maintenance Agreement)

Sharing Ratios/Cost Allocation Summary




Schedule 3
Sharing Ratios of Common Roadway Costs (with New Snowmelt System) and Common Snowmelt Heating Costs

UPON COMPLETION OF THE NEW SNOWMELT SYSTEM (SEE NOTE 1)




	Corresponding Crosshatch from Schedule 1, Existing Common Roadway Costs	Square Footage	Percentage	Sharing Ratios	Elkstone	Trail's Edge
I. SHARING RATIOS OF COMMON ROADWAY COSTS (See Note 2):						
Drive Portion from Mountain Village Blvd. over Town ROW		1,024	19.1%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	11.1%	8.0%
Drive Portion over Tract A-7A		2,635	49.0%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	28.4%	20.6%
Drive Portion over Elkstone General Common Elements to Access Junction		1,715	31.9%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	18.5%	13.4%
TOTAL COMMON ROADWAY COSTS RATIOS		5,374	100.0%		58.0%	42.0%

II. SHARING RATIO OF COMMON SNOWMELT HEATING COSTS (See Note 3):

A. Common Portion of Elkstone Place

Drive Portion from Mountain Village Boulevard over Town ROW		1,024	6.8%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	3.9%	2.8%
Drive Portion over Tract A-7A		2,635	17.4%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	10.1%	7.3%
Drive Portion over Elkstone General Common Elements to Access Junction		1,715	11.3%	58% Elkstone (29 Units) 42% Trail's Edge (21 Units)	6.6%	4.8%
Total Common Portion of Elkstone Place		5,374	35.5%		20.6%	14.9%

B. Trail's Edge Lane

Concrete Drive beyond Access Junction leading to Trail's Edge over Elkstone General Common Elements (Trail's Edge Repair Area)		537	3.5%	100% Trail's Edge	0.0%	3.5%
Concrete Driveway on TE General Common Elements		7,524	49.6%	100% Trail's Edge	0.0%	49.6%
Concrete Sidewalk on TE General Common Elements		1,721	11.4%	100% Trail's Edge	0.0%	11.4%
Total Trail's Edge Lane		9,782	64.5%		0.0%	64.5%
TOTAL COMMON SNOWMELT HEATING COSTS RATIOS		15,156	100.0%		20.6%	79.4%

Notes and Additional Information:

- 1) Unless otherwise noted, all references contained in Notes and Additional Information refer to the document entitled JOINT ACCESS EASEMENT, SNOWMELT AND MAINTENANCE AGREEMENT ELKSTONE/TRAIL'S EDGE AT DOUBLE CABINS.
- 2) These Common Roadway Costs include costs for the New Snowmelt System installed in the Common Roadway which will be incurred by the Elkstone Association and billed to the TE Association, as described in Section III.C.2.b, and exclude costs related to the Existing TE Boiler (see Note 3, below).
- 3) These Common Snowmelt Heating Costs will be incurred by the TE Association and billed to the Elkstone Association, as described in Section III.C.3, and relate only to expenditures made in connection with the Existing TE Boiler, and exclude any Common Roadway Costs (see Note 2, above).