



**First American  
Title Insurance Company**

## LISTING PACKAGE

7/31/2025

[ashane.files@gmail.com](mailto:ashane.files@gmail.com)

**Attn:** April Shane

We appreciate the opportunity to serve you and thank you for choosing First American Title. Attached please find the following:

- Tax Information
- Vesting Deed
- Deed of Trust
- As Built
- As Built Not Found
- Plat Map
- Tax Map
- CCR's
- CCR's Not Found
- Other:

Owner Name(s): WILLIAMS LUKE L & KIM-DUN

Physical Address: 29384 S WINGTIE ST

Legal Description: LOT 13 BLK 2 BIRCH CRK LNDG, PLAT NUMBER 2016-6, TALKEETNA RECORDING DISTRICT

Please do not hesitate to contact me at 907-561-1844 or [cs.alaska@firstam.com](mailto:cs.alaska@firstam.com) if I may be of further assistance. I understand you have a choice and hope you will choose First American Title for your next transaction. Have a wonderful day!

Sincerely,

*Kellie Trolz*

Kellie Trolz, Title Customer Service

Enclosures

### NOTICE OF DISCLAIMER OF LIABILITY

*This letter and the accompanying materials do not constitute a policy of Title Insurance or a Commitment for Title Insurance. Further, they are not an abstract of title. These materials are furnished as a courtesy by First American Title Insurance Co., and the Company does not take responsibility for the completeness or accuracy of the materials. If you desire a complete report on the status of title, please contact the above named person to arrange for a Commitment or Policy. No transaction or decision should be made based on these materials until such time as the Company has the opportunity to perform a complete search and is prepared to issue a Policy.*

1400 W Benson Blvd, Suite 250, Anchorage, AK 99503  
TEL 907-561-1844 | FAX 907-561-1948  
[ak.firstam.com](http://ak.firstam.com)



# MATANUSKA-SUSITNA BOROUGH

## Real Property Detail for Account: 57531B02L013

### Site Information

Account Number	57531B02L013	Subdivision	BIRCH CRK LNDG
Parcel ID	527434	City	None
TRS	S25N04W20	Map TA15	Tax Map
Abbreviated Description (Not for Conveyance)	BIRCH CRK LNDG BLOCK 2 LOT 13		

Site Address 29384 S Wingtie St

### Ownership

Owners	WILLIAMS LUKE L & KIM-DUN	Buyers	
Primary Owner's Address	8202 GOLDEN SHINER CT RICHMOND TX 77469	Primary Buyer's Address	

### Appraisal Information

Appraisal Information				Assessment			
Year	Land Appraised	Bldg. Appraised	Total Appraised	Year	Land Assessed	Bldg. Assessed	Total Assessed <sup>1</sup>
2025	\$38,000.00	\$0.00	\$38,000.00	2025	\$38,000.00	\$0.00	\$38,000.00
2024	\$38,000.00	\$0.00	\$38,000.00	2024	\$38,000.00	\$0.00	\$38,000.00
2023	\$38,000.00	\$0.00	\$38,000.00	2023	\$38,000.00	\$0.00	\$38,000.00

### Building Information

#### Building Item Details

Building Number	Description	Area	Percent Complete
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### Tax/Billing Information

Year	Certified	Zone	Mill	Tax Billed	Recorded Documents	Recording Info (offsite link to DNR)
2025	Yes	0050	14.741	\$560.16	1/15/2021 WARRANTY DEED (ALL TYPES)	<a href="#">Talkeetna 2021-000057-0</a>
2024	Yes	0050	15.083	\$573.15		
2023	Yes	0050	14.738	\$560.05		

### Tax Account Status <sup>2</sup>

Status	Tax Balance	Farm	Disabled Veteran	Senior	Total <sup>3</sup>	LID Exists
Current		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00 No

### Land and Miscellaneous

Gross Acreage	Taxable Acreage	Assembly District	Precinct	Fire Service Area	Road Service Area
2.00	2.00	Assembly District 007	<a href="#">30-600</a>	024 Talkeetna FSA	029 Greater Talkeetna RSA

<sup>1</sup> Total Assessed is net of exemptions and deferrals, rest, penalties, and other charges posted after Last Update Date are not reflected in balances.

Last Updated: 7/31/2025 4:00:01 PM

<sup>2</sup> If account is in foreclosure, payment must be in certified funds.

<sup>3</sup> If you reside within the city limits of Palmer or Houston, your exemption amount may be different.



Record in the Talkeetna Recording District  
Return to Luke and Kim-Dung Williams  
8202 Golden Shiner Court  
Richmond, TX 77469

**WARRANTY DEED**

(Creating Tenancy by the Entirety)

M988688

The Grantor, CREATIVE DEVELOPMENTS, LLC, an Alaska limited liability company, whose address is PO Box 821, Talkeetna, AK 99676, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, does hereby convey and warrant unto the Grantee, LUKE L. WILLIAMS and KIM-DUNG THI WILLIAMS, husband and wife, whose address is 8202 Golden Shiner Court, Richmond, TX 77469, as TENANTS BY THE ENTIRETY, with the right of survivorship, and to the heirs and assigns of the survivor, the following described real property:

Lot Thirteen (13), Block Two (2), BIRCH CREEK LANDING, according to the official plat thereof, filed under Plat No. 2016-6, in the records of the Talkeetna Recording District, Third Judicial District, State of Alaska.

SUBJECT TO ALL reservations, easements, exceptions, restrictions, covenants, conditions, plat notes, by-laws and rights-of-way of record, if any, and as set forth below.

SUBJECT TO Easement for road access as set forth in Quitclaim Deed recorded June 22, 1976 in Book 60 at Page 517.

SUBJECT TO the terms, conditions, provisions and future liens of the Uniform Common Interest Ownership Act, and/or the Horizontal Property Regimes Act, and any amendments thereto, of the State of Alaska (Chapter 34.08 and Chapter 34.07 AS) and future dues and/or assessments to the Birch Creek Owners Association.

TOGETHER WITH, ALL AND SINGULAR, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the premises, all and singular, together with the appurtenances and privileges thereto incident unto said Grantee, and to the heirs, executors, administrators and assigns of the survivor, FOREVER.

DATED 12/18/2020

GRANTOR:

CREATIVE DEVELOPMENTS, LLC

*Andrew Haag*

ANDREW HAAG, Member

STATE OF ALASKA            )  
  ) ss:  
THIRD JUDICIAL DISTRICT    )

The foregoing instrument was acknowledged before me on 12/18/2020,  
by ANDREW HAAG, Member of Creative Developments, LLC.

*Sarah Russell*  
Notary Public in and for Alaska  
My Commission expires: 12/25/2023



**CONVEYANCE OR TRANSFER RESTRICTED AT PAGE FOUR****DEED OF TRUST**

M988688

**THIS DEED OF TRUST** made this 21 day of DECEMBER, 2020,**BETWEEN LUKE L. WILLIAMS and KIM-DUNG THI WILLIAMS, husband and wife,** whose address is 8202 Golden Shiner Court, Richmond, TX 77469, herein called **TRUSTOR**,**STEWART TITLE dba MCKINLEY TITLE & TRUST**, whose address is 3035 E. Palmer-Wasilla Highway, Suite 101, Wasilla AK 99654, herein called **TRUSTEE**, and**CREATIVE DEVELOPMENTS, LLC, an Alaska limited liability company**, whose address is PO Box 821, Talkeetna, AK 99676, herein called **BENEFICIARY**,**WITNESSETH: That Trustor GRANTS, BARGAINS, SELLS, and CONVEYS to TRUSTEE IN TRUST WITH POWER OF SALE, that property described as:****Lot Thirteen (13), Block Two (2), BIRCH CREEK LANDING, according to the official plat thereof, filed under Plat No. 2016-6, in the records of the Talkeetna Recording District, Third Judicial District, State of Alaska.****TOGETHER** with the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, the rents, issues and profits thereof, **SUBJECT, HOWEVER**, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits. To have and to hold the same, with the appurtenances, unto Trustee.**FOR THE PURPOSE OF SECURING:** 1. The performance of each agreement of Trustor herein contained. 2. Payment of indebtedness evidenced by one Deed of Trust Note of even date herewith, in the principal sum of \$56,000.00 payable to Beneficiary or order.**A. To protect the security of this Deed of Trust, Trustor agrees:****1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to maintain in an orderly manner, paint, repair, keep free from freezing, and do all other acts which**

from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to the Beneficiary in an amount not less than the full insurable value. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine or, at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary, or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

4. To pay: at least ten days before delinquency all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, with interest from date of expenditure at the rate set forth in the Deed of Trust Note secured hereby.

6. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

**B. It is mutually agreed that:**

1. Trustor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the property. Trustor shall not do, nor allow anyone else to do, anything affecting the property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the property of household consumer products for consumer uses.

Trustor shall promptly give Beneficiary notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the property and Hazardous Substance or Environmental Law of which Trustor has actual knowledge. If Trustor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the property is necessary, Trustor shall promptly take all necessary remedial actions in accordance with Environmental law.

"Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, "Environmental Law" means federal laws and laws of the State of Alaska that relate to health, safety or environmental protection.



2. Any award or damages in connection with any condemnation for public use of or injury to said property or any part thereof, is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by Beneficiary in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

3. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive Beneficiary's right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

4. At any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey all or any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

5. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

6. As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

7. Upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In the event of default Beneficiary shall execute or cause the Trustee to execute a written notice of such default and of his election to cause to be sold the herein described property to satisfy the obligation hereof, and shall cause such notice to be recorded in the office of the recorder of each recording precinct wherein said real property or some part thereof is situated.

Notice of sale having been given as then required by law and not less than the time then required by law having elapsed after recordation of such notice of default, Trustee, without demand on Trustor, shall sell said property at the time and place of sale fixed by it in said notice of sale, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash in lawful money of the United States, payable at the time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public



announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary, as hereunder defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust including cost of evidence of title and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid with accrued interest at the rate set forth in the Deed of Trust Note secured hereby; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

8. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the holder and owner, including pledgee, of the Note secured hereby, whether or not named as a beneficiary herein, or, if the Note has been pledged, the pledgee thereof. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

9. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

10. Beneficiary may, from time to time, as provided by statute, appoint another Trustee in place and stead of Trustee herein named, and thereupon, the Trustee herein named shall be discharged and Trustee so appointed shall be substituted as Trustee hereunder with the same effect as if originally named Trustee herein.

11. Nothing contained herein shall be construed to limit the right of Beneficiary to foreclose this Deed of Trust by judicial action. Beneficiary shall further be entitled to bring an action upon the Note secured by this Deed of Trust without attempting to foreclose this Deed of Trust either by judicial action or by exercise of the power of sale. Trustor and all other parties obligated under the Note, if any, shall be liable for and agrees to pay any deficit.

12. If two or more persons be designated as Trustee herein, any, or all, powers granted herein to Trustee may be exercised by any of such persons, if the other person or persons is unable, for any reason, to act, and any recital of such inability in any instrument executed by any of such persons shall be conclusive against Trustor, his heirs and assigns.

13. The Deed of Trust Note secured by this Deed of Trust, unless sooner paid, is all due and payable on or before December 1, 2025. It is agreed and acknowledged that the "date of maturity" of this instrument, as that term is used in AS 34.20.150, is 6 years after the due date specified above. If no date is entered above, then the maturity date is that date occurring 40 years from and after the date of execution of this Deed of Trust, unless terminated sooner in accordance with the provisions of the Deed of Trust Note.

### C. SPECIAL CONDITIONS AND COVENANTS CONVEYANCE OR TRANSFER RESTRICTED

Until the Note secured hereby is paid in full, Trustor further agrees not to sell, convey, transfer or dispose of the subject real property described above, or any part thereof, or any interest therein, or agree to do so without the written consent of the Beneficiary being first obtained, and should Trustor do any of the foregoing without such written consent, Beneficiary shall have the right, at Beneficiary's option, to declare all sums secured hereby forthwith due and payable.



Consent to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transaction.

TRUSTOR:

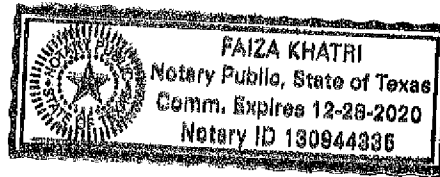
*[Signature]*  
LUKE L. WILLIAMS

*[Signature]*  
KIM-DUNG THI WILLIAMS

STATE OF TEXAS )  
COUNTY OF Fortbend ) ss.

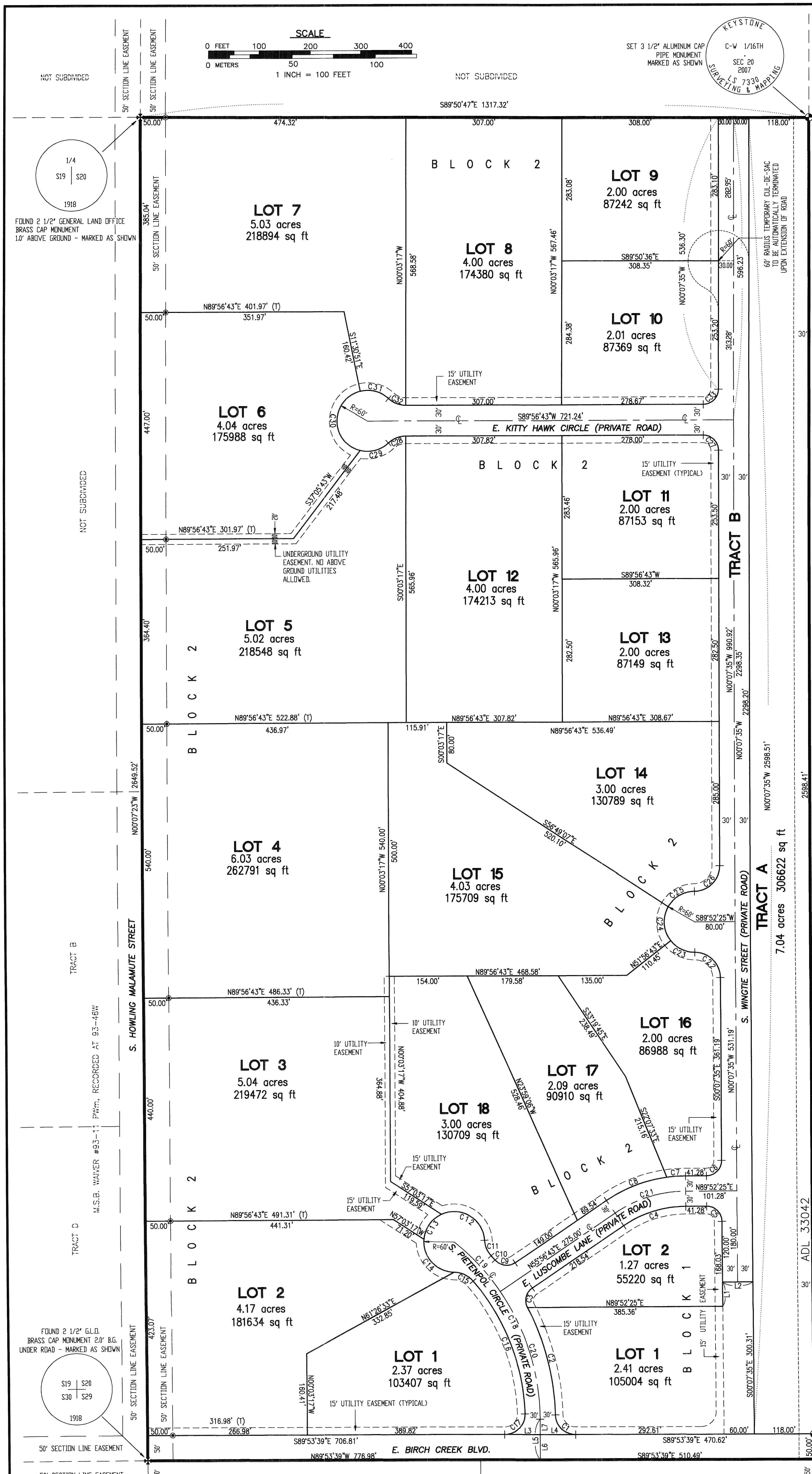
The foregoing instrument was acknowledged before me on 12/21/2020, by LUKE L. WILLIAMS and KIM-DUNG THI WILLIAMS.

*[Signature]*  
Notary Public in and for Texas  
My commission expires: 12-28-2020



Record in the Talkeetna Recording District  
Return to First National Bank Alaska  
PO Box 100720  
Anchorage AK 99510-0720





**CERTIFICATE OF OWNERSHIP & DEDICATION**  
 WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED IN THIS PLAN AND THAT WE ADOPT THIS PLAN OF SUBDIVISION BY OUR FREE CONSENT, DEDICATE E. BIRCH CREEK BOULEVARD TO THE MATANUSKA-SUSITNA BOROUGH AND GRANT ALL EASEMENTS TO THE USE SHOWN.

*Timothy Michael Costello* 4/17/16  
 TIMOTHY MICHAEL COSTELLO/MEMBER DATE  
 CREATIVE DEVELOPMENTS, LLC  
 AND TIMOTHY MICHAEL COSTELLO OF THE  
 TIMOTHY MICHAEL COSTELLO TRUST DATED 4/13/1988  
 (BUT WHOLLY AMENDED AND RESTATED JANUARY 12, 1994)  
 P.O. BOX 1023  
 TALKKEETNA, ALASKA 99676-1023

**NOTARY ACKNOWLEDGMENT**  
 SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF April, 2016  
 FOR *Timothy Michael Costello*  
*Spud K. Russell*  
 NOTARY FOR THE STATE OF ALASKA  
 MY COMMISSION EXPIRES 12/25/2019

**NOTARY ACKNOWLEDGMENT**  
 SUBSCRIBED AND SWORN TO BEFORE ME THIS 17th DAY OF April, 2016  
 FOR *Andrew Haag*  
*Spud K. Russell*  
 NOTARY FOR THE STATE OF ALASKA  
 MY COMMISSION EXPIRES 12/25/2019

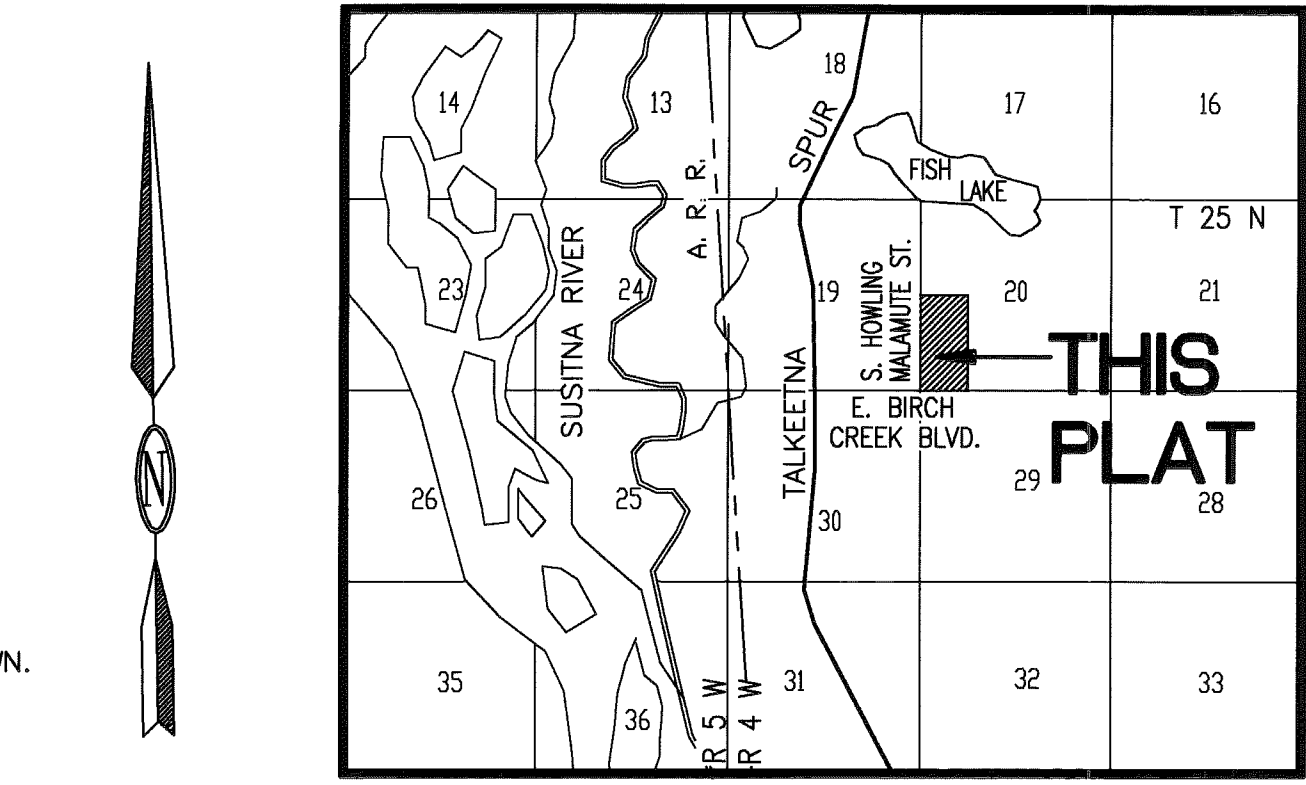
**LEGEND**  
 \* FOUND 2 1/2" GENERAL LAND OFFICE BRASS CAP MONUMENT - AS SHOWN AND DESCRIBED  
 ⊕ FOUND 3 1/4" ALUMINUM CAP MONUMENT ON 5/8" REBAR - AS SHOWN AND DESCRIBED  
 ⊙ SET 3 1/2" ALUMINUM CAP PIPE MONUMENT - AS SHOWN AND DESCRIBED  
 ○ FOUND 2" BRASS CAP MONUMENT - AS SHOWN AND DESCRIBED  
 ● SET WITNESS CORNER AT THE INTERSECTION OF LOT LINES WITH THE SECTION LINE EASEMENT IN LIEU OF SETTING LOT CORNER ON SECTION LINE.  
 (T) = TOTAL DISTANCE

**NOTES**  
 1. THERE MAY BE FEDERAL, STATE AND LOCAL REQUIREMENTS GOVERNING LAND USE. IT IS THE RESPONSIBILITY OF THE INDIVIDUAL PARCEL OWNER TO OBTAIN A DETERMINATION WHETHER SUCH REQUIREMENTS APPLY TO THE DEVELOPMENT OF PARCELS SHOWN HEREON.  
 2. NO INDIVIDUAL WATER SUPPLY SYSTEM OR SEWAGE DISPOSAL SYSTEM SHALL BE PERMITTED ON ANY LOT UNLESS SUCH SYSTEM IS LOCATED, CONSTRUCTED AND EQUIPPED IN ACCORDANCE WITH THE REQUIREMENTS, STANDARDS AND RECOMMENDATIONS OF THE STATE OF ALASKA, DEPARTMENT OF ENVIRONMENTAL CONSERVATION, WHICH GOVERN THOSE SYSTEMS.  
 3. BASIS OF BEARING FROM SOLAR OBSERVATION TAKEN AT THE SOUTHEAST CORNER THIS SUBDIVISION.  
 4. 5/8" x 30" REBAR WITH SELF-IDENTIFYING PLASTIC CAP SET AT ALL LOT CORNERS, P.C.'S, P.I.'S AND P.R.C.'S UNLESS NOTED.  
 5. EASEMENTS OF RECORD NOT PLOTTED HEREON:  
 a) M.E.A. EASEMENT RECORDED FEBRUARY 12, 2008 AT SERIAL #2008-000202-0, TALKKEETNA RECORDING DISTRICT  
 6. NO BOROUGH MAINTENANCE IS PROVIDED ON PRIVATE ROADS.  
 7. THE RIGHT OF WAY FOR E. BIRCH CREEK BOULEVARD IS DEDICATED THIS PLAT.  
 8. PRIVATE ROADS ARE SHOWN HEREON AND ARE NOT DEDICATED TO THE PUBLIC.  
 9. NO BOROUGH FUNDS SHALL BE EXPENDED TO UPGRADE OR MAINTAIN PRIVATE ROADS.  
 10. NO LOT SHALL HAVE DIRECT ACCESS TO E. BIRCH CREEK BOULEVARD.  
 11. TRACT B CONSISTS OF ALL THE (PRIVATE ROADS) ACREAGE = 6.05 ACRES (263,629 SQUARE FEET)

**PLANNING & LAND USE DIRECTOR'S CERTIFICATE**  
 I CERTIFY THAT THIS SUBDIVISION PLAT HAS BEEN FOUND TO COMPLY WITH THE LAND SUBDIVISION REGULATIONS OF THE MATANUSKA-SUSITNA BOROUGH, AND THAT THE PLAT HAS BEEN APPROVED BY THE PLATTING AUTHORITY BY PLAT RESOLUTION NO. 2016-43 DATE Nov 16, 2016 AND THAT THIS PLAT HAS BEEN APPROVED FOR RECORDING IN THE TALKKEETNA RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA, IN WHICH THE PLAT IS LOCATED.

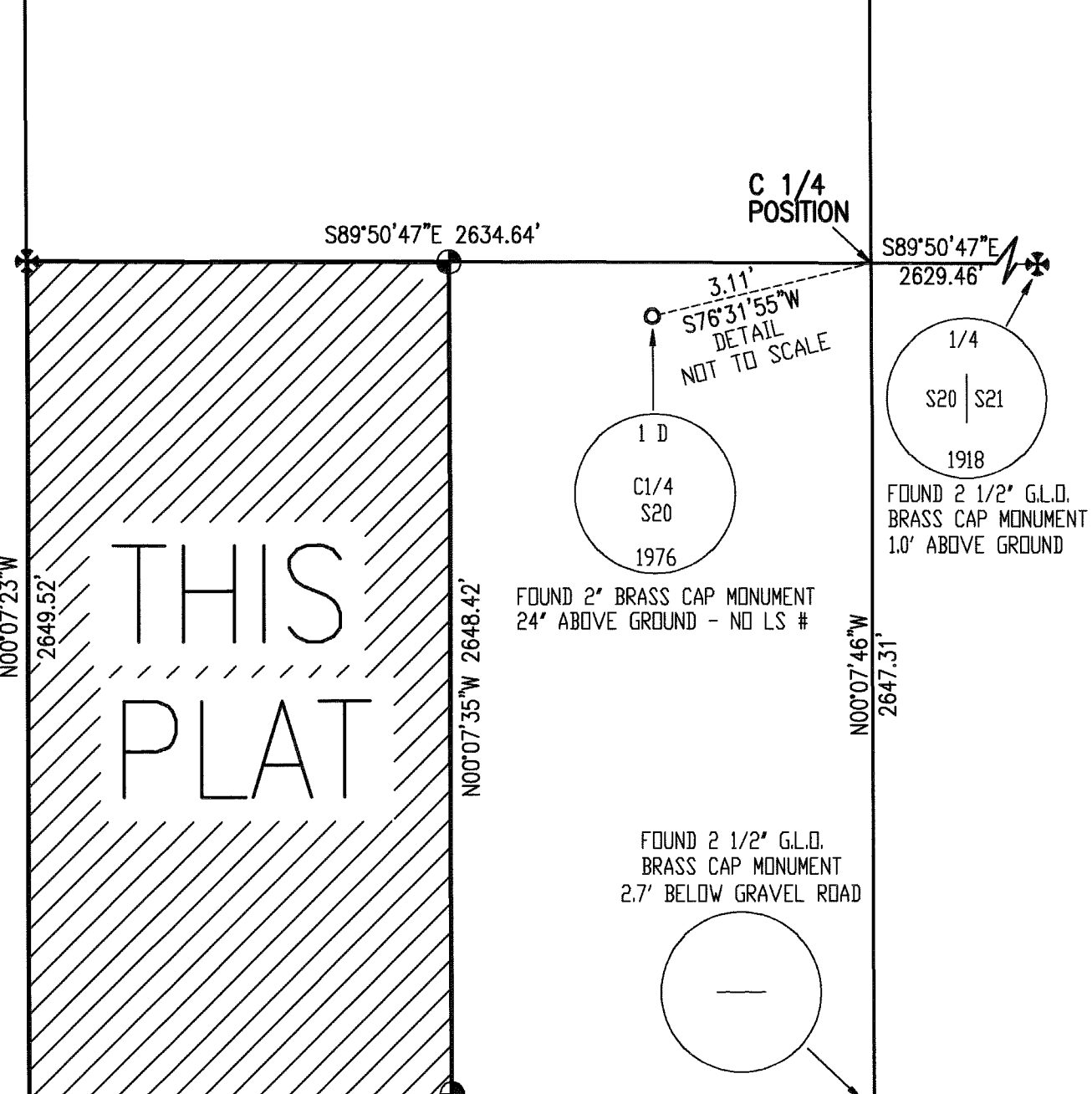
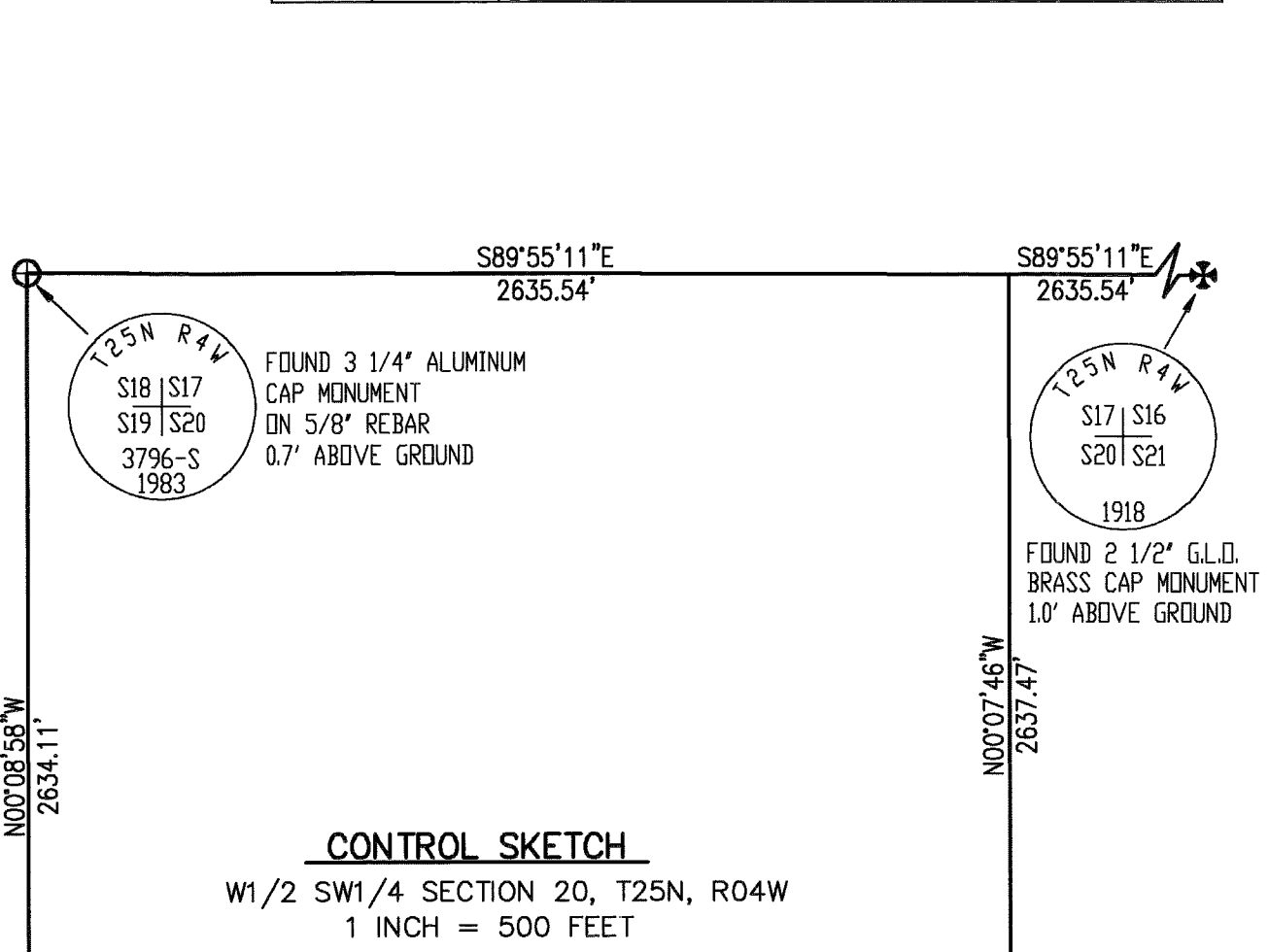
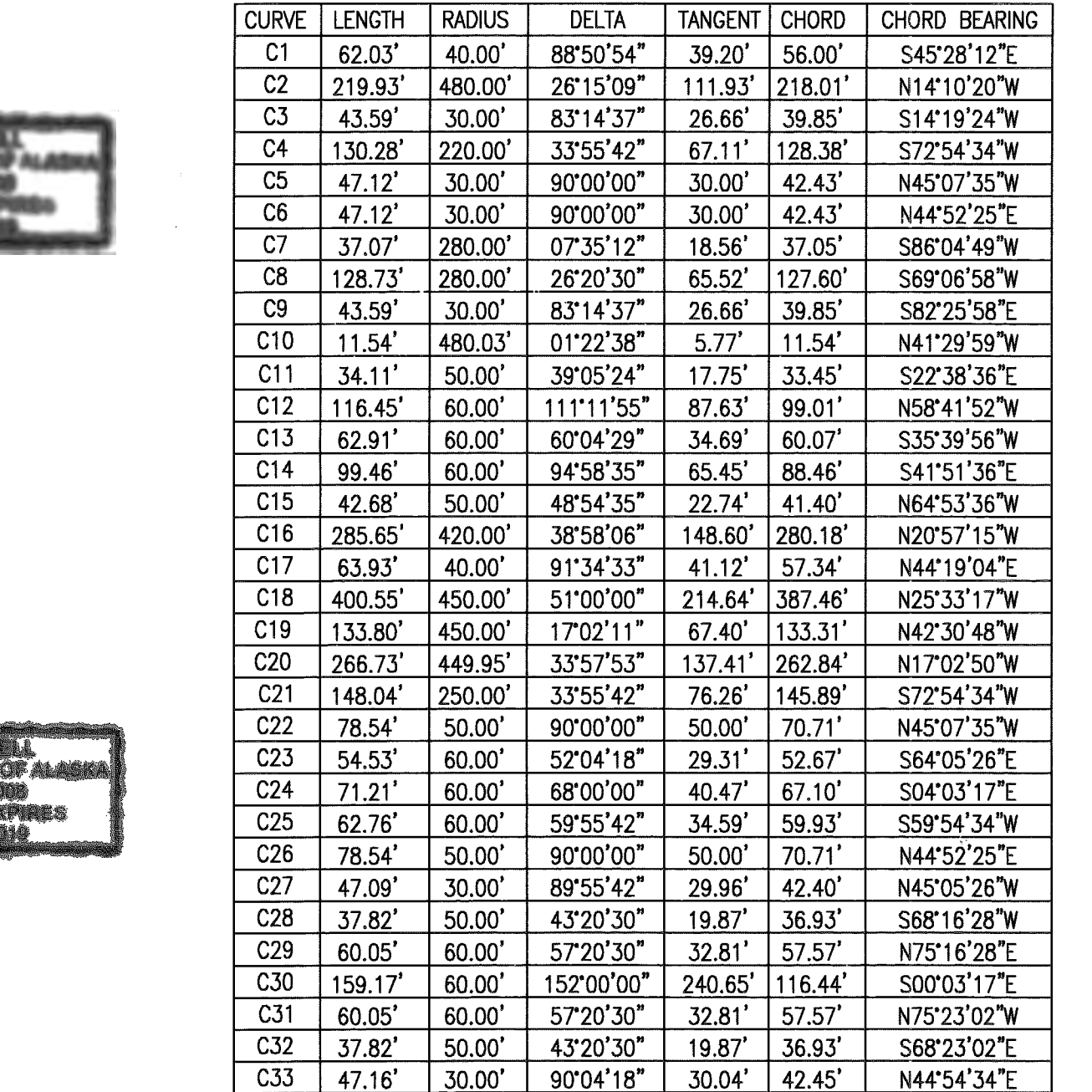
April 20, 2016 *Even Nielsen*  
 DATE PLANNING & LAND USE DIRECTOR  
*Vickie Lee Fenster*  
 ATTEST: PLATTING CLERK

**SURVEYOR'S CERTIFICATE**  
 I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF ALASKA AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT THE MONUMENTS SHOWN ON THE PLAT ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONAL AND OTHER DETAILS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.  
 7330-S GARY LORUSSO *Gary Lorusso*  
 REGISTERED LAND SURVEYOR DATE



**CURVE TABLE**

CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING
C1	62.03'	40.00'	88°50'54"	39.20'	56.00'	S45°28'12"E
C2	219.93'	480.00'	26°15'09"	111.93'	218.01'	N14°10'20"W
C3	43.59'	30.00'	83°14'37"	26.66'	39.85'	S14°19'24"W
C4	130.28'	220.00'	33°55'42"	67.11'	128.38'	S72°54'34"W
C5	47.12'	30.00'	90°00'00"	30.00'	42.43'	N45°07'35"W
C6	47.12'	30.00'	90°00'00"	30.00'	42.43'	N44°52'25"E
C7	37.07'	280.00'	07°35'12"	18.56'	37.05'	S86°04'49"W
C8	128.73'	280.00'	26°20'30"	65.52'	127.60'	S69°06'58"W
C9	43.59'	30.00'	83°14'37"	26.66'	39.85'	S82°25'58"E
C10	11.54'	480.00'	01°22'38"	5.77'	11.54'	N41°29'59"W
C11	34.11'	50.00'	39°05'24"	17.75'	33.45'	S22°38'36"E
C12	116.45'	60.00'	111°11'55"	87.63'	99.01'	N68°41'52"W
C13	62.91'	60.00'	60°04'29"	34.89'	60.07'	S35°39'56"W
C14	99.46'	60.00'	94°58'35"	65.45'	88.46'	S41°51'36"E
C15	42.68'	50.00'	48°54'35"	22.74'	41.40'	N64°53'36"W
C16	285.65'	420.00'	38°58'06"	148.60'	280.18'	N20°57'15"W
C17	63.93'	40.00'	91°34'33"	41.12'	57.34'	N44°19'04"E
C18	400.55'	450.00'	51°00'00"	214.64'	387.46'	N25°33'17"W
C19	133.80'	450.00'	17°02'11"	67.40'	133.31'	N42°30'48"W
C20	266.73'	449.95'	33°57'53"	137.41'	262.84'	N17°02'50"W
C21	148.04'	250.00'	33°55'42"	76.28'	145.89'	S72°54'34"W
C22	78.54'	50.00'	90°00'00"	50.00'	70.71'	N45°07'35"W
C23	54.53'	60.00'	52°04'18"	29.31'	52.67'	S64°05'26"E
C24	71.21'	60.00'	68°00'00"	40.47'	67.10'	S04°03'17"E
C25	62.76'	60.00'	59°55'42"	34.59'	59.93'	S35°39'56"W
C26	78.54'	50.00'	90°00'00"	50.00'	70.71'	N44°52'25"E
C27	47.09'	30.00'	89°55'42"	29.96'	42.40'	N45°05'26"W
C28	37.82'	50.00'	43°20'30"	19.87'	36.93'	S88°16'28"W
C29	60.05'	60.00'	57°20'30"	32.81'	57.57'	N75°16'28"E
C30	159.17'	60.00'	152°00'00"	240.65'	116.44'	S00°03'17"E
C31	60.05'	60.00'	57°20'30"	32.81'	57.57'	N75°23'02"W
C32	37.82'	50.00'	43°20'30"	19.87'	36.93'	S88°23'02"E
C33	47.16'	30.00'	90°04'18"	30.04'	42.45'	N44°54'34"E



**2016-6**  
 Plat # **Talkeetna**  
 Rec Dist **4/22**  
 Date **2016**  
 Time **12:37 P.**

**A PLAT OF**  
**BIRCH CREEK LANDING**  
 A SUBDIVISION OF THE  
 W1/2 SW1/4, SECTION 20, T. 25 N., R. 4 W.  
 SEWARD MERIDIAN, ALASKA  
 TALKKEETNA RECORDING DISTRICT  
 THIRD JUDICIAL DISTRICT  
 STATE OF ALASKA  
 CONTAINING 80.09 ACRES, MORE OR LESS

**KEYSTONE SURVEYING**  
 GARY LO RUSSO, PROFESSIONAL LAND SURVEYOR  
 POST OFFICE BOX 2216 PALMER ALASKA 99645

DRAWN BY KAD/K.Lyne	DATE 4/12/16	FIELD BK/S 2007-2015	DWG: 2015-18/BirchCreekLanding2015
CHECKED BY GL	SCALE 1 INCH = 100 FEET	SHEET 1 OF 1	

**LINE TABLE**

LINE	LENGTH	BEARING
L1	48.03'	N00°07'35"W
L2	60.00'	N89°52'25"E
L3	70.23'	N89°53'39"W
L4	69.81'	S89°53'39"E
L5	80.81'	N00°03'17"W
L6	50.00'	S00°03'17"E
L7	30.81'	S00°03'17"E

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**2016 – 000871 – 0**

Recording District 321 Talkeetna

07/20/2016 02:22 PM

Page 1 of 45



**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A PLANNED COMMUNITY)**

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**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A Planned Community)**

**Preamble**

CREATIVE DEVELOPMENTS, LLC, owns property in the Matanuska-Susitna Borough of Alaska, described as:

Lots 1 and 2, Block 1; Lots 1 through 18, Block 2; and Tracts A and B, Birch Creek Landing, according to Plat No. 2016-6, Talkeetna Recording District, Third Judicial District, State of Alaska.

CREATIVE DEVELOPMENTS, LLC, referred to herein as a Declarant, hereby submits its property as described above, to the provisions of AS 34.08, the Uniform Common Interest Ownership Act, for the purpose of creating BIRCH CREEK LANDING (A PLANNED COMMUNITY). CREATIVE DEVELOPMENTS, LLC, declares that the Units created by this Declaration and shown on the plat filed under Plat No. 2016-6 and Exhibit 2 shall be held and conveyed subject to the following terms, covenants, conditions and restrictions. Birch Creek Landing is a "planned community", as defined in AS 34.08.990.

**ARTICLE I - Definitions**

In the Documents, the following words and phrases shall have the following meanings:

Section 1.1 - Act. The Uniform Common Interest Ownership Act, AS 34.08, as it may be amended from time to time.

Section 1.2 - Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability, and votes in the Association, allocated to Units



in the Common Interest Community. The Allocated Interests are described in Article IX of this Declaration and shown on Exhibit 1.

Section 1.3 - Association. BIRCH CREEK LANDING OWNERS ASSOCIATION, a non-profit corporation organized under Chapter 10.20 of the statutes of the State of Alaska. It is the Association of Unit Owners pursuant to Section 34.08.310 of the Act.

Section 1.4 - Bylaws. The Bylaws of the Association, as they may be amended from time to time. Neither such Bylaws nor any amendments to such Bylaws need be recorded in the property records.

Section 1.5 - Cabin. A living space constructed within a Unit designed for transient occupancy and/or rental for less than thirty-two (32) days. A cabin may not exceed 600 square feet of living area.

Section 1.6 - Common Elements. Each portion of the Common Interest Community other than a Unit.

Section 1.7 - Common Expenses. The expenses or financial liabilities for the operation of the Common Interest Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses declared to be Common Expenses by the Documents or by the Act;
- (c) Expenses agreed upon as Common Expenses by the Association; and
- (d) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

Section 1.8 - Common Interest Community. The real property subject to the Declaration for Birch Creek Landing (A Planned Community).

Section 1.9 - Declarant. A person or a group of persons acting in concert who, as part of a common promotional plan, offer to dispose of its interest in a unit not previously disposed of, or who reserves or succeeds to a special declarant right; in this case CREATIVE DEVELOPMENTS, LLC.

Section 1.10 - Declaration. This document, including any amendments.



**Section 1.11 - Director.** A member of the Executive Board.

**Section 1.12 - Documents.** The Declaration, Plat and Plans which have been recorded and filed, the Bylaws, and the Rules, if any, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is a part of that Document.

**Section 1.13 - Executive Board.** The Board of Directors of the Association.

**Section 1.14 - Improvements.** Any construction, structure, fixture or facility existing or to be constructed on the land included in the Common Interest Community including, but not limited to, buildings, trees and shrubbery planted by the Association, paving, utility wires, pipes, and light poles.

**Section 1.15 - Lot.** A physical portion of the Common Interest Community designated for separate ownership; a Lot as shown on Plat No. 2016-6, as it may be amended. A Lot is a "Unit" as defined in AS 34.08.990(32).

**Section 1.16 - Lot Owner.** A Person, including the Declarant, who owns a Lot. Lot Owner does not include a Person having only a Security Interest in a Lot. A Lot Owner is a "Unit Owner" as defined in AS 34.08.990(33).

**Section 1.17 - Majority or Majority of Unit Owners.** The Owners of more than 50% of the votes in the Association.

**Section 1.18 - Manager.** A person, firm or corporation employed or engaged to perform management services for the Common Interest Community and the Association.

**Section 1.19 - Notice and Comment.** The right of Unit Owners to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to comment thereon. The procedures for Notice and Comment are set forth in Section 23.1 of this Declaration.

**Section 1.20 - Notice and Hearing.** The right of Unit Owners to receive notice of an action proposed to be taken by the Association, and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 23.2 of this Declaration.

**Section 1.21 - Person.** An individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.



**Section 1.22 - Planned Community.** As defined by AS 34.08.990, a Planned Community is a Common Interest Community that is not a condominium or a cooperative. In this case, the Planned Community is Birch Creek Landing, which consists of Lots owned by Lot Owners and Common Elements owned by the Association.

**Section 1.23 – Plat.** Plat No. 2016-6, Talkeetna Recording District, Third Judicial District, State of Alaska, as it may be amended, which created, the Lots in Birch Creek Landing, at the time this Declaration is recorded.

**Section 1.24 - Property.** The land and all Improvements, easements, rights and appurtenances which are subject to this Declaration.

**Section 1.25 - Rules.** Regulations for occupancy of the Units and use of the Common Elements and for the conduct of persons within the Common Interest Community, adopted by the Executive Board pursuant to this Declaration.

**Section 1.26 - Security Interest.** An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

**Section 1.27 - Special Declarant Rights.** The rights, as defined in AS 34.08.990(30), reserved for the benefit of a Declarant to (A) complete improvements indicated on plats and plans filed with the Declaration; (B) exercise a Development Right; (C) maintain sales offices, management offices, models and signs advertising the Common Interest Community; (D) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community; (E) make the Common Interest Community subject to a master association; (F) merge or consolidate a Common Interest Community with another Common Interest Community of the same form of ownership; or (G) appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control. Special Declarant Rights are described in Article VIII.

**Section 1.28 - Trustee.** The entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the President and attested by the Secretary.



Section 1.29 - Unit. A physical portion of the Common Interest Community designated for separate ownership or occupancy, as shown on the plat and the development plan attached hereto as Exhibit 2, and the boundaries of which are described in Article IV of this Declaration.

Section 1.30 - Unit Owner. A Person, including the Declarant, who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation.

## **ARTICLE II - Name and Type of Common Interest Community and Association; Membership**

Section 2.1 - Common Interest Community. The name of the Common Interest Community is BIRCH CREEK LANDING (A PLANNED COMMUNITY).

Section 2.2 - Association. The name of the Association is BIRCH CREEK LANDING OWNERS ASSOCIATION, a non-profit corporation organized under the laws of the State of Alaska.

Section 2.3 – Membership in Association. Every Person who is a record owner of any Unit in Birch Creek Landing is a member of the Association. Membership and voting rights in the Association are appurtenant to, and inseparable from, ownership of a Unit.

## **ARTICLE III - Description of Land**

The entire Common Interest Community is situated in the Matanuska-Susitna Borough of Alaska, and is located on land described as:

Lots 1 and 2, Block 1; Lots 1 through 18, Block 2; and Tracts A and B, Birch Creek Landing, according to Plat No. 2016-6, Talkeetna Recording District, Third Judicial District, State of Alaska.

## **ARTICLE IV - Maximum Number of Units; Boundaries; Areas**

Section 4.1 - Maximum Number of Units. The maximum number of Units permitted in the Common Interest Community is twenty (20), all of which are in existence at the time this Declaration is recorded. The twenty (20) existing Units were created on Plat No. 2016-6. They are shown on the development plan attached hereto as Exhibit 2.

Section 4.2 - Boundaries. Each Unit subject to the Declaration, at the time this Declaration is recorded, was created on Plat No. 2016-6. Each Unit is shown and numbered on Exhibit 2. The Unit boundaries are the boundaries of the platted Lots.



Section 4.3 - Unit Areas. The Table of Unit Areas is attached as Exhibit 3.

**ARTICLE V - Common Elements**

Section 5.1 - Common Elements. The Common Elements include all of the land area within the Common Interest Community other than the Units. At the time this Declaration is recorded, Tract A is proposed for an airstrip, and Tract B provides private access to the Units and the airstrip. The private streets in Birch Creek Landing double as aircraft taxiways providing access to the airstrip. A structure or structures may, but need not, be built within the portion of the Common Element designated "storage area" and those structures, if constructed, will also be Common Elements.

**ARTICLE VI - Conveyance or Encumbrance of Common Elements**

Any conveyance or encumbrance of the Common Elements must be made in accordance with Section 34.08.430 of the Act.

**ARTICLE VII - Maintenance, Repair and Replacement**

Section 7.1 - Common Elements. The Association shall maintain, repair and replace all of the Common Elements of the Property, including, but not limited to, the private streets/taxiways, the airstrip and any Common Element storage structures. Vegetation and snow berms within the private street/taxiway Common Elements shall at all times be maintained at less than 24 inches above the elevation of the centerline of the private streets/taxiways to allow for circulation of aircraft at all times of year.

Section 7.2 - Units. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Unit, which includes any structure(s) built within the Unit, any fences constructed within the Unit boundaries and any septic system located on the Unit. If the Unit Owner fails to maintain and repair his or her Unit, including any structures therein, including the yard and fences, and septic systems to a standard established by rules of the Association, the Association may, after Notice and Hearing, repair or maintain the Unit as needed to bring it up to Association standards and assess the Unit Owner therefore as a Common Expense.

Section 7.3 - Access. Any person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition, as described in Section 7.2, or any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing, and replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an



emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

**Section 7.4 - Allocation of Costs of Repairs and Maintenance.** Each Unit Owner will reimburse the Association for any costs incurred for repairs and maintenance performed by the Association under the provisions of Section 7.2. In addition, each Unit Owner will reimburse the Association for any costs, including insurance deductibles, incurred by the Association due to damage to any Unit or to the Common Elements, to the extent that such damages or costs were caused intentionally, negligently or by the Unit Owner's failure to properly maintain, repair or make replacements to his or her Unit. Such expense will be assessed following Notice and Hearing. The Association will be responsible for damage to Units caused intentionally, accidentally, negligently or by its failure to maintain, repair or make replacements to the Common Elements.

### **ARTICLE VIII - Special Declarant Rights**

**Section 8.1 Special Declarant Rights.** The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised anywhere within the Common Interest Community:

- (a) to complete Improvements indicated on Exhibit 2;
- (b) to exercise a Development Right reserved in the Declaration;
- (c) to maintain sales offices, management offices, signs advertising the Common Interest Community and models;
- (d) to use easements through the Common Elements for the purpose of making Improvements within the Common Interest Community; and
- (e) to appoint or remove an officer of the Association or an Executive board member during a period of Declarant control subject to the provisions of Section 8.6 of this Declaration.

**Section 8.2 Models, Sales Offices and Management Offices.** As long as Declarant is a Unit Owner, the Declarant and its duly authorized agents, representatives and employees may maintain any Unit owned by the Declarant or any portion of the Common Elements as a model Unit, sales office or management office. Declarant may have no more than three (3) model Units and one (1) sales/ management office within the Common Interest Community at any time, although the specific location may change from time to time as Units are developed and sold. A model Unit or sales/management office may be no larger than a typical Unit constructed for sale to the public. Declarant may delegate this authority to dealers who purchase Units for resale.



**Section 8.3 Construction: Declarant's Easement.** The Declarant reserves the right to perform repair and construction work, and to store materials in secure areas, in Units and Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in the Declaration.

**Section 8.4 - Signs and Marketing.** The Declarant reserves the right to post signs and displays in the Units or Common Elements to promote sales of Units, and to conduct general sales activities, in a manner that will not unreasonably disturb the rights of Unit Owners.

**Section 8.5 - Declarant's Personal Property.** The Declarant reserves the right to retain all personal property and equipment used in sales, management, construction and maintenance of the premises that has not been represented as property of the Association. The Declarant reserves the right to remove, promptly after the sale of the last Unit from the Property, any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

**Section 8.6 - Declarant Control of Association.**

(a) Subject to Subsection 8.6(b), there shall be a period of Declarant control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Executive Board. The period of Declarant control terminates no later than the earlier of:

(i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units that may be created to Unit Owners other than the Declarant;

(ii) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business;

(iii) two (2) years after any right to add new Units was last exercised; or,

(iv) five (5) years after the first Unit is conveyed to a Unit Owner other than the Declarant.

The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of that period, but in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded



instrument executed by the Declarant, be approved by the Declarant before they become effective.

(b) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to Unit Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board, shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to Unit Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Executive Board must be elected by Unit Owners other than the Declarant.

(c) Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three (3) members, all of whom shall be Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office on election.

(d) Notwithstanding any provision of this Declaration or the Bylaws of the Association to the contrary, following notice under AS 34.08.390, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at a meeting of Unit Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

**Section 8.7 - Limitations on Special Declarant Rights.** Unless sooner terminated by a recorded instrument executed by the Declarant, any Special Declarant Right (except for Development Rights) may be exercised by the Declarant so long as the Declarant is obligated under any warranty or obligation, owns any Units or any Security Interest on any Units, or for ten (10) years after recording the original Declaration, whichever is sooner. Earlier termination of certain rights may occur by statute.

**Section 8.8 - Interference with Special Declarant Rights.** Neither the Association nor any Unit Owner may take an action or adopt any rules that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

## **ARTICLE IX - Allocated Interests**

**Section 9.1 - Allocation of Interests.** At the time this Declaration is recorded, each Unit in Birch Creek Landing (A Planned Community) is assigned one vote in the Association and is responsible for 5% of the Common Expenses. The Table of Allocated Interests is attached hereto as Exhibit 1.

**Section 9.2 - Formulas for the Allocation of Interests.** The percentage of liability for Common Expenses allocated to each Unit is derived by dividing the total number of Units into one hundred. Nothing contained in this subsection shall prohibit certain



Common Expenses from being apportioned to particular Units under Article XVI of this Declaration. Each Unit in the Common Interest Community shall have one vote in the Association. In the case that Units are combined or reconfigured, as provided by Article XII, the interests originally attributed to the involved Units shall be reassigned pro rata, and the interests of uninvolved Units shall not be changed.

**Section 9.3 - Assignment of Allocated Interests Pursuant to Article XIII.**

The effective date for re-assigning Allocated Interests to Units created pursuant to Article XIII of this Declaration is the date on which the amendment re-configuring the Units is recorded in the records of the Talkeetna Recording District.

**ARTICLE X - Restrictions on Use, Alienation and Occupancy**

**Section 10.1 - Use Restrictions.** Use of the Lots and Common Elements is restricted as follows:

(a) **Lots.** Uses that do not violate the occupancy restrictions contained in Section 10.2, below, are permitted, with the following restrictions:

- (i) No Lot may be used for commercial natural resource extraction. This prohibition does not prevent a Lot Owner from using timber or gravel harvested/mined from the Lot for construction on the Lot, within the limits set below. For the purposes of this paragraph “commercial” is defined as selling or bartering a natural resource.
- (ii) No Lot may be used for a commercial salvage/junk yard or a dog kennel, whether commercial or not.

In order to guarantee compliance with these use restrictions, before any development of a Lot is undertaken, the Lot Owner shall present in writing to the Executive Board a description of the proposed use. Approval of a proposed use, which shall not be unreasonably denied, or an amendment to a proposed use which shall also be in writing, shall be retained in the Association’s records. If a proposed use is denied, the Lot Owner may request reconsideration, subject to Notice and Hearing, to allow a fuller description and discussion of the proposed use.

(b) **Common Elements.** Use of the Common Elements is restricted to Lot Owners, tenants and invitees of Lot Owners. Aircraft of Lot Owners and tenants must be registered with the Association before they may use the Common Elements for taxiing or take-off and landing. No unregistered aircraft staying more than 7 days within the Project may use the Common Elements. Subject to regulation by the Executive Board, snowmachines and four-wheelers may operate on Common Element Tract B (the private streets), however, all efforts shall be made to minimize impacts to the drivable surfaces or Common Element Tract B. Operation of snowmachines and four-wheelers is absolutely



prohibited on Common Element Tract A (the airstrip). Only aircraft taking off and/or landing, and runway maintenance personnel and related equipment are permitted on Common Element Tract A. Speed limits and vehicle/aircraft priorities on the Common Elements are subject to the Rules of the Association as adopted by the Executive Board following Notice and Comment.

Section 10.2 - Occupancy Restrictions. Subject to the Special Declarant Rights reserved under Article VIII of this Declaration, the following occupancy restrictions apply to the Lots and the Common Elements.

(a) No change shall be made to the Common Elements except with the written permission of the Executive Board.

(b) All Lot Owners shall maintain their Lots in a clean and well maintained condition. Fuel storage, and the storage of waste oil, is prohibited except as provided in the Rules of the Association for the safety of all Lot Owners and the water supply. No fuel tank or other substance shall be buried on the Property. No inoperative vehicles, airplanes, ultra-light aircraft, helicopters or similar devices, recreational vehicles or boats, trailers, campers, motorcycles, recreational vehicles, snowmachines, all-terrain vehicles, and cross-country vehicles of any type, or parts thereof, may be stored on the Lots except within a garage or hangar although they may be temporarily (defined as thirty (30) days or fewer) stored in the open on any Lot. This temporary permission for outdoor storage does not apply to four-wheelers, snowmachines or other recreational vehicles, except as expressly permitted in paragraph (j), below. Non-working vehicles and aircraft of any kind may not be stored in the open within 30 feet of any Lot boundary. Up to 6 pieces of commercial or construction equipment may be parked on a Lot, but they must not be visible from the Common Elements or other Lots. The Executive Board may further regulate or prohibit the exterior storage of any type of material in order to preserve the overall value and appearance of the Property.

(c) Above-ground or truck-mounted fuel/propane tanks must be screened or positioned on the Lot so as to not be visible from the Common Elements or other Lots. Any fuel spills must be remediated immediately and are the sole responsibility of the Lot Owner.

(d) There shall be no automotive repair in the open anywhere on the Property. With the exception of minor aircraft maintenance, including, but not limited to, oil changes or ski/wheel changes, aircraft repair conducted in the open anywhere on the Property shall be limited to no more than 7 consecutive days.

(e) No Lot nor Common Element shall be used as a dumping ground for rubbish, trash, garbage or other waste. All such matter shall be kept in garbage cans or dumpsters. No burn barrels or incinerators are permitted. All equipment for storage or disposal of garbage, trash, rubbish or other waste must be screened or positioned so that



it is not visible from adjacent Lots or the Common Elements and is not an attraction for animals. No outside burning is allowed without a State or Matanuska-Susitna Borough burn permit, if required, provided, however, that outside wood-burning furnaces are permitted.

(f) There shall be no parking of vehicles, recreational vehicles or aircraft on the Common Elements, except as may be expressly permitted in the Rules of the Association.

(g) All Lots, with the exception of Lots 1 and 2, Block 1, which are permitted an unlimited number of tiedowns and/or T-hangars, may have up to 6 outdoor aircraft tiedowns.

(h) The following maximum and minimum square footages apply to residential structures constructed on Lots. The minimum square footage of a residential structures is 1000 square feet, if it is attached to a hangar. The minimum square footage of a detached residential structure is 1200 square feet. The maximum square footage of any residential structures is 10,000 square feet, whether attached to or detached from a hangar. With the exception of Lots 1 and 2, Block 1, as provided in (g) above, a Lot may have up to 6 Cabins with a minimum of 320 square feet each, one hangar of up to a maximum of 8,000 square feet and one garage/storage structure of up to 900 square feet.

(i) Any permanent residential structure or any recreational or rental Cabin shall be built of logs or with frame construction. Hangars and commercial structures may be of log, frame, block or steel construction. The roofs of all buildings constructed on a Lot shall be covered in asphalt or composition shingles, metal, or a comparable finished roofing product. Tarps, tar paper, and the like, are not acceptable as finished roofing. T-111 siding is not permitted. The exterior finishes of hangars and garage/storage structures shall match.

(j) No mobile home, house trailer, tent, shack, or the like, shall be installed or erected on any Lot, except that during construction of a permanent residential structure, a temporary dwelling, such as a camper, trailer or motorhome, may be occupied for up to 2 construction seasons. After completion of construction, a motorhome or travel trailer may be stored on a Lot as long as it is not visible from any road or adjacent Lot, and it may not be used as living space.

(k) All structures, except a fence, must be set back from the Lot boundaries by at least 25 feet, with the exception that along the west boundary of Lots 2, 3, 4, 5, 6 and 7, Block 2, because of the 50-foot public use easement, the structure setback is 75 feet from that boundary. No structure shall exceed 45 feet in height from natural base grade at the foundation.



(l) The exterior of all structures must be completed within 2 years from construction of the foundation unless the deadline is extended by Declarant or the Executive Board due to compelling extenuating circumstances. No building shall be occupied prior to the completion of the exterior.

(m) Construction waste shall be kept to a minimum on site and removed to the satisfaction of the Executive Board consistent with professional building industry standards.

(n) All fences constructed on Lots must be of wood, vinyl or chain link, or a combination thereof. Fences up to 7 feet in height are permitted. All fences must be maintained by the Lot Owner to a standard approved by the Executive Board.

(o) Any on-site wastewater treatment or disposal system must meet the regulatory requirements of the Alaska Department of Environmental Conservation. Outhouses, pit toilets or latrines are expressly prohibited. Commercial porta potties are permitted on a Lot during construction but shall be immediately removed upon completion of construction.

(p) With the exception of Lots 1 and 2, Block 1, and Lot 16, Block 2, there shall be no clearing of land within a Lot within 20 feet of the Lot boundaries, except for a 15-foot wide driveway (maximum 30 feet of vegetative clearing) and/or a 30-foot wide taxiway (maximum 70 feet of vegetative clearing) from the Common Element onto the Lot and as necessary for installation of utilities. For the purposes of this section, a "driveway/taxiway" shall be defined as the area used for aircraft and vehicle access to and from a Common Element and the structures on the property. It does not include parking areas. The Executive Board may, in writing only, and only for compelling extenuating circumstances, relax this restriction, but only to the extent necessary to provide adequate access or utility installation. A maximum of 35,000 square feet of the area of a Lot (excluding the area of the driveway/taxiway and utilities) may be cleared of trees and shrubs for the purpose of parking, yards, structures and open space, but all unbuilt and unpaved areas of the Lots, other than gravel driveway/taxiways, shall be vegetated within 12 months of the completion of construction. Additional area may be cleared for Cabins, but only with the written permission of the Executive Board.

(q) A Lot Owner changing the grades within a Lot shall make provision for water runoff so that it does not negatively impact other Lot Owners or the Common Elements and is responsible for any consequences of the alteration.

(r) Subject to Declarant's reserved rights in Article VIII, any Lot may have one sign of not more than twelve (12) square feet advertising the Lot for sale or rent. Aviation-related commercial Lots and Lots used for transient/hospitality housing may additionally have up to two signs, one of up to 128 square feet, if affixed to the principal structure and one of up to 40 square feet if mounted on a pole. A business may also have one "OPEN" sign. The maximum height of any sign not attached to a building is 12



feet above grade, and no sign shall be nailed or affixed to trees. There may be one sign in the Common Elements at the entrance from Birch Creek Boulevard identifying Birch Creek Landing and additional small signs as necessary for operation of the project, as determined by the Executive Board.

(s) Exterior lighting on a Lot shall be constructed and maintained so as to illuminate only the Lot and not shine onto adjacent property. Lighting on signs shall not flash. Motion sensors on structures are permitted.

(t) No Lot shall be subdivided to create a smaller Lot. Lots may be combined but will still be obligated to pay the assessments due from the original Lots.

(u) Domestic animals, not including livestock and poultry, may be kept in any Lot, provided they are not kept, bred, or raised therein for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of animals to four. The Executive Board may, after Notice and Hearing limit the sizes and types of animals, if sizes and types of animals become a problem for the Association. Furthermore, the Executive Board may prohibit the maintenance of any animal that constitutes a nuisance to any other Lot Owners. Animals belonging to Lot Owners, occupants of Lots, or their licensees or invitees, must be kept within the Lot except that they may be taken out of the Lot on a leash held by a person capable of controlling the animal. Should any animal be found outside of the Lot, other than on a leash being held by a person capable of controlling the animal, the animal may be removed by Declarant or any person authorized by the Executive Board to remove the animal from the Property. The animal so removed shall be taken to the borough animal shelter and, if its owner is known, the Association shall notify the owner of the animal's whereabouts. The owner of any animal visiting or residing on the Property shall be absolutely liable to all other Lot Owners, their families, guests and invitees, for any damage to persons or property caused by the animal. Owners of animals are responsible for the removal of their animals' waste from the Lots and the Common Elements of the Common Interest Community.

(v) No nuisances shall be allowed on the Property, nor shall any use be made or practice be maintained by any Lot Owner or tenant of a Lot Owner that shall interfere with the quiet enjoyment of the Property by other Lot Owners and residents. The Executive Board, after Hearing and Comment, may further refine the definition of "nuisance" in the rules of the Association.

(w) Helicopters may only be operated from Lots 4, 5, 6, 7, 8 and 9, Block 2, and location of the landing site on each Lot is subject to the approval of the Executive Board to minimize impacts to neighboring Lots.

Section 10.3 - Restrictions on Alienation. A Lot may not be conveyed pursuant to a time sharing plan. A Lot may not be leased or rented for a term of less than thirty (30) days, although this provision does not apply to the rental of Cabins within a Lot used for



transient/hospitality purposes. All leases and rental agreements shall be in writing and subject to the requirements of the Documents and the Association. A copy of all leases and rental agreements shall be given to the Association. All leases of a Lot shall include a provision that the tenant recognizes the Association as landlord, but solely for the purpose of the Association having power to enforce a violation of the provisions of the Documents against the tenant, provided that the Association first gives the Lot Owner notice of its intent to so enforce and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

### **ARTICLE XI - Easements and Licenses**

**Section 11.1 - Easement for Ingress and Egress Through Common Elements.** Each Unit Owner has an easement in common with each other Unit Owner for ingress and egress through all Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Association. Each Unit is hereby burdened with and subjected to an easement for ingress and egress through all Common Elements by persons lawfully using or entitled to the same.

**Section 11.2 - Easements for Support.** Each Unit and Common Element shall have an easement for lateral and subjacent support from every other Unit and Common Element.

**Section 11.3 - Easements for Encroachments.** In the event any portion of the Common Elements encroaches upon any Unit or any Unit encroaches upon the Common Elements or another Unit as a result of the construction, reconstruction, repair, shifting, settlement, or movement of any portion of the Improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

**Section 11.4 - Recorded Easements and Licenses.** All recorded easements or licenses to which the Common Interest Community is presently subject are recited in Exhibit 4 to this Declaration and are shown on the Plat and Exhibit 2.

### **ARTICLE XII - Amendments to Declaration**

**Section 12.1 - General.** Except as otherwise provided by law or elsewhere in this Declaration, this Declaration, including the Plat and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least sixty-seven (67%) of the votes in the Association are allocated.

**Section 12.2 - When Unanimous Consent Required.** Except to the extent expressly permitted or required by provisions of the Act and this Declaration, an amendment may not create or increase Special Declarant Rights, create or increase the number of Units, change the number of Units, change the boundaries of a Unit, the



allocated interests of a Unit, or the uses to which a Unit is restricted, in the absence of unanimous (100%) consent of the votes in the Association.

Section 12.3 - Execution of Amendments. An amendment to the Declaration required by AS 34.08.250 of the Act to be recorded by the Association, which has been adopted in accordance with this Declaration and AS 34.08.250 of the Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of such designation, by the President of the Association.

Section 12.4 - Recordation of Amendments. Each amendment to the Declaration must be recorded in the recording district in which the Planned Community is located. The amendment is effective only upon recording.

Section 12.5 - Limitations of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one (1) year after the amendment is recorded.

Section 12.6 - Special Declarant Rights. Provisions in the Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

### **ARTICLE XIII - Relocation of Boundaries Between Adjoining Lots**

Section 13.1 - Subdivision of Lots to Decrease Size Prohibited. Lots in Birch Creek Landing (A Planned Community) may not be subdivided to reduce their size. Owners of contiguous Lots may, however, combine or resubdivide their Lots with the consent of the Executive Board of the Association, as long as no Lot resulting from the resubdivision is smaller than the smallest of the Lots from which the new Lots were created. All subdivision or resubdivision requires plat approval by the Matanuska-Susitna Borough.

Section 13.2 - Amendment to Relocate Boundaries. When the Matanuska-Susitna Borough has granted plat approval to a Lot Owner or Owners, the Owner or Owners shall complete and submit to the Association an application for amendment of the Declaration to reflect the changed lot configuration and the Allocated Interests appertaining to the new Lots. When the Association has a completed application, the Association shall prepare an amendment to the Declaration that identifies the Lots involved, states the reallocation of allocated interests and indicates the Association's consent. The amendment must be executed by the Lot Owners of the Lots whose boundaries are being relocated and must contain words of conveyance between them. The holders of all Security Interests in the affected Lots shall also execute the amendment. As part of the amendment, the Association shall prepare an amended Table of Allocated Interests (Exhibit 1), and an amended Exhibit 2. No relocation of boundaries is effective until the Amendment is recorded.



Section 13.3 - Costs Borne By Applicants. Unit Owners applying to relocate Lot boundaries are responsible for all costs for preparation and recordation of the amendment by the Association. The Association may require prepayment of these costs before the amendment is recorded.

#### **ARTICLE XIV - Amendments to Bylaws**

The Bylaws may be amended only by two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

#### **ARTICLE XV - Termination**

Termination of the Common Interest Community may be accomplished only in accordance with Section 34.08.260 of the Act.

#### **ARTICLE XVI - Assessment and Collection of Common Expenses**

Section 16.1 - Apportionment of Common Expenses. Except as provided in Section 16.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Exhibit 1 to this Declaration.

#### **Section 16.2 - Common Expenses Attributable to Fewer than all Units.**

(a) Any Common Expense for services provided by the Association to an individual Unit, either required by the Declaration or provided at the request of the Unit Owner, shall be assessed against the Unit which benefits from such service.

(b) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

(c) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.

(d) If a Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against the Unit.

(e) Fees, charges, late charges, fines, collection costs and interest charged against the Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.



**Section 16.3 - Lien.**

(a) The Association has a lien on a Unit for an assessment levied against the Unit or fines imposed against its Unit Owner from the time the assessment or fine becomes due. Fees, charges, late charges, collection costs, including reasonable attorney's fees, fines and interest charged pursuant to AS 34.08, as it may be amended from time to time, and any of the Association's Documents are enforceable as assessments under this Section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a lien and encumbrance recorded before the recordation of the original Declaration described above in the introductory paragraph of this Document; (2) a first Security Interest on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this Section is also prior to all Security Interests described in Subdivision (2) of this Subsection if the common expense assessment based on the periodic budget adopted by the Association, pursuant to Section 16.4 of this Article, would have become due in the absence of acceleration during the six (6) months immediately preceding the institution of an action to enforce the Association's lien. This does not affect the priority of mechanic's or materialmen's liens, nor the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.010, as it may be amended from time to time.

(c) Recording of the Declaration constitutes a record notice and perfection of the lien. Further recording of a claim of lien for assessments under this Section is not required.

(d) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due; provided that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the US Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under ' 362 of the US Bankruptcy Code is lifted.

(e) This Section does not prohibit an action to recover sums for which Subparagraph (c) of this Section creates a lien or foreclosure or prohibit the Association from taking a deed in lieu of foreclosure.

(f) When the Association acquires a judgment or decree in any action brought under this Section, such judgment or decree shall include an award to the Association for actual collection costs and reasonable attorney's fees.



(g) A judgment or decree in an action brought under this Section is enforceable by execution under AS 09.35.010, as it may be amended from time to time.

(h) The Association's lien must be foreclosed as a lien is foreclosed under AS 34.35.005, as it may be amended from time to time.

(i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's common expense assessments based on a periodic budget adopted by the Association pursuant to Section 16.4.

(j) The purchaser at a foreclosure sale initiated by the holder of a Security Interest in a Unit is not liable for any unpaid assessments against the Unit which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection 16.3(b) above. Any unpaid assessments not satisfied from the proceeds of sale become common expenses for which all the Unit Owners, including the purchaser, may be assessed. For the purposes of this paragraph, "the purchaser" shall include, but not be limited to, any holder of a Security Interest in a Unit which obtains title to a Unit.

(k) Any payments received by the Association to discharge a Unit Owner's obligation may be applied to the oldest balance due.

(l) The Association may acquire, hold, lease, mortgage and convey a Unit foreclosed upon pursuant to this Section for unpaid assessments.

(m) A lien under this Section shall not be affected by any sale or transfer of a Unit except as provided in Subsection (j) above.

**Section 16.4 - Budget Adoption and Ratification.** The Executive Board shall adopt a proposed budget for the Common Interest Community, and shall, within thirty (30) days after adoption, provide a summary of the budget to each Unit Owner. The Executive Board shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.



**Section 16.5 - Non-Budgeted Common Expense Assessments.** If the Executive Board votes to levy a common expense assessment not included in the current budget, other than one enumerated in Section 16.2, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Board of Directors shall submit such common expenses to the Unit Owners for their consideration and comment in the same manner as a budget under Section 16.4 above; provided, however, that such assessment can be considered at a special meeting as long as the notice required for annual meetings is provided to the Unit Owners.

**Section 16.6 - Certificate of Payment of Common Expense Assessments.** The Association upon written request shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against his or her Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding upon the Association, the Executive Board and each Unit Owner.

**Section 16.7 - Monthly Payment of Common Expenses.** All common expenses assessed under this Article XVI shall be due and payable monthly.

**Section 16.8 - Acceleration of Common Expense Assessments.** In the event of a default for a period of ten (10) days by any Unit Owner in the payment of any Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, after Notice and Hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable. The holder of a first Security Interest in a Unit which has acquired title to any Unit as a result of a foreclosure of its Security Interest shall be exempt from the application of this Subsection.

**Section 16.9 - Commencement of Common Expense Assessments.** Common Expense assessments shall begin on the first day of the month in which conveyance of the first Unit to a Unit Owner other than the Declarant occurs.

**Section 16.10 - No Waiver of Liability for Common Expenses.** No Unit Owner may exempt himself or herself from liability for payment of the common expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

**Section 16.11 - Personal Liability of Unit Owners.** The Owner of a Unit at the time a common expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he or she agrees to assume the obligation.

**Section 16.12 - Reserves.** As part of the adoption of the regular budget pursuant to Sections 16.4 and 16.5, the Executive Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and any Limited Common



Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major Common Elements and Limited Common Elements.

### **ARTICLE XVII - Right to Assign Future Income**

The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Owners of Units to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.

### **ARTICLE XVIII - Persons and Units Subject to Documents**

**Section 18.1 - Compliance with Documents.** All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or entering into occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded in the records of the Talkeetna Recording District, Third Judicial District, State of Alaska, are covenants running with the land and shall bind any Persons having at any time any interest in such Unit.

**Section 18.2 - Adoption of Rules.** After Notice and Comment, the Executive Board may adopt Rules regarding the use of the Common Elements, the use and occupancy of Units, and the activities of occupants as they affect the Common Elements.

### **ARTICLE XIX - Insurance**

**Section 19.1 - Coverage.** To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and Eligible Mortgagees at their respective last known addresses.

#### **Section 19.2 - Property Insurance.**

**(a) Property insurance shall be maintained covering all common property of the Association. Structures within the Units and any personal property stored on the Units are not common property of the Association and must be insured by the individual Unit Owners.**

**(b) Amounts.** The common property for an amount (after application of any deductions) equal to one hundred percent (100%) of their replacement cost at the time



the insurance is purchased and at each renewal date. Personal property owned by the Association for an amount equal to its actual cash value. The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense. The maximum deductible for insurance policies shall be the lesser of \$10,000.00 or one percent (1%) of the policy face amount. Allocation of responsibility for payment of the deductible shall be according to the policy established by the Executive Board.

(c) Risks Insured Against. The insurance shall afford protection against "all risks" of direct physical loss commonly insured against.

(d) Other Provisions. Insurance policies required by this Section shall provide that:

(i) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner.

(ii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(iii) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(iv) Loss must be adjusted with the Association.

(v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and in the absence of such designation, to the Association; in either case, to be held in trust for each Unit Owner and such Unit Owner's mortgagee.

(vi) The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

(vii) The name of the insured shall be substantially as follows:

"BIRCH CREEK LANDING OWNERS ASSOCIATION for the use and benefit of the individual Owners."

Section 19.3 - Liability Insurance. Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than



\$1,000,000, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

(a) Each Unit Owner is an insured person under the policy with respect to liability arising out of the interest of the Unit Owner in the Common Elements or membership in the Association;

(b) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(c) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

(d) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

(e) The insurer issuing the policy may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known address.

**Section 19.4 - Fidelity Bonds.** A blanket fidelity bond is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three (3) months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, to each holder of a Security Interest in a Unit, to each servicer that services a FNMA-owned, VA-owned, FHLMC-owned, or AHFC-owned mortgage on a Unit and to the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason.

**Section 19.5 - Unit Owner Policies.** An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit. **Structures and personal property within and on the Units are not common property of the Association and must be insured by the individual Unit Owners.**



Section 19.6 - Workers' Compensation Insurance. The Executive Board shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 19.7 - Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association in such limits as the Executive Board may, from time to time, determine.

Section 19.8 - Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association and/or the Unit Owners.

Section 19.9 - Premiums. Insurance premiums shall be a Common Expense.

## **ARTICLE XX - Damage To Or Destruction Of Property**

Section 20.1 - Duty to Restore. A portion of the Common Interest Community for which insurance is required under Section 34.08.440 of the Act or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) The Common Interest Community is terminated;
- (b) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) Eighty percent (80%) of the Unit Owners, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild.

Section 20.2 - Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 20.3 - Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, a majority of Unit Owners, and fifty-one percent (51%) of Eligible Mortgagees. Said plans and specifications must meet all existing federal, state and municipal code requirements.

### **Section 20.4 - Replacement of Less than Entire Property.**

(a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community.



(b) Except to the extent that other persons will be distributees,

(i) The insurance proceeds attributable to a Unit and Limited Common Elements that is not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

(ii) The remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interests may appear, in proportion to the Common Element interests of all the Units.

(c) If the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned under Subsection 34.08.740(a) of the Act, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

Section 20.5 - Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Executive Board of the Association, acting through the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Subsection 20.1(a) through Subsection 20.1(c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 20.6 - Certificates by the Executive Board. The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(a) Whether or not damaged or destroyed Property is to be repaired or restored; and

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 20.7 - Title Reports and Certificates by Attorneys. Title insurance companies or, if payments are to be made to Unit Owners or Mortgagees, the Executive Board and the Trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the records of the District Recorder's Office, Talkeetna Recording District, Third Judicial District, State of Alaska, from the date of the recording of the original above-described Declaration stating the names of the Unit Owners and the Mortgagees.



## **ARTICLE XXI - Rights to Notice and Comment; Notice and Hearing**

**Section 21.1 - Right to Notice and Comment.** Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action to be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than ten (10) days before the proposed action is to be taken. It shall invite comment to the Executive Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

**Section 21.2 - Right to Notice and Hearing.** Whenever the Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. The notice shall be given not less than ten (10) days before the hearing date. At the hearing, the affected Person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected Person shall be notified of the decision in the same manner in which notice of the meeting was given.

**Section 21.3 - Appeals.** Any Person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of Persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

## **ARTICLE XXII - Executive Board**

**Section 22.1 - Minutes of Executive Board Meetings.** The Executive Board shall permit any Unit Owner to inspect the minutes of Executive Board meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after such meeting.



**Section 22.2 - Powers and Duties.** The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration, the Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community which shall include, but are not limited to, the following:

- (a) Adopt and amend Bylaws, Rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Unit Owners;
- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees, independent contractors, and agents, other than managing agents;
- (f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Association's Declaration, Bylaws or Rules in the Association's name on behalf of the Association or two (2) or more Unit Owners on matters affecting the Common Interest Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) Cause additional improvements to be made as part of the Common Elements;
- (j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to Section 34.08.430 of the Act;
- (k) Grant easements for any period of time, including permanent easements, and leases, licenses and concessions for no more than one (1) year, through or over the Common Elements;
- (l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Subsections (2) and (4) of Section 34.08.100 of the Act, and for services provided to Unit Owners;



- (m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, Bylaws, Rules and regulations of the Association;
- (n) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, the filing and recording of a plat or plan that accompanies an amendment, resale certificates required by Section 34.08.590 of the Act, or a statement of unpaid assessments;
- (o) Provide for the indemnification of the Association's officers and Executive Board and maintain Directors' and officers' liability insurance;
- (p) Assign the Association's right to future income, including the right to receive Common Expense assessments;
- (q) Exercise any other powers conferred by this Declaration or the Bylaws;
- (r) Exercise any other power that may be exercised in this state by legal entities of the same type as the Association;
- (s) Exercise any other power necessary and proper for the governance and operation of the Association; and
- (t) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

**Section 22.3 - Executive Board Limitations.** The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of the term.

**Section 22.4 - Adoption of Rules Relating to Aircraft Operations.** Pursuant to the authority granted by Section 22.2(a), after Notice and Comment, the Executive Board shall adopt and, as necessary, revise, Rules relating to aircraft operations in Birch Creek Landing (A Planned Community), including, but not limited to, approach/departure



patterns, non-owner use of the airstrip, seasonal closure of the airstrip, timing of use of the airstrip, speed limits and signage. Any changes to aircraft operational rules shall be published in the Alaska Chart Supplement.

### **ARTICLE XXIII - Open Meetings**

**Section 23.1 - Access.** All meetings of the Executive Board, at which action is to be taken by vote at such meeting will be open to the Unit Owners, except as hereafter provided.

**Section 23.2 - Notice.** Notice of every such meeting will be given not less than twenty-four (24) hours prior to the time set for such meeting, by hand delivering a notice, or posting a notice in a conspicuous place within the Project except that such notice will not be required if an emergency situation requires that the meeting be held without delay.

**Section 23.3 - Executive Sessions.** Meetings of the Executive Board may be held in executive session, without giving notice and without the requirement that they be open to Unit Owners where the action taken at the executive session involves personnel, pending litigation, contract negotiations, or enforcement actions, or where no action is taken at the executive session requiring the affirmative vote of Directors.

### **ARTICLE XXIV - Condemnation**

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 34.08.740 of the Act.

### **ARTICLE XXV - Miscellaneous**

**Section 25.1 - Captions.** The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents nor the intent of any provision thereof.

**Section 25.2 - Gender.** The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural and vice versa, whenever the context of the Documents so require.

**Section 25.3 - Waiver.** No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

**Section 25.4 - Invalidity.** The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder,





*Andrew Haag*

Andrew Haag, Member

STATE OF ALASKA

)

) ss.

THIRD JUDICIAL DISTRICT

)

THIS IS TO CERTIFY that on this 24<sup>TH</sup> day of JUNE, 2016, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared ANDREW HAAG , known to me and to me known to be the person who executed the foregoing, and he acknowledged to me that he did so on behalf of Creative Developments, LLC, for the uses and purposes therein set forth, pursuant to the operating agreement or a resolution of the members.

WITNESS my hand and notarial seal the day and year first hereinabove written.

*Sarah K. Russell*

Notary Public in and for Alaska

My Commission Expires: 12/25/19

SARAH K. RUSSELL  
NOTARY PUBLIC-STATE OF ALASKA  
COMM. # 151225008  
MY COMMISSION EXPIRES  
DECEMBER 25, 2019

///



**MORTGAGEE CONSENT: TIMOTHY MICHAEL COSTELLO TRUST (dated 4-13-88 but Wholly Amended and Restated January 12, 1994)**

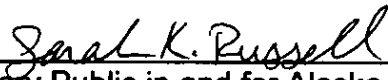
  
Timothy Michael Costello, Trustee

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on this 18<sup>th</sup> day of July, 2016, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared TIMOTHY MICHAEL COSTELLO, known to me and to me known to be the individual named in and who executed the foregoing instrument and he acknowledged to me, that he executed the same freely and voluntarily for the uses and purposes therein mentioned in his capacity as Trustee of the TIMOTHY MICHAEL COSTELLO TRUST.

WITNESS my hand and notarial seal the day and year first above written.

SARAH K. RUSSELL  
NOTARY PUBLIC-STATE OF ALASKA  
COMM. # 151225008  
MY COMMISSION EXPIRES  
DECEMBER 25, 2019

  
Notary Public in and for Alaska  
My Commission Expires: 12/25/19

**AFTER RECORDING RETURN TO:**

Sandra J. Wicks, Esq.  
3237 W. 31<sup>st</sup> Avenue  
Anchorage, Alaska 99517

DECLARATION FOR BIRCH CREEK LANDING (A PLANNED COMMUNITY)



**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A Planned Community)**

**Exhibit 1**

**TABLE OF ALLOCATED INTERESTS**

<b><u>Unit Number</u></b>	<b><u>Votes</u></b>	<b><u>Liability for Common Expenses</u></b>
<b><u>Block 1</u></b>		
Lot 1	1	5
Lot 2	1	5
<b><u>Block 2</u></b>		
Lot 1	1	5
Lot 2	1	5
Lot 3	1	5
Lot 4	1	5
Lot 5	1	5
Lot 6	1	5
Lot 7	1	5
Lot 8	1	5
Lot 9	1	5
Lot 10	1	5
Lot 11	1	5
Lot 12	1	5



Lot 13	1	5
Lot 14	1	5
Lot 15	1	5
Lot 16	1	5
Lot 17	1	5
Lot 18	<u>1</u>	<u>5</u>
TOTALS	20	100

All units are located off of East Birch Creek Blvd., Talkeetna, Alaska.

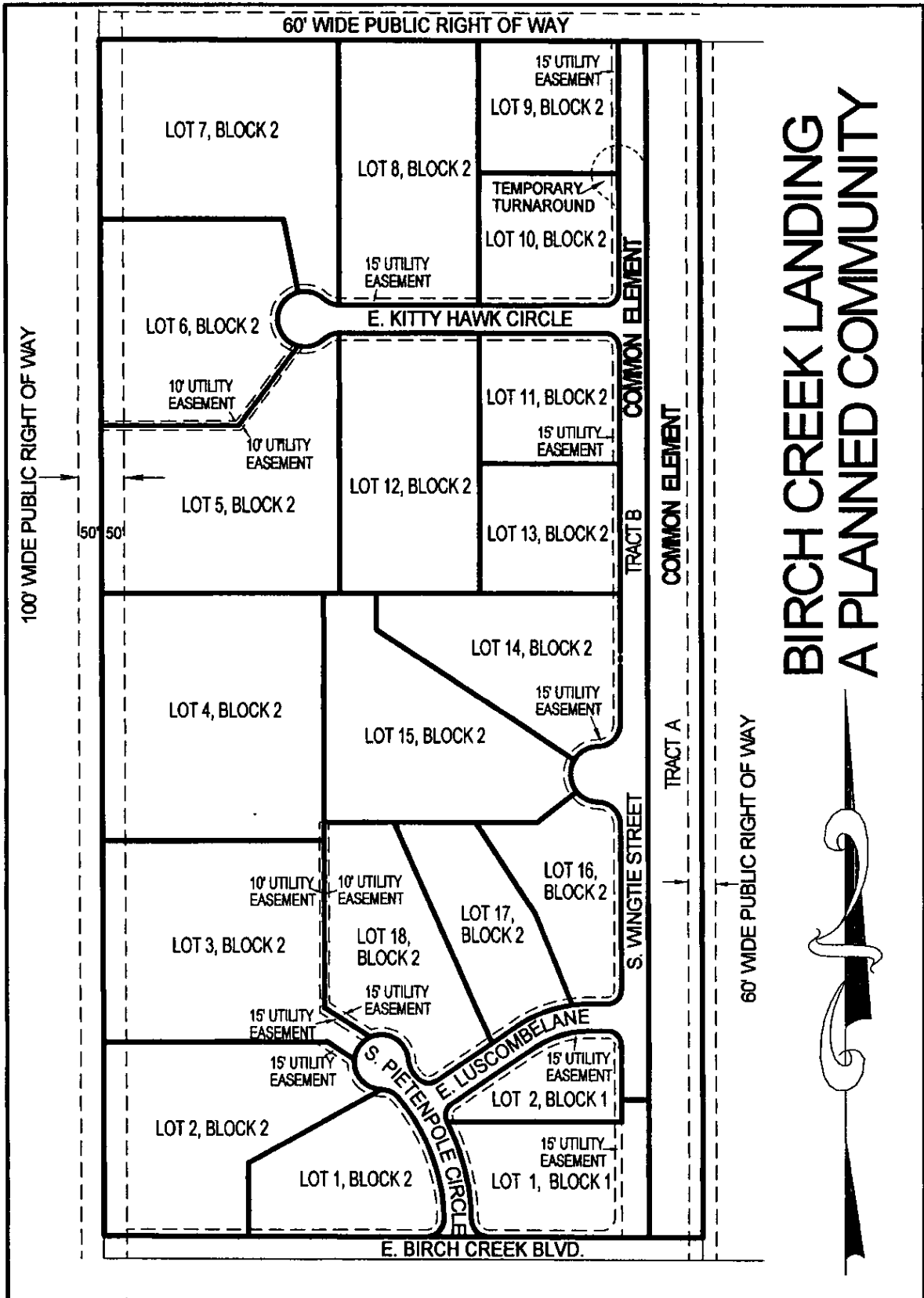


**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A Planned Community)**

**Exhibit 2**

**DEVELOPMENT PLAN**





# BIRCH CREEK LANDING A PLANNED COMMUNITY



**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A Planned Community)**

**Exhibit 3**

**TABLE OF UNIT AREAS**

<b><u>Unit Number</u></b>	<b><u>Area</u></b>
<b><u>Block 1</u></b>	
Lot 1	2.41 acres
Lot 2	1.27 acres
<b><u>Block 2</u></b>	
Lot 1	2.37 acres
Lot 2	4.17 acres
Lot 3	5.04 acres
Lot 4	6.03 acres
Lot 5	5.02 acres
Lot 6	4.04 acres
Lot 7	5.03 acres
Lot 8	4.00 acres
Lot 9	2.00 acres
Lot 10	2.01 acres



Lot 11	2.00 acres
Lot 12	4.00 acres
Lot 13	2.00 acres
Lot 14	3.00 acres
Lot 15	4.03 acres
Lot 16	2.00 acres
Lot 17	2.09 acres
Lot 18	3.00 acres



**DECLARATION  
FOR  
BIRCH CREEK LANDING  
(A Planned Community)**

**Exhibit 4**

**RECORDED EASEMENTS AND LICENSES**

As of the date this amendment is recorded, the following are the easements and/or licenses of record to the best of Declarant's knowledge:

1. Reservations and exceptions as contained in U.S. Patent recorded September 10, 1964, in Book 31 at Page 175.
2. Reservations and exceptions as contained in State of Alaska Patent, including but not limited to the reservation of all oil, gases, coal, ores, minerals, fissionable materials and fossils together with the right of entry for opening, developing and working mines, etc., recorded August 14, 1967, in Book 36 at Page 113.
3. Easements as shown on plats of record.
4. Easement in favor of Matanuska-Susitna Borough, reserved in instrument recorded August 14, 1967, in Book 36 at Page 113.
5. Blanket easement granted to Matanuska Electric Association, Inc., recorded February 21, 2008 under Reception No. 2008-000202-0.

